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Social Justice and Ecology Secretariat (SJES), General Curia of the Society of Jesus, Rome, Italy

Environmental and Human Rights Defenders: Criminals or Martyrs?





(Image: Gauri Predish, *Pax Lumina*)

26 April 1937 - 05 July 2021

It is a great honour and privilege to dedicate this issue of
Promotio Iustitiae to

Fr. Stan Swamy SJ

an environmental & human rights defender
and an advocate of truth & justice,
who suffered and died in custody for defending his **friends**:
the poor, the dalits and the adivasis (indigenous) in India.

"I am not a silent spectator,
I am part of the game, and
I am ready to pay the price."

- *Fr. Stan Swamy SJ*

Environmental and Human Rights Defenders: Criminals or Martyrs?



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Editorial

Xavier Jeyaraj SJ

Father Stan Swamy SJ (aged 84) died in judicial custody on 5th July 2021 in Mumbai. He was arrested on 8th October 2020, under a colonial framed anti-terror law '*Unlawful Activities Prevention Act*' (UAPA) and was the oldest person accused of terrorism in India. He said before his arrest "I am not a silent spectator". He stood with the indigenous and claimed their constitutional rights in a peaceful and non-violent way. The unambiguous outrage from citizens in India and the world across after his death in custody was loud and clear. A large number of them called it "a murder by the State and the judiciary". Rights activists, lawyers, former judges, academics, writers, poets, civil society groups, human rights commissions across the world, member States of UN, EU parliamentarians, Representatives of US Congress condemned the Indian State for its inhuman treatment and the judiciary for its failure to protect the rights of Stan and other human rights defenders. UN Special Rapporteur Mary Lawlor said, his 'death will remain a stain on India's human rights record'. The Federation of Asian Bishops Conference called him a "*martyr of the under-privileged*".

Those in political power accused him of supporting the banned extremist Maoist group, inciting violence, waging war against the State and plotting to kill the Prime Minister. They accused him of being a terrorist and an anti-national. Hence, imprisoned him as per the law, and they claimed, 'due processes' were followed. Seeing the outcry all over the world after the 'death' of Fr. Stan, the external affairs ministry of India quickly defended the Government action stating, "Authorities in India act against violations of *law* [emphasis added] and not against legitimate exercise of *rights* [emphasis added]. All such actions are strictly in accordance with the law." The question remains: Are the archaic human made laws of a country more important than human life and justice? Does a lawful act necessarily mean 'just'? Let us recall what Jesus said, "Sabbath is made for human and not human for the Sabbath". (Mk. 2:27)

Stan Swamy was one among the 5,922 people arrested. Most of them are still languishing, under inhuman conditions, in different prisons in India under UAPA between 2016 and 2019 except for 132 acquitted¹. The majority of them are either minorities, or dalits or tribals or HR defenders who had raised questions about the laws and policies of the government

¹ Written response of the Minister of State for Home, G. Kishan Reddy in Rajya Sabha (Upper house) on 9th Feb. 2021.

basing their protest on the Constitution of the country and the Universal Declaration of Human Rights.

Today, Stan has become a symbol of hope for human rights defenders, voice of the voiceless indigenous people and everyone who stands for truth and justice.

As I write this editorial of this PI, it is shocking to hear that Joannah Stutchbury (aged 67), environmental Woman Human Rights Defender was shot dead on 15th July 2021 outside of her home in Kenya. She defended Kiambu forest against environmental destruction from business interests. In fact, hundreds and thousands of Human Rights Defenders (HRDs) are killed all over the world every year, many of them with impunity. According to information gathered by Front Line Defenders (FLDs), in 2020 it averages to almost one person killed daily for carrying out peacefully their work of defending human rights. This number keeps increasing rapidly every year in almost every geographic region. The recent UN report ([A/HRC/46/35](#)) says, "Killings were committed in 64 countries worldwide, a third of UN member states." Latin America tops the list with maximum killings particularly in Colombia & Brazil. The latest FLD report says, "69% of those killed worked on land, environmental or indigenous people's rights... Impunity remained the norm and killings were frequently preceded by aggressive on- and offline smear campaigns aimed at discrediting the work of HRDs." The FLD report goes on to say, "Arrest and detention continued to be the most common reported violation used by states to undermine or stop the work of HRDs."

Considering these reports and statements, the following questions arise: who is the real culprit, the state or HR defenders? Why do states abrogate their responsibility as duty-bearers to safeguard the rights of its citizens? What makes the elected governments call their own people, terrorists, anti-nationals or extremists when the citizens ask legitimate questions as rights holders? How is it that one in two of the victims of killings recorded in 2019, as per the UN report, has been "working with communities around issues of land, environment, impacts of business activities, poverty and rights of indigenous peoples, Afrodescendants and other minorities?" Why do UN member states not abide by the international laws and covenants to which they are signatories? How can the States be made accountable for any crime committed by the States?

Without entering into a discussion on free and fair elections -one must acknowledge that most of these countries have elected governments and the leaders enjoy or claim to enjoy majority support. These elected leaders who have the responsibility to protect the unity, integrity and sovereignty of the nation from external or internal interference or attacks; must also ensure economic growth and development of all people in the country while enacting laws to control violent uprisings from groups with extremist tendencies.

However, in order to maintain the democratic structure in place, the leaders must respect the independence of various democratic institutions, and put in place a transparent system of governance that will ensure justice, freedom and equality for all its citizens; maintain rule of law and respect the rights of all, especially the most vulnerable and marginalised. While safety, security and development may be an important responsibility of those in power, it

is equally important to ensure that the fundamental human rights and freedom of every citizen, embodied in the Universal Declaration of Human Rights (UNHR) and those of various other international covenants, is respected. Human rights and dignity cannot be considered a secondary concern of a state. When an elected leader of a country uses inciting rhetoric, terror-tags the HRDs, activists and critics and uses institutions such as military, judiciary and police to kill, arrest and keep alleged 'suspects' in prison without legal process; suppressing the genuine voices of people striving for justice, is there a global mechanism to take action against such leaders? What happens when big corporates, mining companies, majority communities of a particular ideology in connivance with political leaders begin to use similar criminal methods against the HRDs and civil society groups and organisations to achieve their ulterior ends?

We affirm that such attacks and killings take place in a context of structural injustices and inequalities in the society. Threats and killings happen especially when negativity and a sense of 'the other as an enemy' is created within a society. If the 'other' happens to be a vulnerable ethnic, religious, linguistic, social, ideological or cultural minority community it can regress into a pogrom.

In *Fratelli Tutti*, Pope Francis looks at the global situation and laments how fundamental rights are discarded or violated systemically and incrementally. "In today's world, many forms of injustice persist, fed by reductive anthropological visions and by a profit-based economic model that does not hesitate to exploit, discard and even kill human beings. While one part of humanity lives in opulence, another part sees its own dignity denied, scorned or trampled upon, and its fundamental rights discarded or violated." (FT #22)

The present issue of PI on **Environmental and Human Rights Defenders: Criminals or Martyrs?** - unlike the previous issues where there were many reflective and researched articles - brings you many personal, institutional and communitarian testimonies of human rights defenders. Their stories and examples reveal concretely what happens to HR defenders when they are confronted with the powerful political and economic structures of the society.

The first section of this issue, grouped under **Testimonies/Narratives**, has 10 articles. These testimonies and narratives will help us to listen to the voice of the voiceless and awaken our conscience to listen to the cry of the people who face the consequences of standing for the values of human rights, dignity, truth and justice. These testimonies invite us to reflect on the reality in which all of us are living. They prevent us from isolating ourselves and put us in the context of our world today. Since this issue is dedicated to our confrere, Fr. Stan Swamy, we start with the narrative on him. However, the other testimonies coming from Australia, Colombia, Cambodia, Canada, Guatemala, India, Italy, Kenya, Spain, and USA show that the concern of human rights defenders is not limited to a few underprivileged nations. It goes beyond economic, political and geographical boundaries.

The second section is on **Reflection and Analysis**, where we offer 10 more articles. Although most of them start with some stories and examples of real persons and communities, they go on to make some personal reflection and recommendations and raise

the global concern for climate change, ecology, human rights, human dignity and justice for all. These articles are written in specific contexts of countries and the laws and norms that govern them locally. However, they express their genuine concern about the alarming trend or pattern that is emerging all over the world. Often the ruling governments, even with just a simple majority in elected democracies, enact new laws to suit their political and economic interests while continuing to abuse, suppress and hinder the fundamental human rights of citizens “just because they express their dissent or raise question about the ruling powers” as Fr. Stan Swamy said. The authors raise the level of hope high with suggestions on how to protect, promote and defend the life and dignity of people and the regional territories.

As you may remember, the last issue of PI-130 was on *Healing Democracy: In an era of Authoritarianism and Populism*. Most of the authors in that issue reflected on how democratic structures were undergoing a recession all over the world especially in the context of the pandemic. The final article in this issue, written by an international attorney from Ghana, is a critique of PI 130, wherein he highlights the importance of the “Rule of Law” anchored on sound morality, if we truly want to save democracy.

Wish you a good reading, reflection and discernment leading all of us, to act in favour of the vulnerable people and voiceless environment.

Original in English

TESTIMONIES / NARRATIVES



Father Stan Swamy: An Environmental, Indigenous Peoples and Human Rights Defender in India

PM Anthony SJ

Director, Bagaicha-Ranchi, India

Introduction

Father Stan Swamy, a Jesuit priest aged 84, suffering from Parkinson's disease and other ailments, was arrested by the National Investigation Agency (NIA) on 8 October 2020. He was the last one to be arrested in relation to a false case called Bhima-Koregaon. A total of 16 human rights defenders, lawyers, poets, academics and cultural activists from different states of India were booked in relation to the same case. Thereafter, all of them have been lodged in various prisons in Mumbai. The actual reason behind their illegal arrests is that they took sides with economically and socio-politically marginalised groups of people who have been historically discriminated, oppressed and exploited. These groups have generically been referred to as Dalit-Adivasi *bahujan*. Dalits are the former "untouchable" people of India and Adivasis are mainland India's indigenous people. The word *bahujan* means 'the majority people' since India's toiling masses or the so-called "lower" castes, Dalits and Adivasis together constitute a huge majority of India's population¹. Taking sides with Dalit-Adivasi *bahujans* and working in solidarity with them to strengthen their struggle for dignity and human rights can nowadays end one in prison! Such positioning is perceived to be a huge threat to the ideology and agenda being pursued by the present Hindu-fundamentalist regime in India. The state in India therefore labels such positioning as sedition to silence and dismiss voices of truth and justice.

This article attempts to sketch father Stan's life and work as a Jesuit priest and a committed environmental, indigenous peoples and human rights defender in India that led him to become an under-trial prisoner at the age of 83. The article first sketches the link between indigenous peoples, environment, "development", dispossession, people's resistance, state repression in India and how indigenous people's rights have been violated. It then describes Stan's major engagements and efforts to defend and promote Adivasi people's special rights over resources.

¹ Dalit-Adivasi-Bahujans make up about 70 per cent of the total population: Dalits 19.5 percent, indigenous peoples 8.6 per cent and the so-called "Other Backward Castes" 41 per cent. The rest 30 per cent are put under the category "forward" or "general" castes.

Indigenous People and the Environment

India's indigenous people are called Adivasis. They cleared forests, established villages, owned and shared all the resources in common with egalitarian social structures and symbiotic relationships with nature. Settlers who arrived later, moving across the country over centuries², took over the best land of the Adivasis and pushed them into inaccessible terrains. The settlers established a caste-based civilisation which graded humans unequally. Those who did hard physical labour which made them sweat and smell, were graded "lower" or "impure" and treated as servants. Obviously, those who did the grading and grabbed the fruits of the lowers' hard work called themselves "uppers" or twice born and pure. The lowers were denied rights to property and education since their primary duty was to serve the uppers. The uppers indoctrinated the lowers into believing that liberation comes from rendering sincere and obedient services to uppers. A civilisation based on such ideology and teachings flourished in the alluvial plains of the Indian subcontinent.

India's indigenous peoples were gradually and progressively displaced from and dispossessed of their land, and were pushed into the inaccessible hills and forests with rich mineral deposits underneath the soil. The Adivasis became the custodians of nature and its resources, lived their original visions/values of symbiotic and egalitarian social relations and structures while keeping the ideology and state-structures of unequal gradation away. During British colonialism in India³, the self-aggrandising plain's people intruded into the hills and forests with the help of colonial legislation that legitimised the private ownership of commons and various forms of taxation. Adivasis' land and related resources quickly went into these intruders' possession. The colonial state reserved the forests for commercial purposes, which further restricted Adivasi's access to resources. Consequently, Adivasis rose in revolt against the intruders making the British realise the gravity of resistance to super exploitation being unleashed. As a result, the British demarcated and reserved, with special legislation, Adivasi ethno-territories, prohibiting exploitative intruders' entry into these territories. These special provisions and legislations, which intended to protect Adivasi ethno-territories, later found their place in independent India's Constitution. The Constitution recognises Adivasis' ethno-territories and provides special legislations to protect their *jal*, *jungle* and *jameen* (waterbodies, forest, and land) and to promote their socio-cultural values, languages and customary practises. However, and ironically, the so-called "development" schemes and processes of independent India's successive governments violated these special protective provisions and legislations. Adivasi lives and their environmental resources became expendable in the name of development! As seen in other countries with substantial indigenous populations, this led to conflict.

² These movements of later arrivals began roughly as early as 1500 BCE onwards. However, the caste-based hierarchical division among people developed during the later Vedic period (1000-600 BCE).

³ The East India Company began controlling land and revenue regulations in India after the Battle of Buxar in 1764.

Development, Environment, People's Rights and Resistance

The state sides with national and multinational corporations to advance the unregulated extraction of resources, including land, forests, waterbodies, and minerals by setting up polluting industries in Adivasi ethno-territories. In this process, most Adivasi people face displacement from their lands, dispossession, deprivation of assured sources livelihood, erosion of their cultural values, and devastation of the environment. Adivasis are dispossessed while economic accumulation accrues to the already affluent. The state, despite its fundamental duty to protect Adivasis, violently crushes those who unitedly resist this unjust accumulation and dispossession. Though the custodian of people's rights, the state violates Adivasis' special rights by deploying paramilitary forces to violently crush people's resistance to suppression. The state also employs various tactics to break people's unity and solidarity. Leaders of resistance movements are pacified and suborned with huge sums of money. Those who refuse to be pacified or co-operate are physically eliminated or imprisoned with false cases being foisted on them. The dispossessed are left to their own constrained agency to survive. Consequently, India has a huge population of deprived and displaced people living in the slums of large cities, suffering indignity, deprivation, malnourishment and starvation. Starvation deaths are also not uncommon in India's remote rural villages.

Things have become worse since the Hindu far-right religio-cultural (Hindutva) nationalists gained power at the centre in 2014. The ideology at work is that of the uppers who feel insecure in the face of growing solidarity movements among the historically oppressed, exploited and underprivileged that critique the kind of development paradigm that reproduces consistent inequality, economic poverty, deprivation and misery for much of India's population while at the same time destroying the environment. Consequently, all those who extend solidarity to the struggles of underprivileged peoples in India, to uphold their dignity and defend their human rights, have been demonised as "anti-nationals". All the 16 imprisoned august persons, including father Swamy, have been living and working in solidarity with the underprivileged. They have sought to make the state implement its own constitutional provisions and protective legislations for its historically deprived people and their rights to resources and a dignified life. Hence, the present regime has demonised, arrested and imprisoned them without trial to silence their voices.

Stan's Life and Work as a Jesuit Human and Environmental Rights Defender

Stan was born on 26 April 1937 in a village called Viragallur in Thiruchirapalli district of Tamil Nadu in southern India. He finished his early schooling from St. Joseph's at Tiruchirappalli. Inspired by the work of Jesuits there, he decided to become a Jesuit himself and travelled to Jamshedpur in Chotanagpur, south of the united Bihar in north India, to become a member of the Jamshedpur province of the Society of Jesus. During his *regency* (1965-67), as a teacher and hostel prefect at St. Xavier's High School Lupungutu in West Singhbhum district, he took extra efforts to visit the families and villages of his students. The district is predominantly inhabited by Ho Adivasis (distantly related to the Santal, Munda, Bhumij, Kharia). The Ho villagers would visit the *Mangal-haat* (Tuesday weekly market) in Chaibasa where they would be cheated and exploited by non-Adivasi merchants. Reflecting on such experiences, Stan once said, "I felt pain but could not do anything about it." This and visits to his students' families

in their villages gave him a first-hand experience of Adivasi life and culture that deeply impressed him. He simultaneously completed his theological studies and a Masters degree in Sociology from Manila, the Philippines in 1971. The Masters degree included the study of indigenous peoples' lives and struggles, which helped him to understand the dynamics of indigenous peoples' struggles against exploitation in other parts of the world.

The first assignment he took up, after being ordained as a priest, was as the director of Catholic Relief Services (CRS) near Jamshedpur. There he established an office for CRS, built a warehouse to store relief materials, trained two of his old students to manage the activities. He then moved on. He did not want to be distributing food to the poor and to be called a 'saint'; rather, he wanted to question why there were too many poor people in the first place. Hence, he travelled to the Indian Social Institute (ISI) Bangalore to attend a short-term training on 'Community Development'. There he met the director of the institute, Fr. Henry Volken, S.J. Returning from the training in Bangalore, he moved to Baraibir, a remote rural Ho village, where a family offered him a room to stay. Over nearly a year, he spent his time contacting the youth of the area and helping them to think critically about their life in society. Soon a few old students and some other volunteers joined him. The villagers offered them a small plot in the middle of the village. They built a small house there with a room and a kitchen. Later two religious sisters whom he had met at ISI-Bangalore also joined them. They lived as a contrast community (living counter-cultural values). The work gradually expanded to neighbouring areas.

Meanwhile, Fr. Volken at ISI Bangalore invited Stan to lead the institute, as the institute had to respond to the demands of students and youth searching for an alternative vision of society while the country was going through some revolutionary movements during the early 1970s. However, Stan felt that he needed to further equip himself in social analysis to be able to cater to the need of the youth. He attended the Catholic University of Louvain in Belgium to be a 'free student' – he was allowed to pursue any course at the department of social science for a year. He returned to ISI Bangalore to shoulder the directorship at ISI Bangalore and taught the fundamentals of a Marxian analysis of society from 1975 to 1990. During these years, the institute reached out to several hundred youth from the fringes of society through a systematic short-term course on 'Social Analysis and Community Organisation'. Youth from different states of India and the neighbouring countries - Sri Lanka, Bangladesh and Nepal – participated in the course. Stan's contributions at ISI Bangalore were well appreciated. The outcomes of his early efforts to train people in scientific social analysis and his lived example of taking sides with the oppressed and exploited inspired many social activists in South Asia and beyond.

Back in Jharkhand

In 1991 Stan came back to his "first love" – the Adivasi people of Jharkhand. He said, "Thanks be to everyone, I'm still with Adivasis." He first stayed in Chaibasa, West Singhbhum and helped to revive the activities of JOHAR (Jharkhandi's Organisation for Human Rights), a secular organisation that accompanies the Adivasis in their struggles. JOHAR revived its activities trying to strengthen the traditional self-governance (*Munda-Manki*) system of the Ho Adivasi society. Towards the end of the 1990s (the post-liberalisation period), displacement

of Adivasis from their land became rampant in India. A few Jesuits got involved in the struggles of the masses to protect their ancestral land and livelihood resources. The Netarhat Field Firing Range and Koel-Karo hydroelectric dam projects were looming large on Adivasis, threatening their displacement. Jesuits, involved in social apostolate, felt the need to establish a social apostolate centre in Ranchi, which later became the capital of Jharkhand state, to coordinate the efforts of people's movements in resisting these massive processes of pauperization of marginalized societies. Stan took up the responsibility to coordinate the people's movements and to set up a social apostolate centre called BAGAICHA. With this newly assumed responsibility, Stan moved to Ranchi in 1997. Eventually, he set up Bagaicha on a piece of land gifted by the Jesuit province of Ranchi. It became a platform for people from various communities to come together to discuss their issues and reach a decision through a process of consensus. Stan, Bagaicha's founding director, stayed at the centre till his arrest took place on 8 October 2020.

Stan's life and work at Bagaicha

Stan remained consistently alert to the state's policies that violated the protective provisions of Adivasi land and resources. He organised workshops, trainings, meetings and discussions in solidarity with socially concerned persons to discuss the issues affecting underprivileged peoples. He participated in their struggles – demonstrations, sit-in protests and taking legal actions – against displacement and dispossession due to land alienation by various “development” projects proposed to be set up in predominantly Adivasi regions. He regularly wrote about the existing provisions – constitutional and legal – that aimed to protect people's resources, advocating the state to abide by them.

In early 2014, he came to know through newspaper reports that huge numbers of Adivasi youths were languishing in the prisons of Jharkhand as under-trial prisoners. Most of them having been accused of being involved in “left wing extremism” that inspired armed insurgency. Stan was disturbed by the reports and wanted to find out the truth of the matter. He initiated a research study on the issue. The study revealed that most of the accusations against these imprisoned young Adivasis were contrary to the actual facts. While this research was in progress, Stan held a few meetings of activists and lawyers who were providing legal aid to under-trial prisoners in Jharkhand and other neighbouring states. Eventually, in early 2017, Stan filed a Public Interest Litigation (PIL), based on the findings of the report, in the High Court of Jharkhand. The PIL demanded a detailed and classified information about all under-trials who belong to marginalised sections of society and the reason for delay in their trials. The Jharkhand government provided some relevant but incomplete information in response to the PIL.

Meanwhile, the local police foisted a case of sedition on Stan and 19 other social activists, based on their comments on Facebook about a few news items related to a resistance movement called *pathalgadi* by the Munda Adivasi group to defend their rights to resources and local self-governance. Around that time, Stan's room was raided by the Maharashtra police to check if he had any relation to the Elgar-parishad, a gathering of social and cultural activists from Dalit communities across Maharashtra. The police took away the hard-disk of his PC, his mobile sim card and a few other electronic items. Soon after this the local police confiscated

some more of Stan's belongings from his room in relation to the *pathalgadi* case. After this, there was a second raid and long hours of interrogation for several consecutive days by the NIA in relation to the Bhima-Koregaon case. And finally, during the COVID-19 pandemic, on 8 October 2020, he was arrested by the NIA. He, and the other 15 arrested in connection to the same false case, continue to be under-trial prisoners to the present day.

Original in English



Why I am on the Lookout Circular (LoC)

Gladson Dungdung¹

Indigenous Human Rights Activist, Jharkhand, India

I am one of those unfortunate Indian *Adivasis* (Indigenous peoples), whose livelihood resources have been grabbed by the Indian State under the guise of development, growth and national interest. However, the worst part of the issue is that the Indian State, whose constitutional responsibility is to protect and ensure my fundamental rights and provide a dignified life with liberty and the freedom of speech, has been constantly suppressing me for raising the issue of the State sponsored grabbing of land, forests, hills, water bodies and mineral resources, which have been occupied and preserved for thousands of years by *Adivasis*, meaning original inhabitants.

The issue of land grab began in my family when I was just one year old. Our 20 acres of fertile land, cultivated by my family for generations, was snatched away for an irrigation project. Our ancestral land, with our and surrounding villages was submerged in the reservoir of a Dam, which came up on Chinda River near Simdega town in 1980. We lost our house, agricultural land and garden but we were paid merely ₹ 11.000 (\$ 150) as compensation. When the villagers protested against the acquisition, they were sent to Hazaribagh prison. One cannot even imagine that a family of 6 members could ensure food, clothing, shelter, education, and health facilities for whole life with \$ 150?

After displacement, we had no choice other than proceeding towards the dense forest for ensuring our livelihood. We settled down in the forest after buying a small patch of land. We used to collect flowers, fruits and firewood from the nearby forests to sustain our family. We also had sufficient livestock, which supported our economy. Needless to say that the State suppression continued with us. When we were living in the forest, my father was booked by the forest department (the biggest landlord of the country) alleging him to be an illegal woodcutter, while in reality he was very much involved in the protection of the forest. There was a forest protection committee in my village and my father was one of the active members of it. They have protected the forest of entire village area. The *Adivasis* are more aware of the importance of the forests than the State, which only sees it as timber. Unfortunately, on 20 June 1990, my parents were brutally murdered while they were going to Simdega civil court to attend a case regarding the land dispute of a family in the village.

¹ Gladson Dungdung is a Human Rights Defender, Indigenous Activist and Author of more than two dozen books, comes from Kharia Indigenous community of India.

After a long struggle, I completed my formal education and dedicated my life for the protection of Adivasis' land, territory and natural resources. In 2009, when I came into the limelight through activism, the so-called patriots coined me as an anti-national. A few brainwashed youth had even ruthlessly questioned me whether I get money from Pakistan, Nepal or China for speaking against the Indian State? They even attempted to coin me as a Maoists sympathizer and supporter. And when I intensified my interventions on the issues of gross human rights violation (brutal killing, rape and torture) of Adivasis committed by the security forces in the name of cleansing the Maoists in the Red Corridor, some of them even told me that I'm an over ground Maoist and a Maoist Ideologue as well.

It was 2010, when the State Agencies started suppressing me for aggressively writing against the corporate land grab, speaking in public on Adivasi issues and also actively participating in the peoples' movements against the forceful land acquisition under the tag of development, growth and national interest. On 15th May 2010, Potka police had arrested me and my colleagues for mobilizing the villagers in protesting against forceful land acquisition for an integrated steel plant of the Bhushan Company, proposed at Potka of East Singhbhum district of Jharkhand. The police alleged us of instigating the villagers against the project. On the next day, we were released with the condition to leave the region, but instead we again participated in the Movement until the land acquisition processes was halted. Meanwhile, an officer of the Intelligence Bureau (IB) was also deployed to check my every day's activity, who was following me almost every day. Nevertheless, I was passionately and fearlessly involved in the human rights and anti- displacement movements.

On the one hand, I was playing a crucial role in the peoples' movements, in fighting for the protection of the natural resources (land, forests, hills, water bodies and mineral resources) and on the other hand I was also intervening in the cases of gross human rights violation by Law enforcement agencies. Consequently, the Law Enforcement Agencies also attempted to label me as the working force of the Maoists. When I intervened on the issue of rampant human rights violation of *Adivasis* in Saranda Forest by the security forces, the Deputy Inspector General of Police (DIG, Kolhan) Mr. Naveen Kumar said that the Jharkhand Human Rights Movement (JHRM) is an outfit of the CPI-Maoist, has intention to derail the anti-Naxal operations and therefore, it is crying foul. The Jharkhand police also attempted to trace mobile record and other documents to prove my link with the CPI-Maoist but at the end they got nothing because the JHRM, which is my brain child, has nothing to do with the Naxals, and does not believe in violence.

On 5th July 2011, when I participated in a mass rally against police atrocities, held at Khunti of Jharkhand, a police officer P.K. Mishra of Khunti police station had questioned me, "Why don't you organize a Rally against the Maoists, when they kill our police forces"? He threatened me saying, "I will tear you into pieces and dry you up if you don't shut your mouth on the issues of police atrocities. I don't care about the senior officers." The worst thing for people like him is that I made a complaint to the Deputy Commissioner and the Superintendent of Police of Khunti about the incident and asked them for action against the police officer involved, but nothing was done against him. However, I didn't shut up in

demanding justice for the victims of police atrocities though I'm under the attack from all corners.

Meanwhile, I had two rounds of discussion with Jairam Ramesh, the then Union Minister of Rural Development, Government of India, on the issue of the Saranda Development Plan. I was surprised by his reaction. He told me that I have been raising the issues of human rights violation committed by the security forces but what about the Maoists? He also told me that the CRPF Officers are quite unhappy with me as I have been filing cases against them. However, when I informed him about the Jharkhand Human Rights Report, which would also highlight the human rights violation committed by the Naxals in Jharkhand, he was quite happy and had expressed his willingness to release the Report. Nevertheless, the Indian State had portrayed me as an anti-State activist and a sympathizer of the CPI-Maoist, and keeping me under surveillance. A top police officer had even advised me not to use my mobile phone, but to make calls from telephone booths. I followed his advice for a few years. Unfortunately, later, the telephone booth was completely wiped out by G culture, meaning 3G, 4G, etc. Is there any choice left for me?

In July 2012, I was also portrayed as an anti-State activist for playing a crucial role in an anti-displacement movement, against the forceful acquisition of Adivasi land for the construction of three education Institutes - the Indian Institute of Management (IIM), Indian Institute of Information Technology (IIIT) and the Law University at Nagri village near the capital city of Jharkhand. On 25 July 2012, there was a call for the 'Jharkhand Bandh' (shutdown) in support of the people's movement. I was peacefully leading a mass protest of Adivasi youth in the city in support of the shutdown and requesting the people to support us. The police started arresting and beating us with *lathis* (sticks). The police also slapped, hit and kicked me. Consequently, I received severe injuries to my right leg, left leg and right ear-site. The police detained us the whole day and filed false case against me at Lower Bazar Police Station (Ranchi) under the sections - 147, 148, 149, 341, 323, 427 and 188 of the Indian Penal Code. Later however, I was acquitted by the lower Court.

In 2013, I started going abroad to speak on Adivasi issues in different forums. I talked about our rights, the need to conserve natural resources and the protection of the ecology of the country. Consequently, I'm under surveillance of the State as I raise these uncomfortable issues frequently. In October 2013, my passport was impounded on the basis of an 'adverse police report',² due to my involvement in the people's movement against forceful land acquisition for so-called 'development projects', and for exposing gross human rights violations committed against Adivasis in so-called counter insurgency operations in the so-called Red Corridor of Jharkhand, which is actually the Indigenous Peoples' territory.

The Indian State has been carrying out the so-called counter insurgency in the region in the name of cleansing the Naxals but in the reality, it's also a move for grabbing of land, territory and natural resources of the Adivasis. I am targeted for exposing the Indian State, which has

²A letter issued by the Regional Passport Authority, Ranchi on 4th October 2013.

portrayed me as an anti-State activist and a sympathizer of the CPI-Maoist, is keeping me under surveillance.

Meanwhile, after my special request to the top police officers of Jharkhand for proper verification of the passport, it was restored in July 2014. Thereafter, I attended a couple of conferences in Denmark and England. In November 2015, I again travelled to London for the release of my book, *"Mission Saranda: A War for Natural Resources in India"*, in which I have exposed the State sponsored grabbing of the natural resources under the guise of elimination of the Naxalism.

Obviously, my book irritated the Indian State. In May 2016, I was scheduled to attend a workshop on the environmental politics of South Asia at the University of Sussex, UK. Unfortunately, this became a nightmare for me. On May 9, 2016 after check-in, I collected the boarding card and went to the immigration counter. I submitted the immigration form along with my passport and boarding card to the immigration officer. At the beginning, the immigration officer talked to me nicely but later it changed. After asking general questions, he also asked me whether I was a student. In response, I told him of being a researcher. The next question he asked was on which topic I do research. I said, "Human Rights". As soon as he heard the words "Human Rights", he deserted his chair and went inside to find his boss. He returned to the counter after 15 minutes, called the Air India staff, and ordered them to offload my luggage.

On hearing "offloading", I was stunned. I asked him the reason for offloading me. He told me that my passport was impounded, so I couldn't fly to London. He wrote "offloaded" on the boarding card and handed over a seizure memo for my signature, which reads "Pax was LoC subject", which clearly means I was under the "look out circular" but I was not told about it. When I was reading the memo before putting my signature on it, the officer told me, "You have enough time to read it later so put your signature on it and give me back". When the offloading procedure got over after two hours, I was sent to collect my luggage, where I had to wait for another couple of hours. Thus, the Indian Authority offloaded me because in their eyes, I had become a security threat to the Indian nation, I was anti-State and I was against the economic growth and development of my own country.

Most interestingly, the impounding of passport in 2013 was given as the reason for offloading me from the Air India flight AI-115 but on the same day, the Regional Passport Officer (RPO) of Ranchi, Sanatan Shrivastava informed the media that my passport was impounded in 2013 but restored after proper police verification and clearance. At the same time, the Ministry of External Affairs, New Delhi also declined being involved and said that it being a valid passport, the person is not barred from flying abroad. Indeed, an immigration officer cannot take such steps without authorization either from the top officers or from the Ministry of Home Affairs. When the national and international media highlighted this matter, a question was raised in Parliament, and my passport was returned with a NOL (No Objection Letter) from the Ministry of External Affairs, Government of India.

Meanwhile, the State Bank of India blocked my bank account (Ranchi, Kokar branch), and when I contacted the bank manager, he demanded a reverification of my identity. This

stunned me; but I was curious to know whether such reverification was being done for all customers or just for me. He told me that I was the only customer under scrutiny, and that he had to report to the SBI headquarters in Delhi about my transactions in the last two years, including sources of income – as the Indian government assumed that I was involved in money laundering. What a surprise! Obviously, such things happen when one keeps raising uncomfortable questions to the State.

In July 2016, the State government of Jharkhand started an attempt to amend the historic laws safeguarding land – *Chhotanagpur Tanacy Act 1908* and *Santal Pargana Tanacy Act 1949*. These laws protect the Adivasis land. The attempt of the government fuelled the anger of Adivasis. Consequently, there was a state-wide resistance, which went on for two years. I was one of the leading persons in the Movement. On 9th June 2017, we had organized a huge protest in Ranchi, the capital city of Jharkhand. As a result, two cases were filed against me and few other leaders under the sections 143, 144, 147, 148, 149, 150, 153, 153A, 153AA, 153B, 279, 353, 427, 504 and 120B of the Indian Penal Code, falsely accusing us of instigating the Adivasis for protesting against the Jharkhand government. However, the protests forced the governor of Jharkhand to withdraw the amendments.

Frankly, speaking the consistent and constant attacks of the State do not stop me from defending the human rights of these most marginalized people, fighting for the protection of their land, territory and natural resources, and demanding the enforcement of the Indian Constitution, domestic laws and UN mechanism. However, answering the fundamental question as to why I opt for such a path of struggle? I believe that the present corporate model of economic growth and development is not merely widening the economic inequality across the globe but is also totally unjust and against the laws of nature and all living beings. If we continue the present model of development, we would be witnessing our own extinction, along with the Adivasis who have all along been protecting these precious natural resources. The world must understand that we the Indigenous Peoples are not just fighting to protect our land, territory and natural resources but we are also fighting for all life, including the birds, beasts, insects, environment, climate and what not? The day we stop our fight, the history of human extinction will begin because the States and Corporates will plunder all the remaining land, forests, hills, water bodies and mineral resources. Can we survive without nature? Presently, we're witnessing an ecological crisis whose sole protectors so far are the Adivasis and if the so called civilized, educated and developed keep silent the future is bleak.

Original in English



The Struggle for Ecological Justice in Cambodia

Pierre Leon

Environmental Activist and Writer

Since 1948, December 10 is commemorated as Human Rights Day all over the world. It was on that day in 1948 that the General Assembly of the United Nations promulgated the Universal Declaration of Human Rights. However, Human Rights Day was not allowed to be celebrated in Cambodia last year, for the first time since the war ended. The reason given by the government was for not giving permission was in order to reduce the risk of Covid-19 transmission. But curiously, Human Rights Day was no longer on the nation's list of holidays since the beginning of 2020; it was officially taken off the calendar even the year before.

It is quite a common perception that Cambodia does not have a good reputation when it comes to respecting human rights. Historically, Cambodia has not fared well in the global metrics of democratic structures. For example, Cambodia ranked 160 out of 179 countries on the Corruption Perceptions Index of 2020, sitting at the same level as Iraq. On the Bribery Risk Matrix of the same year, Cambodia was at 186 out of 194 countries, between Syria and Somalia. Finally, on the Human Freedom Index of last year, Cambodia sat at 108 out of 162 countries on personal freedoms, with ratings for "rule of law" and civil rights of "association and assembly" having steadily gone down since the listing began in 2010.

The recent five years in Cambodia have been especially hard for environmental and human rights defenders. Ever since the opposition party was dissolved and declared illegitimate by the ruling party in 2017, there have been increasing incidents of harassment, physical attacks, imprisonment, and the use of legal tools to discourage and silence activists in Cambodia, especially those defending land, forests, and other natural resources. In fact, Megan MacInnes of Global Witness wrote last year, "Today Cambodia continues to be one of the deadliest places in which to be an environmental defender in Southeast Asia."

As of this writing, there are many activists who have been arrested and awaiting trial, and also those who are already incarcerated and serving out their sentences. Although it is not easy to get an exact figure, an estimate could put the number between 50 and 70 of activists currently in prison. Most of these activists are just common people, whose stories are not unlike those that of the three told below, which are the cases of three activists for environmental justice; ordinary people who dared to live out their love for nature and the communities who depend on it.

Mr Chut Wutty: A Hero for Forest Defenders

“Do not be afraid to protect the forest from illegal loggers, because we are on the side of the law.” These were the words of Mr Chut Wutty (aged 46, 2012), founder of non-government organisation Natural Resources Protection Group, who was a key figure in the realm of forest and community protection in Cambodia. He was a former soldier, known for his courage, and had an in-depth understanding of how military organisations and high-level negotiations work. Because of these qualities, Chut Wutty was a natural leader in a unique position to gather and guide local villagers in their efforts to defend their forest as well as to deal with military and influential figures in the government.

Much of his later work was related to Prey Lang, the largest remaining evergreen lowland forest in Indochina, straddling four adjacent provinces in central Cambodia. Chut Wutty was the main initiator in organizing forest patrols among the villagers: ordinary folk, volunteers whose main driving force was the love for the forest that lay in their hearts. There were heated confrontations during these patrols, when the villagers, riding their own motorcycles, would go into the forest for several days at a time, in search for loggers and other illegal activities. Some conflicts involved armed police and military officers, but he usually found a way out of these tense situations.

On 26 April 2012, Chut Wutty was traveling with two foreign journalists, and together with them was passing through Mondol Seima district, Koh Kong province, when he stopped the car to investigate a site by the road. There were some Rosewood (*Dalbergia cochinchinensis*) logs around the area, as well as stockpiles of Yellow Vine (*Cosciniium fenestratum*), which is processed for use in traditional medicine for treating ailments such as diabetes, malaria, and dysentery. However, there is speculation that Yellow Vine is also used in the production of illegal drugs such as Ecstasy. As soon as Chut Wutty was spotted, armed military soldiers were summoned to the scene. His companions were able to get back into the car, as the soldiers blocked the way. But in the midst of the escalating situation, shots were fired; Chut Wutty was shot and killed.

In the months and years that followed, his death created both discouragement and inspiration in the other activists. Some became less involved for fear of their own lives, while others became even more motivated. At any rate, Cambodia had lost a special man, and the movement of community-led forest protection has not had the same vitality since his death.

Ms Long Kunthea: One Woman’s March

Boeng Tamouk is a natural lake of 3,239 ha, located in Prek Pnov district, around 15 km from the city center of Phnom Penh. It is one of the last remaining lakes of Phnom Penh, and has been an important ecosystem, a habitat for a wide variety of fish and bird species. At the same time, it is a significant source of livelihood and mental well-being for generations of families living around it. For these reasons, the government issued a sub-decree in 2016 designating Boeng Tamouklake as a “preserved land”. However, urban developers have been eyeing Boeng Tamouk as prime real estate, eager to profit from the exchange that comes from filling up the lake with earth and from building more shops, office spaces and private residential buildings.

In defence of Boeng Tamouk, its ecosystems and the numerous families who depend on the lake for their livelihood, Ms Long Kunthea (aged 23), a former school teacher, conceived of a plan along with her fellow members of *Mother Nature Cambodia (MNC)*. It consisted of her peaceful march alone to the house of the Prime Minister of Cambodia, to submit a letter expressing concerns about the landfilling and development of Boeng Tamouk Lake. Even if it was just in the planning stage, Long Kunthea and her two other of her colleagues from *Mother Nature Cambodia* were arrested in 3 September 2020 and placed in pre-trial detention. They were charged with the crime of “incitement to commit a felony or disturb social order” under Articles 494 and 495 of the Cambodian Criminal Code. It was only on 5 May 2021 that the court found them guilty as charged, sentenced them to 18 months in prison and a fine of 4 million riels (around US\$1.000) each.

Long Kunthea and her companions are members of MNC, a non-government organisation known for their well-informed reports on environmental issues that they creatively broadcast in social media platforms. It is the belief of MNC that the assault on the natural ecosystems of Cambodia is caused by a small group of well-connected individuals or families, usually operating from within government or military structures, who are able to circumvent or misuse the law to amass fortunes from the extraction and trade of timber, minerals and other natural resources. Aware that this process usually leads to ecosystem destruction and violations of human rights, MNC believes that the usual strategies for conservation are no longer effective in the Cambodian context, and that a more public and confrontational approach is necessary. Due to their manner of operating, their Memorandum of Understanding with the Cambodian government was terminated in 2017, leaving them without proper legal standing within Cambodian society.

With activists being silenced, a high-ranking official came on the news on 25 January 2021 declaring that the landfilling and development of Boeng Tamouk lake was pushing through. He said that lakes and canals in Phnom Penh have always been reclaimed by previous rulers to meet the demands of a growing population, and that a small group of people who were not happy with this cannot interfere with the process of development that he was leading. He continued that with other lakes already filled-in and successfully developed, “then why cannot it [Boeng Tamouk] be reclaimed, in case it needs to be developed? The previous generations could do it, why can’t my generation do it? The reclamation for development is not only in Cambodia, some countries have even wiped out the sea to take land for development.”

In the meantime, Long Kunthea is in prison and will continue to serve out her sentence sleeping on the floor in an overcrowded cell. She is visited by her mother, who reflects, “My daughter loves nature, and thus protects nature on behalf all of us ... Her activities were not against the law. She was within the bounds of the law, because she was protecting our natural resources.”

Mr Kimhong: The Perils of Vigilance

While many people say that the lockdown that Covid-19 has caused all around the world has been beneficial for the environment, clearing the skies and tourist destinations, the effect on

Cambodian forests has been quite the opposite. In the midst of travel restrictions and the fear of catching the virus, people traffic along main roads has decreased significantly since 2020. However, reports of deforestation during the same time period, especially within the Prey Lang Protected Area, have increased just as significantly.

This has also coincided with a strange phenomenon initiated by the Ministry of Environment (MOE). Beginning around October 2019, officers of the MOE, who claim to have complete authority over Prey Lang, began to prevent activists and volunteers from entering and patrolling the forest for illegal activities. They confirmed this prohibition in February 2020 when they arrested some activists and blocked villagers from entering Prey Lang to celebrate the annual forest blessing ceremony. However, the MOE simultaneously seems to allow trucks to enter the forest and leave timber-laden without any issues. As Richard Pearshouse of Amnesty International confirms, "While Cambodian authorities prevent the Prey Lang Community Network and environmental defenders from protecting the Prey Lang wildlife sanctuary, illegal loggers are clearing land with impunity." A report by Global Forest Watch appears to acknowledge the correlation between the pandemic, the absence of the community volunteers, and the rise in deforestation, observing that in 2020 there was a loss of 7,511 ha of tree cover within Prey Lang, an increase of 73% from the previous year.

It is within this context that Mr Kimhong (aged 35) (not his real name), a family man identifying as indigenous Kuy, and member of the Prey Lang Community Network, had resorted to monitor illegal activities along the roads outside the forest, given the prohibitions imposed by the MOE. During one of these occasions in mid-2020, he spotted a local truck loaded with timber coming from the forest. He took a photo and an altercation with the truck driver ensued. Both parties reported the incident to the authorities. However, Kimhong was puzzled why police officers were refusing to accept and make a record of his report. As it turned out, the illegal logger was related to the head of police for that area, and he with this connection had filed charges against Kimhong instead. With police officers searching for him in his home and village to make an arrest since September 2020, Kimhong has fled and has been in hiding ever since. He has been on the receiving end of death threats and different acts of harassment; he, a common farmer, a local villager, simply exercising his rights to report crime and protect nature.

At this time in Cambodia's political and cultural environment, it seems that how the law is enforced, largely depends on who eventually benefits, and how those in power can maintain the economic gains that they currently enjoy. For those targeted, the law is just like a hammer or any other tool which the authorities wield against those who make life inconvenient. As Kimhong comments, "The authorities receive benefits from the illegal loggers. When we disturb the illegal loggers, the authorities get angry with us."

It is not insignificant that Mr Chut Wutty, Ms Long Kunthea, and Mr Kimhong are regular people, a soldier, teacher, and farmer, who are representatives of the ordinary citizen. They are deemed anti-development "activists" simply because they chose to express their love for nature and country, even if it meant confronting those in power. Their love led them to a collision with those enjoying political power and its illegal economic gains, even at the expense of ecological systems and poor people's rights. It is an old narrative, and it is very

much alive in the Kingdom of Cambodia. In fact, there is a saying here that goes, “What is the law? It is whatever the one in power proclaims it to be.”

What then are some long-term approaches that can help bring about a more just and respectful society? In a just and fair system it would be:

- a) Educate school children on the necessity of respecting others, especially the weak and also respecting nature. Include programs in educational institutions that cultivate generosity, sacrifice, and service to others.
- b) Encourage a culture of true unbiased dialogue, of willingness to listen to the other, of compromise, of seeking common goals beneficial to all. We cannot be selfish and focus merely on enriching ourselves. In fact, we should acknowledge activism and celebrate those who act out of love for the marginalized
- c) Strengthen local communities, increase their capacities, let them manage their local natural resources without exploitation of the resources.

We are all still evolving beings; we are communities still on the way. But there are existential-level events which are coming our way, such as the climate emergency and mass extinction. If we are to survive and even thrive as a community of nations, it is imperative that we find a way to live in true unity, to get out of ourselves, to support each other, to respect the rights of the other, human or otherwise.

Original in English



The Organisation as Human Rights Defender

Julie Edwards

CEO-Jesuit Social Services, Australia

In thinking about human rights defenders, the tendency is to think of those courageous individuals who risk their personal safety, and even their lives, in order to defend the rights of others. In this article I argue that organisations also have a key role to play in defending human and environmental rights. I do so as a leader of a Jesuit social change organisation who has seen the power of an organisation giving expression to its Jesuit identity in its daily work of accompanying people on the margins and fighting for social and environmental justice.

My own broader context, the Jesuit Conference of Asia Pacific, is the most diverse of the Society of Jesus' Conferences – across political, cultural, economic and religious spheres. It is home, for example, to stable democracies and communist political systems through to countries currently experiencing political upheaval; to capitalist through to state-controlled economies; to countries with strong religious allegiance (Muslim, Christian, Buddhist and other faiths) through to openly secular societies. These various conditions give rise to the diverse ways that human rights defenders seek to further their causes. This is evident in our region and beyond, where human rights defenders fight to protect the rights of people, communities and the environment. It is also evident in the variety of ways across countries that such activism is responded to – from tolerance, if not appreciation, of it as a valid expression of engaged citizenship consistent with democratic principles, through to suppression of such activism including outright violence towards, and even murder of, human rights defenders.

Closer to home, Australia, like every country in the world, has its particular set of injustices that need to be addressed, a few of which I will outline below. We operate within a democratic system that respects the rule of law. As such, there is a range of formal mechanisms for action that are available to human rights defenders. However, structural injustice, unjust laws and policies mean that social and environmental justice activists are often compelled to take action outside these avenues in order to achieve their aims.

While Australia is a prosperous country, it is a fact that our current prosperity is built on the dispossession of Indigenous Australians, who are acknowledged to be the oldest, living, continuing culture in the world. To our shame they are over represented on most indicators of risk and disadvantage. Jesuit Social Services, an Australian social change organisation, confronts this reality every day. We are committed to being in grounded relationship with people on the margins of our society and to influencing hearts, minds and unjust structures

and systems towards love and justice. This commitment to accompanying those on the margins brings us into relationship with people involved in the criminal justice system, where we come up against the shocking reality that Indigenous Australians, despite being only 3% of the population make up 30% of the prison population; and Indigenous people aged 10-17 years make up nearly 50% of incarcerated youth despite being only 5% of the general population.

Beyond the criminal justice system, evidence of Indigenous people's disadvantage is apparent across numerous health and wellbeing indicators such as shorter life expectancy, higher rates of infant mortality, poorer health, and lower levels of education and employment compared with the rest of the population. The story of the dispossession of Indigenous people is not a feature of the past.

A recent report produced by Australia's RMIT University¹ (*First Peoples and Land Justice Issues in Australia, 2021*) noted that the absence of adequate protections under both Australian law and international business and human rights frameworks means that Indigenous people across the country must continue to advocate for their rights in relation to land justice. The report details a number of current examples where mining and extractive industry companies are negatively impacting on Indigenous people, in direct contravention of the non-binding principles and norms that these companies have committed to. For example, companies fail to gain free, prior and informed consent before undertaking projects affecting Indigenous peoples. A recent, infamous example of one company's flouting of their responsibility to respect the voice of Traditional Owners and protect sacred sites is the destruction of the Juukan caves in Western Australia by Rio Tinto.

Drawing only on these few examples of injustice, it is clear that human rights defenders in this country and beyond find themselves involved in addressing a range of issues that affect people, communities and the natural environment. Depending on circumstances, the focus of their advocacy activity can extend from addressing legal and regulatory shortcomings through to community mobilising, organising, direct action and civil disobedience.

Across the broad range of contexts and circumstances that those within the Jesuit network are located, they are well placed to actively defend the rights of people, place and planet, either directly or by supporting citizens or community groups in their efforts. This capability originates from Jesuit heritage itself, whose fundamental orientation can be drawn on to support such activity. This orientation can be traced back to Ignatius and then tracked over the centuries to the present time in the life and work of Jesuits and their colleagues. This is made evident when their activism demonstrates first being grounded in relationship with those on the margins; and from this position taking a realistic appraisal of reality, being intellectually rigorous in their analysis of the situation and, from these foundations, choosing to act to address injustice.

¹ Emmanouil, N., & Unger, C. (2021). *First Peoples and Land Justice Issues in Australia, Addressing Deficits in Corporate Accountability*. (RMIT University: Melbourne).

Beyond the fundamental orientation of the Jesuits to support this activity, there are other factors that contribute to the Society's potential to intervene to create a more just world. The capacity and capability of the Society today is greatly enhanced by the contribution of many thousands of lay colleagues who form part of the broader Jesuit network, partnering in a shared mission. This extensive Jesuit network has significant and broad engagement in the world - from immersion in grass roots communities through to presence in, or access to, centres of power. This is further enhanced by the Jesuit network's broad geographic reach which spans dozens of countries. Thus, combined with the Society's fundamental orientation towards the promotion of justice, these factors provide those in the Jesuit network a powerful platform from which to act. While there are outstanding examples of individuals and particular organisations fulfilling this role, my view is that this potential has not been fully realised.

Recognising the gap between the promise and the reality, I was drawn to make a contribution to the efforts of those in the Jesuit network to realise this potential. My own analysis of this situation led me to conclude that one factor that limits the Society's capacity to act in the role of human rights defender is the absence of robust social institutions that are able to inspire, support and sustain the advocacy efforts of their members to act in accord with their purpose.

This sentiment resonates with Pope Francis' statement in his recent book, 'Let us Dream' (2020). Reflecting on the COVID-19 pandemic, its impact on all people - particularly the most marginalised - and the response we are called to, he states:

I see, above all, the pressing need to strengthen institutions, which are a vital reserve of moral energy and civic love (p. 46).

Elevating the need for strong institutions does not minimise the important role played by individuals or social movements in the fight for justice. All are needed. Nor does it preclude the contribution that organisations can make in supporting individuals and social movements. But in adherence to the principle of subsidiarity, which supports decisions and actions being made at the appropriate, most effective level (not always at the smallest or lowest level), institutions have an important role to play. The Society of Jesus is itself an institution within a larger institution of the Catholic Church, and it has fostered a range of robust and influential entities, particularly in the education sector. It strikes me that the Society's sound track record in establishing and running institutions could be profitably drawn on at this time to address injustice and need, particularly by establishing strong organisations in the social sector as a means to promote justice in a sustainable and effective way. I support recent steps taken by the Society to address particular global problems through the establishment of international networks that aim to amplify the efforts underway, across countries and regions, of those who are working on shared concerns. However, my own view is that the effectiveness of networks is dependent to a large extent on the existence of robust organisations that can make a substantial, sustained contribution to these networks and beyond.

For these reasons, I felt compelled to contribute to efforts to build Jesuit organisations in the social sector. My goal was to articulate a model to ensure such organisations are imbued with

Jesuit identity across all aspects of their activity, in order for them to take up their role as defenders of human rights and environmental justice. To achieve this, I undertook study that allowed me to draw on many years' experience - as a practitioner of social work and leader of a Jesuit social change organisation - in order to synthesise insights arising from that exercise with findings that emerged from my reflective review of key Ignatian and Jesuit source documents. This process allowed me, first, to identify elements that are central to Jesuit identity of an organisation engaged in justice activity; second, to spell out the features of a way of proceeding framework pertinent to this work; and, ultimately, to articulate a model for fostering the Jesuit identity of an organisation that can faithfully embody this commitment in a contemporary context. These tools can assist those of us in the Jesuit network to act in accord with our purpose when confronting injustice, including environmental and human rights abuses.

The six elements I identified that speak to Jesuit identity, and have applied to our work at Jesuit Social Services, shape the way we understand reality, our purpose and the approach we take to our work. They are: *love, oneness, gratitude, solidarity, magis, and discernment*. Acting in accord with these elements influences all aspects of our activity including our efforts to defend human and environmental rights. The deepest foundational element, *love*, speaks to our understanding that God is *love* freely given, the unifying mystery at the heart of life, present in all things. From this, we understand the *oneness* of everything; that everything is interconnected, interdependent; that God's nature and our very essence is relational. We see that we are all held, nourished and sustained in a web of relationships and that all of this is a gift. These foundational elements lead us to understand that our purpose, therefore, is to foster and heal relationships - with self, family, school, community, workplace, the natural environment and God. Relationship is our essence, not just an approach we take to our work. In recognition of the *oneness* of all things, including injustice, we take a universal perspective.

This understanding of reality prompts our response of *gratitude* out of recognition that everything is gift to be received. It fosters the disposition to be free and available to respond to the invitation to collaborate with God in the work of love, healing and reconciliation.

Our purpose is brought to life, operationalised, through our way of proceeding which incorporates three interrelated domains: human spirit (which refers to our way of being: *contemplatives in action*); our practice (which refers to our way of working: *doing and influencing*); and our business processes (which refers to our way of operating: *supporting and serving*). The elements of *love, oneness* and *gratitude* are the basis for our approach of *solidarity*, to which we give expression across people, place and planet.

In enacting our organisational purpose, our guiding principle is the *magis* - choosing the option that is more loving, effective and influential, meeting the greatest need, and always seeking the greater good. To achieve this, we marry our orientation towards the *magis* with the process of *discernment* in an ongoing dynamic that permeates all activity, fostering our capacity to be free and available to live our purpose.

These six elements should be evident in any act to promote justice within the Jesuit tradition. In seeking to ensure such action is sustained and effective, I developed an organisational model that spells out the inter-relationship between the six elements and how they are operationalised through our people, through our work, and through the processes that support our work. This organic model of organisational identity speaks to the dynamic relationship between the heritage and organisational members, giving life to both. In applying this model, my experience demonstrates that when an organisation operates in a way that gives expression to its Jesuit identity, it is able to enact the role of human rights defender.

An organisation can bring to this task institutional strength, including capacity to foster the human spirit of its members - supporting them to step away from an ego-driven approach, to nurture their vocational hearts, to operate as a team and function as *contemplatives in action*. An organisation can develop a way of *doing and influencing* in the world consistent with its heritage. It can bring capability to undertake rigorous social analysis as a basis for implementing effective interventions. An organisation has capacity to implement a comprehensive range of initiatives from accompanying people in need through to enacting a broad spectrum of activities to defend human and environmental rights. Further, these activities inform one another ensuring each is based on people's reality and is informed by evidence. An organisation must ensure its business processes *serve and support* the mission, embedding procedures across all activity to ensure the safety of all involved and the quality of its interventions.

In reflecting on examples of injustice encountered in Australia, the Asia Pacific region and beyond, my view is that individual activists, social change organisations, networks and social movements all have a role to play in defending human and environmental rights, depending on the circumstances. While I believe that those in the Jesuit network can make a contribution at all these levels, I suggest that in the current context there is a particular need for us to strengthen organisations in the social sector in a way that has not occurred to date. As articulated by Pope Francis, institutions can act as "a vital reserve of moral energy and civic love". Our era calls for this. It is my view that those in the Jesuit network are in a position to take up this challenge.

Original in English



Defending the Rights of Migrants with an Open Heart

Helena Maleno

Human Rights Defender, Spain

When I was asked to write this article, I thought I would do it with an open heart. So I remembered the doors of the houses in the neighbourhood where I grew up.

I come from an honest, hard-working and very modest family, from a neighbourhood where the front doors were always open. Perhaps there was material poverty, but we had other riches to make us proud. My grandmother's house had two entrances. Sometimes they were both left wide open. The one in the courtyard was never closed.

The neighbours would drop by each other's houses looking for a helping hand, some carrying tomatoes, others beans; and many would ask for a small loan or to mind their children while they went to work in the fields. So, what little we had was shared, without much fuss, without asking for anything in return.

There was no church in my neighbourhood; it was built when I was older. But my neighbour Loreto gave up her small warehouse to use as a parish Church. The warehouse door was also always open.

My grandmother used to share what little we had with anyone. That included our family, neighbours, but also strangers passing through. Sometimes, when I got home from school, I got less for lunch because, according to her, someone hungrier than me had passed by the house door. When you are young, you are not aware of how the seed of solidarity is planted in your heart. My great-grandmother, my grandmother and my mother sowed the seed and watered it well. They made sure that it never dried out and that I collected seeds to give to my two children. I grew up feeling that it was natural to share and love others. Life, a poor one, but also in my case the most dignified one that they could give me, was always sustained by solidarity.

Spirituality was also present in my childhood. It is true that my family was critical of the Church which had forgotten the poor. That Church for the privileged did not represent us, we were not aware of its presence. But there were several saints in our lives.

One was Friar Leopoldo de Alpanseire, an almoner who during his life offered support and understanding to those most in need on the streets of Granada. Others were the Holy Souls, and my grandmother would visit their modest altar to pray to them and ask for small miracles. It was not like her to ask for great things. There were also pilgrimages every year to Santo

Cristo de la Luz in another neighbouring town. Looking back over time, that spirituality also inevitably guided us towards solidarity and love.

You may wonder why I am telling you this. I felt the need to share this little introduction with you in order to start from the beginning. A beginning that does not even commence with my birth, but comes from my ancestors and their teachings. Since that childhood, so distant yet always so present, my personal growth has been accompanied by a series of beliefs and values that have never left me. They are not the products of thoughtful reflection, nor a stance based on studies or rational consideration. It is as if, from those seeds planted in me, a tree has been growing in my guts, in my deep inner being, with its branches spreading through every part of my body.

I have always left the door open wherever I am, and life has entered through it, bringing me face to face with people who, as my grandmother would say, needed something that I could give them. No more, no less.

When they ask me how long I have been doing what I do, I answer them, “since forever”, since before I was born.

That is why when I was testifying in front of the judge, waiting to enter pre-trial detention, facing a life sentence, the answers came to me easily. “Why does everyone have your phone number, madam?” he asked me. I answered him, “I don't know, Sir, it was a gradual thing, it was passed on from one person to another, many people follow me on social media. It happened organically.”

I looked at the judge while he questioned me, and caressed the photo of my mother in my empty handbag because I had left all my belongings at home in preparation for entering prison that day.

I did not go to jail that day, and I walk free still as I write this text to you. My freedom was made possible by the thousands of people who also opened their doors to send forth solidarity and to protect me. This was a great protective shield, full of love and commitment.

I'm sorry, you must not be following much. I skipped some of the context. You must be wondering how that little girl I was talking about at the beginning, years later, found herself in front of a judge.

Well, it's complicated, and I find it hard to get it straight in my own head, because criminalization crashed into my life like a tsunami.

I had gone to live in Morocco twenty years previously, and my work as a social researcher was combined with the defence of rights. First I came across the forests where the migrants lived. Later I discovered the communities, and through them I realized the violence happening at the border.

I met people who also shared those spaces and who were fighting to mitigate the widespread violence and death, some of whom were also part of the Church.

There, I left my doors open, as always. We built a small association to accompany the solidarity and mutual support activities organized by the communities of people on the move.

We witnessed how people were denied their most basic rights, how they were criminalized just for moving to seek a better life.

We saw many things, and also many deaths. I began to feel the impact of 'necropolitics', a concept explored by thinkers like Achille Mbembe that I had studied. For certain companies, letting people die and making people die is business. In the case of the border where I live, this big business is run by European arms companies.

In 2007 I received the first call where a person was looking for help from the sea.

It was somewhat random – he knew us from when we had accompanied him to the hospital. I looked for the emergency phone numbers, and for the first time we learned that there were rescue services in Spain and Morocco that had an obligation to guarantee life at sea.

That first night of anguish I wished and hoped that it would never happen again, that no one would ever call me again looking for help from the ocean.

As I write this short story of my life to you, I am receiving constant calls from family-members and people at sea. Because today there are four boats with more than two hundred people on-board that need to be rescued in order to save lives. In these fourteen years, the number of calls has increased, and they are now an ever-present fact of my daily life.

I have seen many lifeless bodies that were never even identified.

Not only does the border deny you the right to live, it even strips you of the right to die. Because if the deaths on the borders never happened, well then no one is responsible for them. Thus, immigration policies can continue to kill with impunity.

Throughout these years, bodies have continued to arrive at morgues and boats continue to disappear at sea. So we have also had to concentrate on identifying and burying the victims. We have asked ourselves what their beliefs might have been, so as to bury them with their own ceremonies in a dignified way.

In the midst of all this, I became aware of the attacks. I was reluctant to attach too much weight to them, for fear that they might gain importance in my life. But there came a time when I could no longer avoid them. Thus, I was able to confirm that I had been investigated by the Spanish border control police from 2012. The Moroccan police and Frontex, the European border agency, also had me under surveillance and wiretapped my phone. I did not know anything about this until I was called to testify in a Moroccan court in 2017.

Earlier, in 2014, I survived an assassination attempt in the midst of organized racist attacks in a Tangier neighbourhood, while the Moroccan police passively watched on. Since that assault, I still bear the marks of some of the blows as well as the memory of the sexual violence.

Another thing that I have learned in this time is that we, as women, are attacked in other ways. Through our bodies and our sexualities, and also by going after our sons and daughters.

I don't know if I told you already, but I have the privilege of sharing this path of life with two beautiful people, my son Ernesto and my daughter Kitu.

Defamation, threats, and harassment, through social media and by other means, intensified from 2014 until I was called to testify in 2017. It was then that I realized the enormous scale of my persecution. For five years, police in various countries had wiretapped my phone and subjected me to extensive surveillance.

Before being presented before the Moroccan courts, the alleged criminal dossier compiled by the Spanish police against me was submitted to the Spanish National Court, but a prosecutor told them that what I was doing at the border was not a criminal offence. Despite this, and ignoring the Spanish legal system, the border police sent these dossiers to Morocco, a country that has become my home in recent years.

When I received the summons to appear before the Moroccan courts, I still had my passport and the possibility to escape, leaving everything behind. Before making any decisions, I went to the small altar to my ancestors, and I told my grandmother and my mother that I could not go. Just leaving was not an option. Not only for me, but because this was a test case and could set a legal precedent in the persecution of other human rights defenders.

There was no other option but to leave my doors wide open again, even for those who wanted to sentence me to life imprisonment.

I testified three times before the Tangier Court of Appeals for criminal offenses. I read the dossiers produced by the Spanish police, which began with a list of my sexual relations with men and women. In those pages there was a clear desire to delegitimize me as a defender and as a woman, even affecting my personal and emotional life. The statements about me were misogynistic and encouraged the idea that a "bad woman" is always more suspect of committing crimes. During my statements I was able to see the transcript boxes of the wiretaps that I had been subjected to during all these years. There they were, in the judge's office, and not just one, two, or three...

I kept thinking about my mother all the time, about what we had said to each other on the phone over the years, all of which had also been heard by these men who were persecuting me. It filled me with great sadness and also with rage, which I have always tried to contain.

I have not told you the crime of which I was accused: facilitating irregular migration and human trafficking. The accusation was based on my calls to the national rescue services when migrant boats were at risk at sea. Of course, in the dossier made by the Spanish police they accepted that it was not for profit. Imagine that! A trafficker who does not make any money from trafficking.

My case thus became an example, a transnational persecution where European institutions had gone one step further to criminalize solidarity. Equating trafficking with helping people whose lives were at risk at sea was a qualitative leap. That is why we had to stay, fight and, in doing so, protect the rest of my colleagues who battle every day for human rights.

I must tell you that we won the legal proceedings. I was very happy; it was in 2019 when the Moroccan court also said that what I was doing was not actually a crime. I thought that I could leave it there, but the international organisations that protect women rights defenders alerted me that I would surely not be left alone. This had touched a nerve with high political and economic powers.

Indeed they were right, and the police alerts linked to my passport have not been removed despite my acquittal. The threats have continued. They even came to my house four times to take personal things, including my little daughter's school timetables and activities. I won't lie – in those moments you feel fear for the people you love.

This last January I was deported when I was trying to return home to Morocco. I could not return with my daughter, who had escaped the country with a single suitcase as we feared for her life. In fact, to this day, I still have not recovered anything from my house, or my personal belongings. They sent me into exile.

But, as I was telling you in this little story, I continue to do what I am criminalized for. When someone asks me, “Was it worth it?”, I remember a phrase from my mother, an expression from Almería, from my land, and I answer: “*no me pesa*”, “it doesn't weigh on me.” I bear the scars of violence, some internal and others that can be seen on my skin. Despite this, I walk unburdened. Maybe because other hands carry me on my way. Maybe because this path was beaten by other feet, ones that walked this way before me. I do not know, maybe it's that the seeds planted in me have grown to become branches bearing fruit.

Original in Spanish
Translation Nils Sundermann



The 'Bar' of Humanity

Matteo Pasanisi

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I had the opportunity, along with eleven other participants, to go to Nice on 25 January 2020, for a trip to raise awareness about the realities and politics of migration at the French-Italian border. During the week spent in this region, we met several activists who are involved on a daily basis in different aspects of migration: from observing the operations of the border police (PAF), to organising demonstrations and events aimed at raising public awareness. Among the different organisations we met, there are NGOs such as Amnesty International or Anafé (National Association of Border Assistance for Foreigners), smaller citizen associations such as Roya Citoyenne, and alternative groups such as the anarchist collective Kesha Niya¹.

On Thursday 3 February 2020, we went to Ventimiglia, the first Italian city after the French border. We were welcomed by Delia, a woman who, through the reception offered in her bar the "Hobbit Bar", commits herself every day to help migrants passing through or leaving Ventimiglia. She did us the honour of sharing her testimony and her own story with us, which I am about to share with you. What I am telling here is not a fairy tale. It is not about a princess held by a dragon, waiting for her brave knight. On the contrary, my story is about reality, about everyday life, about the courage, determination and strength of an inspiring woman, and about values which, unfortunately, seems to be becoming increasingly rare: humanity and compassion.

Delia is the owner of the "Hobbit Bar" in Ventimiglia, the last Italian town before the French border. It is a town like any other, except for its geographical position which has made it, over the years, a stopover for so many deeply wounded souls: migrants. The humanitarian emergency in Ventimiglia began in 2015, when France decided to unofficially leave the Schengen area², closing its borders and preventing the entry of thousands of people seeking a dignified life. During the two years that followed, Ventimiglia welcomed a thousand people who passed through the village every day. Temporary solutions were offered such as emergency accommodation and humanitarian camps. A Church was even used as a shelter for migrants. Many inhabitants were involved on a daily basis in trying to help these people as much as possible.

¹ "No problem" in Kurdish dialect.

² The Schengen area is an area of free movement where border controls have been abolished for all travellers [...] In practice, within this area, EU and non-EU citizens can move freely without being subject to international border controls.

As all too often, the authorities were not as prepared and responsive as they should have been. In a short time, Ventimiglia has become a place inhabited by hatred, fear and ignorance, fuelled by malaise, lack of hygiene and a daily sight of the harmful effects of a system that promotes prejudice, individualism, consumerism and isolationism. Being aware of the situation is one thing, but dealing with it is another. Many shopkeepers have decided to close their doors to migrants. "Blacks can't come in here". I don't know about you, but personally, this reminds me of something. In addition to the prejudice, a mayoral decree forbids anyone to feed refugees in public places. Like the sign: "Do not feed the pigeons", it's the same thing. In this hostile and dehumanised climate, Delia decided to take a firm, determined, disarming stance, consistent with her naturalness and simplicity: she chose to reach out to people in difficulty by offering them a coffee, some water and allowing them to use the bathroom of her restaurant. Little by little, the migrants began to trust her, feeling welcomed and understood.

The key episode occurred on the 14th of August 2016, a scorching day without a breath of wind. Many women and children, seeking shelter from the heat, were outside the "Hobbit Bar", which was shaded in the morning. With the bar empty, Delia came out into the street, inviting everyone in, offering them what she had cooked and greeting them as one would do for loved ones. That's when the "Hobbit Bar" became the bar of welcome, of help, of humanity. The humble owner tried to do her best to help beyond this: she started collecting clothes, shoes, nappies, basic necessities and asked her family and friends for help. Unfortunately, she was unknown and received no help from the state, associations or organisations. But thanks to the intervention of some journalists who happened to be passing by and decided to tell her story through an interview broadcast on Rai3, things started to change. Some would call it divine providence, others karma or fate. To each his own. The fact is that local organisations heard her story and started to work with her, trying to help as much as they could. The "Hobbit Bar" began to fill up with people, generosity and love. Delia slowly changed her habits to accommodate her new clientele, replacing "*piadina*", filled sandwiches and "*lasagne*" with hard-boiled eggs, simple slices of bread and vegetarian products. All sold at very affordable prices, as 'supply, speculation and gain' are not part of the *Hobbit Bar's* vocabulary.

However, problems of official intimidation and violence soon followed. For more than a year, Delia was visited daily by police, gendarmes, finance guards³ and firemen, all looking for any excuse to put obstacles in her way. The climax was reached when one day eight NAS (Italian Health Police Command) came from Milan (the distance between Milan and Ventimiglia is 285 km, there is another one in Genoa, which is 165 km away) to search the establishment, but they found nothing. Sadly, not only did the official institutions show their worst face but also, and above all, the citizens. More than once, Delia had to face the *ventimiglians* who tried to intimidate her and the migrants by entering the bar and shouting: "Negro, go out into the street so I can kick you back to your country!" Added to this are the repeated insults to the point of spitting in their face. Showing no restraint, dignity, respect or education.

³ The Finance guards (Guardia di Finanza) is the Italian financial and customs police. It is part of the Italian armed forces but reports directly to the Minister of Economy and Finance.

Stories, Trajectories that Leave Their Mark

Fortunately, there are also stories with happy endings. Like that of a child who arrived in Italy, trying to meet up with his sister who lived in Paris. A long and difficult journey. Unable to give any news of his whereabouts to his sister, she worried and launched an alert by publishing a photo of her brother, asking anyone who had news of him to contact her. As luck would have it, this little boy who had arrived in Ventimiglia was recognised by Manuela (a volunteer for *Caritas Italiana*). She literally picked him up and took him to the bar where he was comforted, informed of the situation and from there taken all the way to his sister's house. Or that of the two brothers, one an adult and the other a minor, who crossed the Mediterranean together to Lampedusa. To avoid separation, the younger brother declared that he was 18, but the authorities did not believe him and the two brothers were sent to different reception centres. However, after many months and by chance, they too found themselves in this small town in northern Italy, and in this small bar, the customers present witnessed the brothers' reunion. The older brother lifted his younger brother from the ground to embrace him: the emotions transmitted were indescribable. Finally, the story of the Nigerian woman who was rushed to the bar for help, screaming in pain, suffering from a head and abdominal injury. Although she had her seat four metres from the bar, this was the first and last time the Green Cross intervened there. A few months later, on a day like any other, a lady outside the bar, stammered something that Delia could not understand. She stepped out and approached her to try to understand what she was saying, at which point the woman knelt down in front of her. Surprised, Delia quickly requested and helped her to stand up and the woman said, "Thank you, you saved my life." This was, in fact, the same woman who, two months earlier, had been rescued in emergency.

There are also traumatic episodes that have taken place. One in particular, is the incident of the seventeen-year-old girl who also passed through the "Hobbit Bar". Her skin was covered with marks of unbelievable violence, difficult to imagine. Sent to hospital, the doctors discovered that her genitals had literally been destroyed by repeated sexual violence. She died a few weeks later. The "Hobbit Bar" would have closed by the end of 2019 due to lack of finance. Reluctantly, Delia had no option other than to give up the bar because her meagre income could no longer pay the rent. Against all odds, solidarity showed its face when a group of French-Italian individuals decided to come to the rescue of the establishment, helping it financially to survive, with the aim of keeping it open. Despite the economic difficulties, the "Hobbit Bar" has a golden rule: "Women and children do not pay". The women because they have suffered a lot of violence, the marks of which they often still bear. The children, as Delia says, because they have already suffered too much for their age and will carry the scars of their past forever. But one day, when they are adults and think about what they have been through, they will remember the kindness, the support and the smiles that she gave them in the midst of their torment. According to her, she feels a compulsion to do what she does and hopes her help will make them better men and women: human and supportive in their turn.

Responsibilities with Variable Geography?

In every region affected by this humanitarian emergency, it is always possible to witness demonstrations or acts of xenophobic violence by citizens who, whether they like it or not,

find themselves involved in this situation. But they are certainly not the only ones responsible. Ventimiglia has been hit by a wave of migration that it was not “prepared to face”, which has transformed the city and left its inhabitants with a mixed feeling of fear and ignorance. Moreover, because of the deteriorating sanitary and hygienic conditions, and against the background rise of right-wing populism, the city has become a ‘xenophobic’ place. I feel the citizens can be considered as victims, almost as much as the migrants, by a state and a system (embodied by the European Union), which have shown themselves to be unable or unwilling to put in place effective and efficient solutions. Unfortunately this city has been left to its own fate by the authorities, who are more interested in the media noise generated by the emergency and in their own profit than in finding a real solution. Personally, I believe that the migration crisis is a problem that concerns, and must concern, the whole European Community and not only the most affected regions. Neither Italy nor Ventimiglia are capable of managing the situation, but Europe as a whole is. First and foremost, the Geneva Convention should be updated so that it also grants the status of asylum seeker to those who migrate for reasons that are not recognised today, essentially disastrous climatic and economic conditions. It would also be necessary, and above all, to implement reception policies at European level, preventing individualistic positions taken by States, such as those taken by France by reinstating borders.

The crisis is there, it exists, and it is real and concerns us all. It is also very visible when we know that Nice a holiday resort prized for its beauty is only 40 kilometres from Ventimiglia. But one still has to have compassion to see it... This experience brought me a lot, gave me a lot to think about, made me want to get involved and to share it, especially through this short description of a moving experience. Touching Delia with my hands, translating and listening to these testimonies hurt me, as an Italian but, above all, as a human being. I feel rage to see how thousands of people that nobody cares about are treated, with almost general disregard. They are despised, shunned, avoided like the plague “because the problem is migrants stealing our jobs”, “because migrants are all delinquents”, or simply “because it suits us”. Above I wrote: “I feel the citizens can be considered as victims, almost as much as the migrants”; nevertheless, I would like to emphasize the word “almost”: we, that is, me, you, my family, your family, my friends, your friends, all of us, unlike migrants, have the freedom to cross this border and to choose which side we want to live on. But we also have the right and the obligation to inform ourselves, to understand, to listen to others, to empathise. Ignorance cannot be an option, nor a justification. In my opinion, our responsibility in such circumstances is to “reach out” to the one who is in difficulty, because “Every man is guilty of all the good he has not done”.⁴ Somebody, some years ago, sang “imagine that there is no country, it is not hard to do, no cause to kill or die for, no religion too, imagine all people living lives in peace... You can say I'm a dreamer, but I'm not the only one, I hope one day you'll join us and the world will be all be one”.

Original in French
Translation Fala Valery SJ

⁴ Voltaire. www.centodieci.it/postspirazione/fare-del-bene-citazionevoltaire



Defending Human Rights: Resisting and Re-existing in the Face of Dehumanisation

Maria Teresa Urueña

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This article is a space of acknowledgement for those who risk their lives for a cause and, in particular, for the leaders of Putumayo, a small department in the Colombian Amazon bordering Ecuador and Peru. As part of the Amazon, its biological and cultural biodiversity is of global importance. As a border territory it has faced exclusion and neglect, and its inhabitants have for years been requesting that the state fulfil its obligations to them. It has suffered the harsh impacts of armed conflict - 70% of its population are forcibly displaced persons.

In this article, I will share the accounts of three leaders and defenders so as to try and portray the context they face, through their voices and struggles, after which I will offer some ideas and reflections for the readers' consideration. For security reasons, I will omit the real names of two of the individuals.

As a child, I had heard of Putumayo through the media, which portrayed it as a zone of war and death, inhabited by rebel drug growers and guerrillas. This was a narrative that associated the civilian population with the armed groups, thus justifying their persecution in the context of the counterinsurgency campaign. Years later, working with the Jesuit Refugee Service (JRS), I heard a patchwork of stories from displaced and refugee women and men, their protagonists, who detailed not only the pain of the war, but also, perhaps as a result of their uprooting and nostalgia, the beauty of that enigmatic place.

Meetings with the leaders and their accounts

For this reason, I remember vividly the day when I met these renowned social leaders in the city of Puerto Asís; I felt fortunate to be able to talk with them. It was an opportunity to put a face to the stories I had heard and to 'think-feel'¹ the territory and its riches, championing its people and not its violence. That meeting also helped me to evaluate what was said in *Laudato Si*, inspired by Saint Francis, to whom Puerto Asís owes its name: we share our existence with the Earth, who is our sister, and her wounds are our own.

¹ The Colombian sociologist Orlando Fals Borda picked up this term from a fisherman to refer to the combination of using the head and acting from the heart.

In Putumayo, the leaders who defend human and environmental rights tackle the dynamics of the internal armed conflict, drug trafficking – which is an expression of the state's social neglect – and extractivism, mainly in the form of the oil industry. These dynamics intertwine and make the reality in the department a complex one. In this context, the civilian population has resisted different forms of violence perpetrated by the state, armed actors and companies. On the path of this struggle, social leaders and defenders have learned that the defence of life and the environment are closely interrelated, and they have also 're-existed'² by dreaming of other living conditions for their communities.

I want to start by recounting my meeting with Victor. I met him through an official from the Ombudsman's Office. At first glance, he appeared to be a very radical man with whom it would be impossible to negotiate. However, there was a backdrop to this impression; he had been demanding for years that the state guarantee basic rights. The strategy to get the attention of the government of the day was to block the only road that connects the interior of the country and, in this way, paralyze the economy. Each new round of negotiations added a list of demands that in turn became unfulfilled promises. This experience led him to carry out a deliberative process with the communities to build their own Life Plan in which human rights and the care of the Amazon territory were the central pillars.

This exercise in territorial planning gathered together the local social movement histories, both victories and losses, one of them being the murder, in 1998, of Father Alcides Jiménez, who is considered an *Amazonian martyr* by the Pan Amazonian Ecclesiastical Network³. His killing, like the killings of other social leaders, was a strategy used by violent actors for a variety of purposes that are worth pointing out, so as to understand the magnitude and consequences of these attacks. Among others, killings act as a warning or as a form of "exemplary punishment" to send a signal to other leaders. By creating an environment of fear, communities are prevented from exercising their individual and collective rights and, on many occasions, other organizational processes are ruptured as a result. This leads me to conclude that, despite the galvanising character of a martyr, this image of a heroic witness paints over a cluster of real and symbolic violence against an individual and the community. This demonstrates the state's failure in its duties to protect and to prevent the exercise of leadership from becoming *the chronicle of a death foretold*. In my opinion, communities pay a very high price if one of their own is persecuted or murdered. We do not need martyrs but leaders transforming and building communities of life.

The second meeting was with Marco Rivadeneira (real name). He told me about his love for the Amazon, about its biodiversity, about putting his faith in the Havana Negotiations, about

² For many, it is no longer just about resisting, or confronting and opposing, but about re-existing, posing and proposing new paradigms to inhabit the world. For the Brazilian geographer Carlos Walter Porto, 're-existing' refers to the how groups such as indigenous people, Afro-descendants and other communities, in the face of power imbalances and exclusion on the part of the dominant society, not only resist being wiped out, but, in addition, reinvent themselves through their respective differences.

³ See: <http://www.synod.va/content/sinodoamazonico/es/testimonios-de-la-amazonia/padre-alcides-jimenez--semillas-del-putumayo.html>

the need to overcome the oil extractivism that has polluted the territory. Don Marco understood that the defence of life had to go hand in hand with the defence of the environment. Paraphrasing article 11 of the Political Constitution, he strongly affirmed that: "*the right to life is inviolable, if they take our water they are killing us, because without water we die.*"

Marco was assassinated on March 19, 2020, in the middle of a meeting with campesinos, for promoting the Program for the Voluntary Substitution of Illicit Crops, as was set out in the Peace Agreement with the FARC. In the fight against drugs, *campesinos*⁴ are the least powerful link in a global chain. On the one hand, they have no means of becoming competitively active in the market economy and, on the other, armed actors control the production and refinement of the coca leaf, forcing the campesinos to become involved in this industry. In other words, Marco was assassinated for challenging the social order that, in the absence of the state, is imposed by armed actors at the behest of drug traffickers.

The NGO Indepaz estimates that from the signing of the Peace Agreement on December 1, 2016 to April 19, 2021, a total of 1,166 social leaders and human rights defenders have been assassinated in Colombia.⁵ Many of these deaths are related to the implementation of the Agreement itself, because community participation is seen as a threat to the criminal and paramilitary structures that were sustained by the warfare. Marco, number 887⁶ in the statistics, used to say that talking about human rights was a crime⁷. Unfortunately, it was a death sentence for him, which still goes unpunished today. The investigation, prosecution and punishment of these types of events has shown limited results, despite the existence of institutional mechanisms, in addition to those provided for in the Peace Agreement. Re-victimization and weakening trust in the justice system are the only outcomes of this.

The last meeting was at Ruth's house. She has been threatened and harassed on multiple occasions and has been forced to separate from her children so as not to expose them to danger. I was struck by her work to make oil companies remedy the damage and contamination caused to water sources. Ruth told me, with outrage, that while the oil workers received purified water from trucks to clean their clothes and wash themselves, the community had to use water contaminated by the same companies for their consumption and household uses. This is a stark example of environmental asymmetry and injustice where the few enjoy the benefits while the many suffer the losses. Her story focused on two elements that I would like to highlight: the role of companies in the violation of human rights and the role of women in defending the territory.

In relation to the role that private actors play, let us look at two situations. First, how states act and facilitate companies' insertion into areas at the expense of people's rights; and

⁴ Translator's note: *Campesino*, literally translated into English as "peasant". A broad term used in Spanish America to include "peasants, small and medium size farmers, landless people, rural women and youth, indigenous people, migrants and agricultural workers", as defined by Via Campesina International Peasants' Movement. See: <https://viacampesina.org/en/international-peasants-voice/>

⁵ See: <http://www.indepaz.org.co/con-lideres-hay-paz-agresiones-contra-la-paz-en-colombia/>

⁶ See: <http://www.indepaz.org.co/1-000-lideres-y-defensores-de-ddhh/>

⁷ <http://hacemosmemoria.org/2020/03/23/en-el-pais-hablar-de-derechos-humanos-es-delito-marcos-rivadeneira/>

secondly, how companies favour the dynamics typical of armed conflict. Regarding the first situation, in Ruth's story there was a strong link between the spraying of glyphosate—a strategy used to combat crops destined for the production of cocaine—and the forced displacement of entire communities. A short time after the territories were abandoned by their communities, oil companies appeared. A review of official statistics shows that in Putumayo, in 2002, the second year of the implementation of Plan Colombia financed by the United States, 31,116 forcibly displaced persons were registered—10% of the department's entire population in a single year. Between 2001 and 2002, 47% of the country's glyphosate spraying was concentrated in Putumayo and, subsequently, there was an increase in oil concessions accompanied by military battalions to safeguard their operations. Coincidence?

On the other hand, on some occasions, in such conflict-ridden contexts, companies see leaders and defenders as an obstacle to their interests. By labelling them as “enemies of development”, companies amplify stigmatization efforts. In Colombia, some companies have been linked to illegal armed groups both directly, through the financing of security and surveillance actions, and indirectly, through the replacement of democratic authorities—even with the authorities' own consent—thereby ensuring the impunity of these groups to freely commit violent actions. The Guiding Principles on Business and Human Rights, adopted by Resolution 17/4 of the UN Human Rights Council, establishes the obligation of companies to respect human rights regardless of whether or not states are in compliance, a commitment that includes financial institutions and investors. However, in places like Putumayo, greater on-site monitoring and reporting is needed for the real and effective implementation of the Resolution.

Women's leadership has other impacts. Often public-facing roles are reserved for men. However, women's voices are becoming ever stronger in highlighting the gender-based violence that has impacted their bodies and lives. Women leaders have opened their spaces to representatives of young people, indigenous and Afro-descendant ethnic minorities and LGBTQI groups that have been hit hard by the armed conflict. Women's leadership is essential to achieve change in the public and private spheres. Any initiative in favour of these groups and minorities should contain a gender perspective.

Conclusions and Recommendations

At first glance, these stories exemplify struggles that appear to be unique to a particular geographical space. However, similar patterns can be found in the stories of other leaders in different parts of the world. Therefore, some conclusions and recommendations can be drawn from these accounts. First of all, an analysis should be conducted on how life threatening situations for leaders and defenders are related to global decisions on development, the fight against drugs, and access to natural resources demanded and consumed by developed countries. Decisions made in global and national spaces have repercussions and local impacts. Therefore, we must ask ourselves about the responsibility and role played by the international community.

Second, states must be pressured to comply with the commitments enshrined in international human rights instruments. At the regional level, the Escazú Agreement promotes access to information, public participation, and access to justice in environment-related matters in Latin

America and the Caribbean. It is the only binding agreement emanating from the Rio+20 Conference, and it is the first agreement in the world to contain specific provisions on human rights defenders in environmental issues⁸. Pressing for ratification in states such as Brazil and Colombia is important so that leaders have the tools to defend themselves. Along the same lines, a specific action in the accompaniment of leaders and defenders is to inform and train them about their rights; for example, the Inter-American Commission on Human Rights published a Practical Guide with recommendations on how to mitigate the risks they face⁹. This dissemination should be done through simple toolkits with case studies and specific recommendations¹⁰.

A third recommendation is to strengthen existing institutional prevention and protection mechanisms, such as the Early Warning System, and to implement new measures as set out in the Peace Agreement. These mechanisms would help to safeguard social leaders and human rights defenders and solve historical problems in this country around this issue. Some proposed measures are the dismantling of paramilitary and criminal groups and the Comprehensive Security and Protection Programme for Communities and Organizations in the Territories. Unfortunately, in the face of non-compliance with the agreement and the often tardy institutional response, leaders must be shielded by self-protection strategies and community prevention mechanisms.

Finally, civil society has a hugely important role in supporting leaders and defenders, because its work to promote human and environmental rights creates the space where exercising another series of individual and collective rights is possible. Transforming hostile contexts where defenders are criminalized and intimidated, as well as acknowledging their work, is important for a functioning democracy in the face of increasingly authoritarian governments. Beyond this, it should be an ethical imperative to reject any threat to life. In some way, on an individual level, we all have a responsibility to avoid *the terrible banality of evil* that Hannah Arendt spoke about at the Eichmann trial in Jerusalem. We are all called upon to defend the lives of defenders.

Original in Spanish
Translation Nils Sundermann

⁸ <https://observatoriop10.cepal.org/es/tratados/acuerdo-regional-acceso-la-informacion-la-participacion-publica-acceso-la-justicia-asuntos>

⁹ https://www.oas.org/es/cidh/R/DDDH/Guias/GuiaPractica_DefensoresDDHH-v3_SPA.pdf

¹⁰ Recommended for consultation: <https://aida-americas.org/es/personas-defensoras-del-planeta-guia-de-obligaciones-de-los-estados-para-su-proteccion?>



Defending Communities and the Earth in Guatemala

Rafael García SJ

Ministry with migrants and refugees, El Paso, USA

For decades, the metropolitan area of El Paso, Texas, USA and Ciudad Juárez, Mexico has faced unjust immigration laws, family separation, and ecological challenges due to it being a desert area and due to the situation of poverty in Ciudad Juárez. In recent years, the area has received flows of people and families from Central America, in particular, from the Northern Triangle and from other countries, such as Cuba, Brazil and Ecuador, who are travelling to the United States in search of asylum.

Among the hundreds of thousands who have arrived in the area, we at the Jesuit parish Sagrado Corazón in El Paso, and I in particular, as its parish priest, have had the joy and privilege of meeting, living together with and accompanying two men who had to flee Guatemala for their activism in defence of their peoples, cultures, lands and the environment. They are Mr La's and Mr Kaxh. Their lives and their mission bear witness to the virtue and humanistic ideals of these men, who are deeply ethical and committed to the defence of God's Creation and justice.

Pap La's (Francisco Chávez Raymundo), 45, is a native of Xoloche, Nebaj and a survivor of the massacre during the internal armed conflict in Guatemala (1960-1996). At the age of six, La's was detained by the army in the town of Chel, along with his mother and his sister, and he watched on as members of the army killed an old man and then set fire to his house.

La's, who is a rural agricultural technician, began to organize with other survivors of the war and massacres and was instrumental in the 2013 genocide trial against former dictator General Efraín Ríos Montt (1982-1983), in which he testified in front of Ríos Montt, as did 90 other people. They were seeking transitional justice and that the massacre would never again be repeated. La's had to flee and suffered the tragedy of having to leave behind his wife, three daughters and three sons, his land and his culture.

Pap Kaxh (Gaspar Cobo Corio), 33, is a native of Salquil and graduated from Ixil University as a specialist in rural community development. His community was a model village, which was created by the Guatemalan army to control the Maya Ixil population. Kaxh grew up during the war and became a committed activist who supported ancestral authorities and community leaders. He too fled, bearing the pain of having to leave behind his wife, three daughters and one son, his land and his community.

Kaxh and La's fled in search of asylum after receiving death threats on several occasions, the last one on May 30, 2019 following a debate forum with political candidates running for municipal mayor organized by various organizations.

The following contains their reflections.

Tell me about yourselves and how you got to El Paso, Texas:

We fled Guatemala on June 8, 2019 and travelled the length of Mexico where we endured hardship, and suffered mistreatment and assault at the hands of the municipal police. Just because we carried no documents, they used racist and discriminatory language to abuse us, calling us *indios* (Indians). Then we were kidnapped and abused by *coyotes* or human traffickers and they locked us in a place with no roof. As this was during the extreme hot season at the border, we were very thirsty and hungry. Fortunately, we managed to escape our kidnappers after a month and sought help. It was difficult, because we had no knowledge of the area, Ciudad Juárez, on the border with the United States.

We went to the State Prosecutor's Office for Human Rights where, fortunately, they listened to our complaint. We spent 18 months in Ciudad Juárez and were twice denied entry to the United States as asylum seekers due to the so-called Migrant Protection Protocol (MPP). In November, we received disturbing and violent messages from a cartel, following which we were allowed to enter the United States, where we were detained for two months. Since our release, we now live in El Paso, where we are awaiting a court date for our asylum case. While we live in exile, we continue to denounce the violence suffered by those living in the Guatemalan state and we hope to continue fighting for our people.

We know that the indigenous peoples of Guatemala have suffered abuse, discrimination, poverty, violence, death and massacres throughout the centuries. Tell me a little about this history and the current critical situation that threatens indigenous communities.

The Ixil Mayan people live in three municipalities: Nebaj, Chajul, and Cotzal, in the north of the department of El Quiché, Guatemala. The area measures 1,480 square kilometres. This territory has been inhabited by the Ixil people for more than 2,500 years. Due to relatively little contact with the Spanish during the conquest and during the first 50 years of creole independence, the Ixil people maintain a strong cultural identity which can be seen in the roots of their traditions, their use of traditional clothing and of their native language, and their attachment to their ancestral agrarian lifestyle.

Contact with the outside world has always brought many problems and suffering to the Ixil people. During the conquest in 1530 (the date of the arrival of the Spanish to the region), the Ixil population dropped from 25,000 to 4,000 inhabitants in the 18th century. At the end of the 19th century, the Ixil people's lands were privatized to benefit large European coffee planters. In the case of the municipality of Cotzal, 45% of the Ixil community's lands were illegally seized by migrant European coffee planters. After the occupation of their lands, most of the Ixil population was forced to work on farms on the southern coast.

In the 1980s, the armed conflict left thousands of Ixil civilians dead due to 114 massacres at the hands of the Guatemalan army. Moreover, most of the surviving population lost their assets due to the burning of houses, crops and animals - eliminating all life - and the dispossession of two communities' ancestral lands, which became part of the nation's assets. There was also the seizure of small community plots to establish development zones or model villages, so that the military could continue to control the communities.

In the excellent documentary "500 Years", they mention that, if the government were to accept and give permission to all the applications made by extractive companies, Guatemala would surely have a mine or similarly ecologically destructive facility every 100 km. It is not difficult to conclude that following this path - which many would call progress - in reality would lead to ecological catastrophe and the destruction of the indigenous peoples' communities, culture and life. Share your experience of the destruction of your land and the environment.

In the region there is abundant natural wealth: it is 450 square kilometres of woodland (31% of the national forest reserves). Due to this wealth in resources, it is a prime target of national and transnational extractive and hydroelectric companies. This region is part of the Northern Transversal Strip which, in the period of the internal armed conflict, was a military corridor and is now a corridor for drug trafficking and transnational corporations. From the year 2000, a new form of violence was visited on the Ixil people with the arrival of many multinational mining and hydroelectric companies. This violence was characterized by the dispossession of natural assets and ancestral lands, coupled with the disregard for the right to free, prior and informed consultation, as indigenous peoples, about their territory and way of life. This has caused many divisions in communities and much environmental damage.

In addition, the arrival of numerous governmental and non-governmental aid organizations and the phenomenon of migration have contributed to the breakdown of the social fabric of the Ixil people, imposing new mentalities and ways of acting that often clash with traditional ways. Recently, two large hydroelectric plants have been built on two large farms in the Ixil territory, one is in operation and the other is under construction. According to data from the Ministry of Energy and Mines, there are plans to install eighteen hydroelectric and mining companies in the region, of which eleven have operating licenses, and seven have exploration licenses. Faced with these threats, socio-environmental conflicts over land, water and forests have increased.

It is unfair that we as indigenous peoples must fight to protect Mother Earth and sustain our way of life, while other interests arrive to put an end to everything. When we speak of life, we are not only referring to human life. Human life would have no future without rivers, forests, mountains and without our sacred hills, where the spirit and energy of our ancestors rests. Before the arrival of the extractive companies, we had the liberty to enjoy our mountains and our rivers, but the year 2000 brought the evil of the white man intent on destroying all the natural beauty of Creation to turn our assets into money, destroying everything in their path. Before, things were good, we had the freedom to visit the rivers that flowed in their natural course, but today, the freedom to see our rivers has been taken away from us and, saddest of all, the rivers themselves have been deprived of their freedom to flow freely in nature. Now

they are locked away in power plants, because the hills were destroyed to build dams thus changing the rivers' course, leaving many communities without access to the liquid of life and leaving marine species to die.

This destruction of indigenous territories has brought much suffering and crisis. The companies have not only destroyed the rivers, but have also stripped the communities of their ancestral lands in order to cultivate mono-cultural crops. In the case of the southern coast, the lands are being exploited to plant African oil palm, replacing the natural forests and stripping the indigenous communities of their territories, leaving Mother Earth's soil infertile due to the planting of the African oil palm, and contaminating the rivers, lakes and the air that the communities breathe by the spraying of toxic herbicides and pesticides. All of this comes as a great crisis to the communities. Lately there has been a lot of drought, yields in the production of essential grains have drastically fallen meaning that communities find themselves with no option but to emigrate in search of new life opportunities.

Indigenous communities are accused of being anti-development, but we are not anti-development, rather we are opposed to the dispossession of our lands and the looting of our assets. It is sad to know that such a large amount of electrical energy is being produced in the Ixil territory, but our communities and families are still without access to electricity. So we ask ourselves: where is the development that they promise us? Where does all the energy that is produced by our rivers go?

Can you give me an example where the Catholic Church has supported the causes of indigenous communities, including caring for the environment?

During Álvaro Colom's presidency in 2011, many in the communities of the Ixil region were classified as terrorists, just because the communities in the Municipality of San Juan Cotzal did not agree with the Enel company building the Palo Verde hydroelectric plant in their territory. The community was never consulted or informed. The people who have lived through these tragedies in these territories have only found support in representatives of the Catholic Church, honourable witnesses to the struggles of these communities. An outstanding example was Bishop Álvaro Ramazzini, a native of Guatemala, who at the time was Bishop of San Marcos, and today is the Cardinal Bishop of Huehuetenango.

It is widely known that Mons. Ramazzini prophetically stands in favour of social justice and the defence of indigenous communities' rights, empowering communities to defend their own rights. He has also fought against transnational companies that, in Guatemala, want to extract minerals in ways that seriously damage the ecosystem. The Bishop has received death threats and has received support from the Vatican and the US Conference of Bishops.

Now from El Paso, can you list what are your specific objectives in your struggle and activism, here in the United States?

As a result of our life experiences and our knowledge, we have joined with other organizations and people of good will in calling for the following:

1. Demand that the United States government recognize the Genocide that occurred during the armed conflict and, at the same time, use its influence to demand that the Guatemalan state redress the damage caused by the Guatemalan army to indigenous communities.
2. Demand that the Guatemalan state bring those responsible for human rights violations during the armed conflict to justice and, at the same time, guarantee the safety of key witnesses in the genocide case. Demand the establishment of a Museum of Historical Memory to set a precedent that genocide will never again be repeated.
3. Demand that the Government of Guatemala cease the persecution, harassment and threats to human rights defenders and environmental defenders, as well as respecting indigenous lands. The US can help finance initiatives such as the International Commission against Impunity in Guatemala.
4. Achieve humanitarian support to honour the struggle of victims, survivors and witnesses in the genocide case. Some, who are elderly, are ill, many others lack the most basic needs for their survival. Also, finance their funeral expenses if a death occurs.
5. Address the specific needs of widows and the elderly in the community in the event of natural disasters.
6. Demand that the Government of Guatemala respect the different forms of social organization of the different indigenous communities and conduct prior consultation with indigenous peoples about their lands in cases of mega-projects.
7. Release political prisoners like Bernardo Caal, who has been imprisoned for years for his fight against the Oxec hydroelectric plant.

In the same way that our ancestors struggle, we want to continue the struggle in exile. We look forward to meeting with community leaders, religious leaders, politicians, and others interested in helping us achieve our objectives.



(Photo by Gaspar Cobo Corio)

The destruction of our forests and rivers for the construction of the Palo Viejo hydroelectric plant of the company Enel de Italia, without consulting the indigenous peoples about their territory.

*Original in Spanish
Translation Nils Sundermann*



“God Put this Fight on Me”: The Work to Stop Formosa Plastics

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Along the banks of the lower “Mighty Mississippi”, the largest and most important river moving through North America, there are two other mighty movements: a cluster of more than 100 petrochemical plants located between the Louisiana cities of Baton Rouge and New Orleans that are polluting the land, air and water of the area and a cluster of community organizations fighting the presence of those industrial polluters in their communities. The area is known as “Cancer Alley” because the toxic waste emitted by these plants is deemed responsible for a cancer rate among residents of the area that is estimated to be 700 times the United States national average.

St. James Parish, a 21,000 person civil parish, sits right in the middle of Cancer Alley and has 32 petrochemical plants, one plant for every 656 residents, half of whom are Black. Industry is even more concentrated in the parish’s Fifth District *which is 86 percent Black*. The community has 2,822 people and 12 petrochemical plants – one for every 235 residents.¹

One of those residents is Sharon Lavigne, a lifelong resident of St James Parish, former special education teacher, devout Catholic, and the founder and organizer of RISE St. James, a grassroots faith-based organization whose mission is to put a halt to industrial development in the parish. Lavigne personally knows at least 30 people who have died from cancer in the past five years, including members of RISE St. James who have died recently. In a testimony given in November 2019 before the US House of Representatives Subcommittee on Environment and Climate Change, Lavigne said,

The 5th District is already surrounded by industry and it is making us sick. Maybe you’ve seen the press coverage of ‘Cancer Alley’ where I live, which we’re now calling ‘Death Alley’ because the health threats we face take so many forms. I have auto-immune hepatitis and aluminum in my body. My grandchildren have breathing problems, and when they are outside playing for any length of time, they develop rashes.

¹ Kardas-Nelson, Mara. (August 26, 2019). “The Petrochemical Industry is killing another Black Community in Cancer Alley”. *The Nation*.

When the state of Louisiana and the St. James Parish Council approved the building of a massive \$9.4 billion petrochemical project – The Sunshine Project – by Formosa Plastics, a Taiwanese-owned company, 69-year-old Lavigne’s full-time job became organizing to stop the project from moving forward in her community. The project will be one of the largest plastics plants in the world, composed of 14 facilities stretching over 2,400 acres in District 5 of St. James Parish. The complex will emit huge amounts of air pollutants that will increase the cancer risk across several Louisiana parishes.

Lavigne and residents of St. James have protested this project since the day it was approved by the state and local governments. The State of Louisiana offered Formosa Plastics an incentives package that included a \$12 million grant and a \$1.5 billion tax break. Louisiana Governor John Bel Edwards touted the jobs that would be brought by the project, but whether those jobs would go to St. James or even Louisiana residents is uncertain. The project was moved forward without informing or consulting with the residents of St. James. Lavigne testified that *“when researching the project’s history, [RISE St. James] found out that in 2014 the Parish Council changed the land use plan for the 5th District where I live from ‘residential’ to ‘residential/future industrial’. Our residential neighborhood was suddenly deemed ‘future industrial’ without our knowledge or consent.”*

Even one of the Parish Council members, Clyde Cooper, admits that the presence of the Sunshine Project will be an instance of racism. “I view it as environmental racism,” he said. “It’s a decision based on, ‘We don’t want it in the white area, but we don’t mind it being in the Black area.’ That’s what it came down to, and that’s the truth.”

It is no wonder that this action fueled residents’ mistrust in their local government, which residents feel has allowed industry to infiltrate districts where the majority of residents are Black. *“It’s environmental racism. They’re trying to kill us, slow but sure”*, said Lavigne.

If it is built, the Sunshine Project will be one of the top five emitters of ethylene oxide (ETO) in the United States, potentially putting out 7.7 tons of ETO into the air every year.² A US Environmental Protection Agency report states: “EPA has concluded that ethylene oxide is carcinogenic to humans by the inhalation route of exposure. Evidence in humans indicates that exposure to ethylene oxide increases the risk of lymphoid cancer and, for females, breast cancer.”

The Sunshine Project will be about one mile from St. Louis Academy, an elementary school. If the project’s flare destruction efficiency operates at a very high level of 99% – which is unlikely, especially in the long-term – its ETO emissions could increase the cancer risk for the region where the school is located by 100-150 cases per million. Other carcinogenic chemicals that will be released by the Sunshine Project will make Cancer Alley even more cancerous. Lavigne has stated unequivocally that *“Formosa Plastics would be a death sentence for St. James Parish”*.

² Yawn, Andrew. (March 19, 2020). “St. James Is Full”, *The Tennessean*.

But it's not just the living residents that Lavigne and RISE St. James are concerned about. The Sunshine Project poses a significant danger to unborn children. Exposure to ETO by pregnant women has been shown to increase the risk of preterm births and miscarriages.³ Additionally, exposure to fine particulate matter (PM2.5) has been repeatedly linked to a significant RISE in risk of preterm births, stillbirths, and low birth weight. The Sunshine Project will release 339.81 tons of PM2.5 per year, and thousands of tons of the chemicals that lead to ozone on hot days: volatile organic compounds (1667.89 tons per year) and nitrogen oxides (1242.53 tons per year).

In addition to the health risks to a majority-Black community posed by building the plant, Formosa has posed an additional affront to the Black community of south Louisiana. If the Sunshine Project is built, it will rest upon the burial sites of enslaved people who were violently forced to work in the sugarcane fields of white plantation owners in Louisiana and who gave their lives to build up the economy of the state of Louisiana.

In July 2018, the Louisiana Division of Archeology was informed by an independent contractor of the possible existence of two cemeteries on Formosa's property, which was formerly the site of the Buena Vista and Acadia plantations. These sites had been missed by Formosa's initial archeological survey of the land. After the state of Louisiana required the company to re-survey the area, the presence of the graves at the former Buena Vista plantation was "discovered", and Formosa fenced off that portion of the land. But according to the Center for Constitutional Rights, Formosa never made a public announcement of their discovery.

Lavigne learned in late 2019 that the remains of formerly enslaved people from the Buena Vista plantation, who she believes she may have descended from, may lie on the proposed Formosa site. When she tried to visit the site, she was told by the authorities that she was trespassing and would be arrested if she returned.

But Lavigne and RISE St. James would not be deterred from visiting the site. In 2020, RISE asked Formosa to give them access to the cemetery for a Juneteenth service. (Juneteenth is a holiday that commemorates the day that enslaved people in Galveston, Texas found out that they were free, even though it was two years after the Emancipation Proclamation freeing all slaves in the United States.) When Formosa denied the request, Lavigne filed a lawsuit against the company. According to a statement to the press, the "company's lawyers questioned the need for the ceremony on the basis that archaeologists' couldn't confirm the ethnicity of the human remains. Judge Emile St. Pierre sided with RISE, giving the group temporary access to the property. 'We need healing,' St. Pierre said at the end of the hearing. 'Let's look at where we are in America.'"⁴

³ Gresie-Brusin, D.F., Kielkowski, D., Baker, A. *et al.* (July 2007). Occupational exposure to ethylene oxide during pregnancy and association with adverse reproductive outcomes. *Int Arch Occup Environ Health* no. 80. pp. 559-565.

⁴ Groner, Anya. (May 7, 2021). "One Oppressive Economy Begets Another". *The Atlantic*

The remains of the enslaved ancestors of the people of St. James buried on the Formosa property were given a special blessing on October 31, 2020 in an All Saints Day prayer service on October 31, 2020 led Bishop Michael Duca, bishop of the Diocese of Baton Rouge. During the service Bishop Duca said “We honor those who have died and gone before us,” Today we give them the dignity they deserve and give them a proper blessing.”

During that service, which was organized by RISE, Lavigne repeated her public calls for the St. James Parish Council to revoke Formosa’s permit. She called Formosa the parish’s enemy. She said Formosa is sending its profits overseas to its Taiwan headquarters, leaving behind illness and death. “Council members must protect our parish,” she said. “St. James is our home. The message is clear: no more death; no more Formosa Plastic.”

Environmental justice and faith-based advocates, including RISE St. James, Louisiana Bucket Brigade, Sierra Club, Center for Biological Diversity, Healthy Gulf, Earthworks, and No Waste Louisiana have made some significant inroads in their struggle for environmental and racial justice in St. James Parish and their efforts to stop the building of Formosa’s Sunshine Project. The United States Army Corps of Engineers temporarily suspended its permit for the construction of Formosa Plastics in response to a lawsuit filed by the advocacy organizations in January 2020 that sought to invalidate Clean Water Act permits issued by the Army Corps. The suit claimed that that the petrochemical complex would deepen environmental racism and harm a community already sickened by exposure to industrial pollution.

In another significant victory for the organizations, a Louisiana District Judge ordered the Louisiana Department of Environmental Quality to reassess its permits for Formosa Plastics in light of the plant’s potential impact on the Black community. This order was in direct response to a petition for judicial review filed on behalf of RISE and the other advocacy organizations by the Tulane University Environmental Law Clinic.

Loyola University New Orleans has also been involved in the effort to advocate for and draw attention to the environmental and health threats of Formosa and other petrochemical plants in Louisiana’s Cancer Alley. In an effort to support the work of RISE St. James, the Jesuit Social Research Institute at Loyola University prepared a report aimed at engaging Catholics in advocacy on the issue, and activated their action alert system to garner letters of opposition from Louisiana residents to the Louisiana governor and St. James Parish Council.

The Loyola University Law School Human Rights Advocacy Class wrote a letter to the United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance requesting an investigation of the environmental racism in Louisiana's Cancer Alley. The letter was endorsed by a number of different environmental and faith groups, including all of the Jesuit provinces of the Canada and US Assistency. The Special Rapporteur’s statement responding to this letter was promising:

UN human rights experts today raised serious concerns about further industrialization of the so-called Cancer Alley in the southern US state of Louisiana, saying the development of petrochemical complexes is a form of environmental racism. The experts welcome on this occasion the January 20 Executive Order on Protecting Public Health and the Environment

and Restoring Science to Tackle the Climate Crisis and the pledge of the US Government to listen to science, strengthen clean air and water protections, and hold polluters accountable for their actions. The experts call on the US Government to deliver environmental justice in communities all across America, starting with St James Parish. Corporations also bear responsibility and should conduct environmental and human rights impact assessments as part of the due diligence process.

On June 15, 2021 Sharon Lavigne was awarded the Goldman Environmental Prize, also known as the “Green Nobel Prize”, which honors one grassroots activist from each of the six inhabited continents. But Lavigne is not in this fight for prizes or the international recognition she has gained from her work in tiny St. James Parish. She is in it because of her response to a call from God, which she boldly expressed to the US House of Representatives Subcommittee on Environment and Climate Change:

“I retired early from teaching in October 2019. I wanted to work a year or two more, but God put this fight in me to stop Formosa and any other chemical plant that comes to St. James. I am here because of the calling of God. I want to stop any and every industry that is coming to harm the health of the people in my community. God wouldn’t have put this fight on me if he didn’t have a plan.”

Original in English



Tshaukuesh Elizabeth Penashue: The One Who Keeps the Land Alive

John McCarthy SJ and

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Elizabeth Yeoman

Translator & editor of the book of Penashue T.E. (2019). 'Nitiniikiau Innusi: I Keep the Land Alive'

She calls it *nutshimit*.

For Tshaukuesh Elizabeth Penashue, it is the place where she longs to be, the place where she was born. It is the place she seeks in her dreams. The word *nutshimit* has many meanings: "in the country," "in the bush," or "on the land." It is often understood as being the opposite of the community or the reserve. For the Innu people, the word can also simply mean "home."¹



Tshaukuesh Penashue and granddaughters (Penashue Family Collection) & Boreal Forest in winter (Camille Fouillard)

This is the story of Tshaukuesh Elizabeth Penashue, a mother, an Innu elder who has laboured for decades in the name of her family, her community, and the lands and waters she calls *nutshimit*. She has been an unwavering witness to the beauty of her people and their home in the boreal forests of eastern Labrador, Canada.

Formerly known to outsiders as the Montagnais-Naskapi, the approximately 22,000 Innu people currently live in eleven communities in northeastern Quebec (nine Innu communities) and Labrador (two Innu communities), Canada, as well as in other urban centres in the region. Tshaukuesh and other elders refer to the traditional Innu territory or land as *Innusi* or *Innu-assi*. Younger Innu use the term *Nitassinan* meaning "Our Land".

¹ Penashue, T.E. (2019). *Nitiniikiau Innusi: I Keep the Land Alive*. University of Manitoba Press: Winnipeg. p. 212.

Tshaukuesh was born in a tent in the boreal forests of interior Labrador. Innu-aimun is her native language. She has lived the transition of her people from nomadic hunter-gatherers, following the wandering caribou and other animals on which they depended, to settled life in the two Labrador Innu communities of Sheshatshiu in eastern Labrador and Natuashish further north. Tshaukuesh is a member of the Sheshatshiu Innu First Nation (population 1000+), about 30 km north of the town of Happy Valley-Goose Bay.

For Tshaukuesh and her people, change has been rapid. For many Indigenous peoples of North America, including the Innu, a major European influence was manifested by the fur trade that dominated the economic life of the continent beginning in the 17th century. Christian missionaries followed, with the brothers and priests of the Missionary Oblates of Mary Immaculate being the dominant Catholic evangelizers in northern Quebec and Labrador. The construction of the World War II Canadian-American air force base in 1941 on the sandy levels of Goose Bay presaged the rapid social and cultural changes about to happen.

In the late 1980s the increase in NATO low-level flying and live missile testing on “uninhabited” Innu land galvanized Tshaukuesh and her people. This was not the first time that the Innu people has been dispossessed of decision-making with respect to their traditional territory. Dissecting from east to west the central plateau of Labrador is the 856 km long *Mishta-shipu* (known in English as the Churchill River or Grand River and previously as the Hamilton River), the longest river in Atlantic Canada. For years, the government of Newfoundland and Labrador has had grand designs for this river as a source of hydroelectric power.

The Canadian provinces of Newfoundland and Quebec initiated the Upper Churchill River Hydroelectric development in the late 1960s. When it was completed in 1974, the 6500 km² Smallwood Reservoir had been created, inundating significant swaths of Innu territory including *Kanekuanakau-nipi*, where Tshaukuesh was born. The Innu people were never consulted in the creation of one of the largest dammed reservoirs in the world. Today the Lower Churchill River is under development for hydroelectric power. Forestry and mining developments, particularly the discovery of extensive nickel deposits at Emish (Voisey’s Bay), have also exerted pressure on the Innu for whom land claims negotiations with the Government of Newfoundland and Labrador are on-going.²

Long ago, when I was young, I used to look at the mountains in the distance with nothing but sky beyond them and long to climb to the top. I thought that was where the world ended and Heaven began.³

Tshaukuesh would soon realize that her childhood world that flowed into heaven would not be seen by others in the same light. Outside forces would lay claims to the lands and waters. Heaven would never be considered.

² Wadden, Marie. (1991). *Nitassinan: The Innu Struggle to Reclaim Their Homeland* (Vancouver and Toronto: Douglas and McIntyre); Ashini, Daniel. (1999). "Opening Remarks" (*Between a Rock and a Hard Place: Aboriginal Communities and Mining*, co-sponsored by the Innu Nation and Mining Watch Canada. September 10-12, Ottawa, Mining Watch Canada/MinesAlerte).

³ Penashue. *Nitinikiau Innusi*. p. 117.

For Tshaukuesh, it seems that *landscape* and *waterscape* have become *inscape*. Her interior life, fed by her years of intimacy with *nutshimit*, could never envision the lands and water devoid of meaning. They have been transformed from space to place; interior places pregnant with memory and significance.⁴ Such places could never be adequately comprehended in solely technical, scientific, or financial terms. While necessary for helpful understanding, these terms can never be sufficient. They can never plumb the depths of deep interior, felt knowledge.

Tshaukuesh exemplifies a knowledge that comes from “somewhere.” It is born from years of close daily encounter with the lands and waters that provided a home, a place of nourishment and meaning. Such affect-laden intelligence engenders a knowledge that is often ill-appreciated by those who dwell on abstract, so-called objective knowledge from “nowhere.”⁵

Tshaukuesh’s lament and protest – and persistence, is rooted in this deep well of experience and life. It is a form of “integral knowledge” that has integrated her years of life with the rhythms and seasons of the land and the waters. We suspect that it is Tshaukuesh’s lifelong intimate, particular encounter with her native land that is the source of her dignity and depth.

Indigenous thinkers often express this integral knowledge as part of a cosmology in which love of people, land and all living things are interconnected. For example, Potawatomi environmental biologist Robin Wall Kimmerer critiques the idea “that humans alone are possessed of rights and all the rest of the living world exists for human use.” She notes that in Algonquian languages⁶ “Birds, bugs, and berries are spoken of with the same respectful grammar as humans are, as if we were all members of the same family. Because we are.”⁷ The Innu poet Josephine Bacon writes, “My sisters, the four winds, caress a land of lichens and moss, rivers and lakes, where the white spruce spoke to my father.”⁸ The focus is on loving relationships and intimate knowledge of the natural world.

Every time I leave nutshimit, I try to find some special way to let the land know that I’ll be back. I say goodbye to the plants, the animals, even the tent poles we leave behind. Today I went down to the beach and found a crooked tree. I hugged it and said: “I’m leaving but I’ll come back. Don’t be sad.” I started crying, still hugging the tree. And then I walked on, looking for pineu.⁹

In the late 1990s Tshaukuesh began her walks into *nutshimit*. Beginning in the spring after the harshness of winter had passed, the sun rose higher in the sky, the days warmed and the snow

⁴ Williams, D.R., Stewart, W.P., and Kruger, L.E. (2013). “The emergence of place-based conservation,” in *Place-Based Conservation: Perspectives from the Social Sciences*, (ed.) Stewart, W.P., Williams, D.R., and Kruger, L.E. (Dordrecht: Springer, 2013).

⁵ Ibid.

⁶ A large language group that includes Potawatomi and Innu-aimun as well as many others.

⁷ Kimmerer, R. W. (March/April 2017). “Speaking of nature.” n.p. *Orion Magazine*.
<https://orionmagazine.org/article/speaking-of-nature/>.

⁸ Yeoman, E. (2009). Translation from Bacon’s Innu-aimun and French versions. Bacon, J. *Bâtons à message/Tshissinuutshitakana*, Montréal: Mémoire d’encrier. pp. 14-15.

⁹ Penashue. *Nitinikiau Innusi*. p. 130. The Innu-aimun word *pineu* refers to the ptarmigan or partridge, a favourite food among the Innu.

was often good for travel, although not always. These walks were important. They symbolized her deep desire to witness to the fact that the Innu and the land needed each other.

The cover photo of her published dairies (by Jerry Kobalenko) is iconic; Tshaukuesh leaning into the trail, intent on moving ahead, her loaded toboggan lashed to her straining body by a cord. She welcomed whoever would walk with her. Support was not always forthcoming, but she persisted nonetheless. The walks proved to be a way for many non-Innu (*Akaneshaut*) to learn from Tshaukuesh and to share a hand in solidarity if possible. People came from across North America and even from Europe. They were no doubt attracted by the witness of this persistent, gentle Innu elder. They wanted to help, but more often to learn.

At their core, the walks were a protest, a prophetic cry against all that was destroying and dispossessing the land. A lament at the destructive powers that slowly, often imperceptibly, but persistently seem to erode the soul of the land and the soul of her people. Before such powers that devour, all you can do is walk, put one foot in front of the other – and witness. Sometimes one has simply to step forth in hope and confidence.

*When I walk in nutshimit with my people, I'm showing how much we respect Innu culture, the natural world, and all living things. I want people to know we won't give up our land. We won't allow the government to damage it with mines and dams and bombs. If I was elected to the Innu Nation or the band council, I'd put all my energy into this and I'd look after the people walking in nutshimit.*¹⁰

Long before Pope Francis highlighted the notion of integral ecology as a theme central and indeed original to *Laudato Si'*, Tshaukuesh seemed to have integrated such a vision in her soul. In his encyclical, the Holy Father dedicates a full chapter to this concept that is grounded in a metaphysic of interrelatedness, to the fact that everything is connected or that everything is related.¹¹

Integral ecology is deeply cognizant of its social and human dimensions. Too often has environmentalism failed to account for the human, cultural, indeed religious dimensions of a comprehensive ecological vision. As Pope Francis has clearly indicated, *Laudato Si'* is fundamentally a social encyclical. It hopes to gather all the multitude of relationships that need to be considered for a viable approach to ecology.¹²

Tshaukuesh seems to have understood intuitively this fuller vision of engagement. She never wavers from her inclusive perspective that includes what she terms the *full circle*.¹³ All relationships are essential to consider: the future of her family, the life of her community and Innu people, and the life of the lands and waters that mark their common home.

¹⁰ Penashue. *Nitinikiau Innusi*. p. 130.

¹¹ *Laudato Si'*: *Encyclical Letter of the Holy Father Francis on Care for our Common Home*. (2015) Chapter 4.

¹² Kureethadam, J.I. (2019) *The Ten Green Commandments of Laudato Si'* (Collegeville: Liturgical Press).

¹³ Penashue, E. (2010). "Miam ka-auieiat: It's like a circle," in *Despite This Loss: Essays on Culture, Memory and Identity in Newfoundland and Labrador*, ed. Kelly U.A., and Yeoman, E. (St. John's: ISER Books).

Yet, despite her years of protest and witness, despite all who rallied to her side, much of what Tshaukuesh protested has come to be. The forests were logged, the rivers dammed, and the mines dug. But what matters most, took root – and thrived. What stands the test of time she initiated – her faithful persistence, despite all odds. Intensely rooted in *Innusi*, she would never lose hope. Many were the moments that she felt abandoned, lost, misunderstood even by her own family or people. What amazes is that she never gave up.

“If they flood the river how many metres would the water rise?” I asked, and Francis explained how high it would come. Then I felt so sad thinking about how everything along the shore would be flooded, all the flowers and plants and all the living things. I often think about life before Patshishetshuanau¹⁴ was flooded, and I imagine the people camping along the shore and paddling down the river. How they used to tell their families and their children stories of the past, how beautiful the land was, and how the river would be there for them to live on and to use forever. But now that’s not true. I feel that all the work I’ve done trying to save the land and the river was in vain. I hoped that there would be results, but now I feel that nothing was accomplished. Mishta-shipu is an important name. The river is alive, just like a human being, and its voice is crying out, “Don’t kill me. I’m the water. I don’t want to die. Hear my voice. Without water, you cannot live.”¹⁵

What stands the test of time is her loyalty to place and people and to the whole ecology of *Innusi*: animals, plants, pathways, lakes, and rivers, even stones. Seasons and time. Past and future generations. Such love and commitment can only come from years of encounter with what is most real, with all that surrounds.

What strength of heart and soul must Tshaukuesh possess in order to continue her work over the years? To witness to a life that many say is a fable of the past. To walk out the door on a spring day, intent on *nutshimit*, not sure who will join you, or who will persist. To hunger and thirst for life, for what is just and right, fully aware of the strangers, wide awake, intent on devouring the land and waters.¹⁶ What strength of heart and soul is needed to witness to the loss, when rivers of life and energy transform overnight into potential sources of disease and sickness; to see the great *Mishta-shipu* diminished before her very eyes.

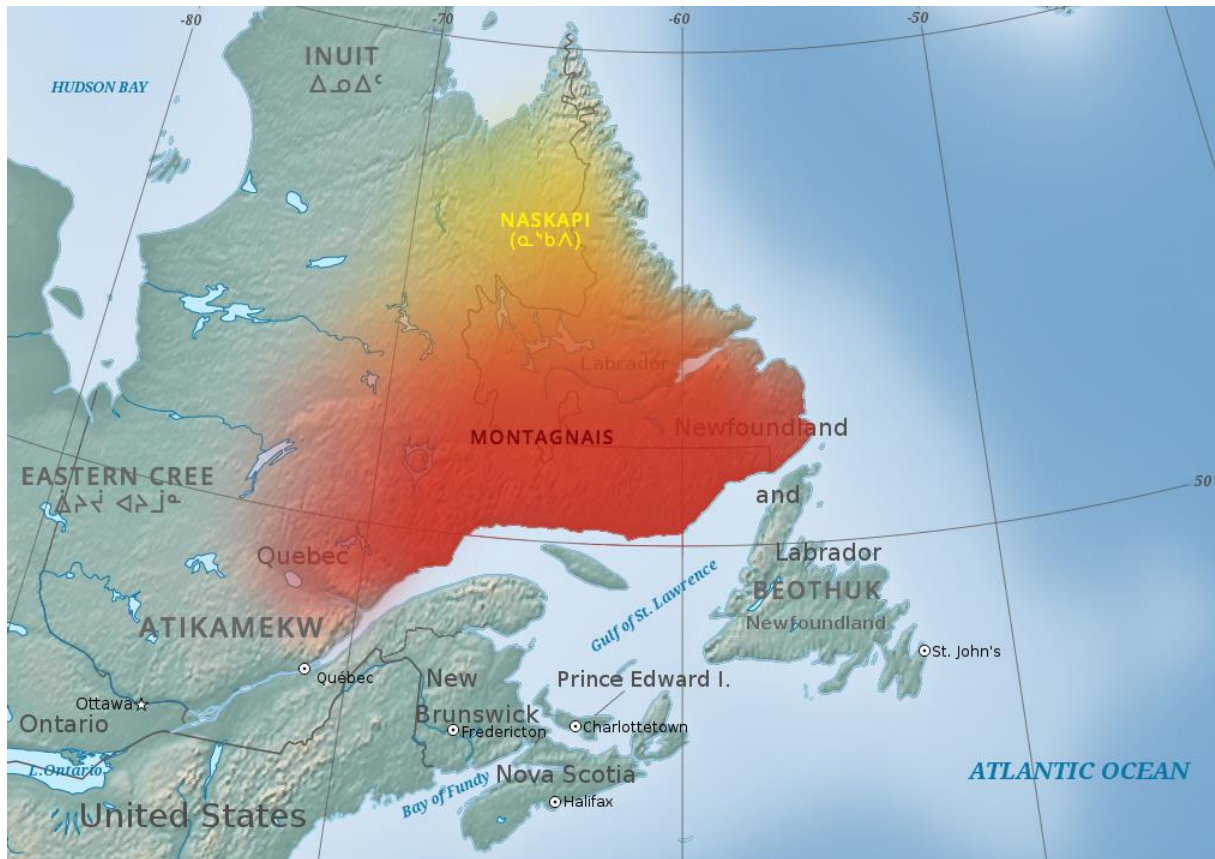
There are so many things I could say about the flooding of the Mishta-shipu. ... In one of the places where we stop on the river, at the far end of Uinukupau, I was surprised to see a sign on the shore. It said in four languages – English, French, Inuktitut, and Innu-aimun – that we shouldn’t take more than one fish per week because of mercury. Why? What are the dams doing to the fish? How many years do we have to live with their suffering? I think a lot about that and about how when I was a child we could eat anything. There was never a sign saying you can’t touch this or eat it. There was so much freedom. Now it’s not like that.¹⁷

¹⁴ Innu name for Churchill Falls, site of the first dam.

¹⁵ Penashue. *Nitinikiau Innusi*. p. 185.

¹⁶ Richardson, Boyce. (1975). *Strangers Devour the Land: The Cree hunters of the James Bay area versus Premier Bourassa and the James Bay Development Corporation*. (Toronto: MacMillan of Canada).

¹⁷ Penashue. *Nitinikiau Innusi*. p. 169.



Innu Map

On the 42 km road between Sheshatshiu and Happy Valley-Goose Bay rests a small shrine dedicated to St. Anne. Tshaukuesh has a deep devotion to St. Anne, as do many Innu elders. Indeed, the annual pilgrimage to the national shrine of Ste-Anne-de Beaupré in Quebec attracts many Innu from all over *Innusi* during a week-long celebration each July. St. Anne is considered the grandmother of the Innu. For a community that is often strengthened and maintained by the grandmothers, St. Anne is a source of strength.

*I went to my room and started praying to Saint Anne and then I felt a bit better.*¹⁸

*I often thank the Creator that the Innu have woken up and found strength in each other to walk this long, hard road together. We are all very strong.*¹⁹

Tshaukuesh’s published diary ends with a short section entitled “Still Walking.” It is a most appropriate way to end her book. Her “old ugly feet”²⁰ have walked a “thousand thousand miles”.²¹ No doubt, Tshaukuesh has more to journey. The exterior journey has indeed been long, difficult – and joy-filled. The interior journal has no doubt been arduous – and life-giving. We leave the final word to Tshaukuesh – a mother, a grandmother, a living witness

¹⁸ Ibid., p. 35.

¹⁹ Ibid., p. 28.

²⁰ Ibid., p. 204.

²¹ Ibid.

to the beauty of faith, hope and love in the boreal forests of eastern Canada. She is a living witness to the care of our common home, the common home the Innu call *nutshimit*.

I was walking by myself one beautiful day. The dogs were behind me and I had my tea and biscuits and I wasn't afraid of anything, not wild animals, nothing. When I got to the marsh I sat down for a rest and a cup of tea, just me and the dogs. The trees were swaying in the wind, all different kinds of trees. It looked as though they were dancing. I wondered why I was all alone, why people didn't want to walk with me when I'm trying to protect the land and the animals, our culture, our children, our way of life. There'll always be money, but if the land is gone, it's gone. I hope people will understand this one day. In the meantime, I'll just keep trying to make a good meshkanau for future generations. I feel as though the dancing trees are my friends, as if they're saying to me, "Don't worry. We're here and we know you care about us. Don't cry in your heart. We're still here, still dancing." It was a clear day and I could see the mountains. Then I put my thermos away again and started walking.²²



Elizabeth Yeoman worked with Tshaukuesh to translate and edit her book, *Nitinikiau Innusi: I Keep the Land Alive* (University of Manitoba Press, 2019). She is also the author of a book about that collaboration, *Exactly What I Said: Translating Words and Worlds* (University of Manitoba Press, forthcoming). She lives in St. John's, Newfoundland, Canada.

Original in English

²² Ibid.

REFLECTION / ANALYSIS



These are Dark Times to Defend Life in Honduras. These are Times to Search for Beacons of Light

Yolanda González Cerdeira

Research and Human Rights, ERIC-Radio Progreso, Honduras

*It is late
but it is early morning
if we but insist a little.*

- Don Pedro Casaldáliga

The Faces of the Defence of Life and Democracy

I am a Catholic Christian, a Delegate of the Word. We have taken up, with a pastoral mandate, the defence of life and our Common Home. This is how Juan López defines himself, an active layperson in a Jesuit parish and a coordinator of a community organization that defends the common goods. He lives in Tocoa, a small city in the Aguán Valley in north-eastern Honduras, one of the richest regions in natural resources in the country, surrounded by mountains and rivers and, at the same time, one of the most plagued by drug trafficking and extractive projects such as mono-cultural agriculture and mining.

Juan faces, along with twelve other colleagues, a court case in which he has been accused of crimes such as unlawful association, “usurpation” or illegal occupation, and arson, for opposing a mining project that was established illegally, impacting the rivers in the area. Currently, Juan is not being held in detention as the court case proceeds; however, eight of companions have not been afforded this right and have been held in preventive detention for more than a year and a half, a measure declared illegal by the United Nations Group of Arbitrary Detentions. Nevertheless, Gabriela Sorto, a young community leader and daughter of one of the prisoners, has no doubts in her mind: *“as a family it has not been easy to face this system. But we are not going to stop fighting, because our fight is just, because we defend water and life for all people”.*

In affirming their commitment to defend Life, Juan and Gabriela are the faces of thousands of Honduran human rights defenders linked to the defence of territories and natural goods. Out of all other sectors, this is probably the one that has suffered the highest levels of repression, criminalization and violence in recent years, to the extent that the NGO Global Witness has

classified Honduras as “the most dangerous country in the world to be an environmental defender.”¹

Another of these faces was Berta Cáceres, an indigenous leader, defender of the Lenca people, a people rich in culture, pine forests and rivers, but marginalized, impoverished and plundered. From that territory, Berta fought against neoliberalism, the patriarchy and racism. In recognition of her work, she was awarded the Goldman Prize, the so-called Nobel Prize for the environment, and is remembered by Lenca children as “the guardian of the rivers.” But also due to her work she was stigmatized, criminalized and, finally, murdered. Because if you are a woman, in addition to being a human rights defender, the risks are even greater, as you face discrimination and violence in your own organizations and communities as well as ingrained social and cultural norms in which women are expected to play a passive role in a patriarchal society. As Father Melo, a Jesuit, director of ERIC-Radio Progreso and a close friend of Berta points out, Berta's murder “*was a sexist political crime.*”²

In addition to the defenders of the land, territory and indigenous peoples, the UN Special Rapporteur on the situation of human rights defenders identified, during his visit to Honduras in 2018, the other main groups of human rights defenders at risk in the country; namely, those who defend civil and political rights and LGBTI rights, reporters and journalists, students and law professionals.

The Rapporteur made reference in his report to the post-electoral political crisis that took place in Honduras at the end of 2017 caused by electoral fraud committed by the party that remains in power today. He referred to the “ordinary people who organized and/or participated in demonstrations, to express their rejection of the electoral process and their desire for free and fair elections”, and named them defenders of civil and political rights³. Certainly, many of the more than 1,300 protesters arrested during the demonstration, or the more than 250 wounded, did not consider themselves defenders, but they were clear as to why, despite the climate of repression, they took to the streets. A relative of one of the 22 people killed in those days expressed this point: “*As a family we got up and went to the demonstration, that's how we have been doing it in recent days. We were outraged because we were even robbed of our will as a people, when results were produced that did not reflect what the public had voted for in the general elections*”.

And this is precisely what all these people have in common: they are “ordinary” men and women, who do not resign themselves to obeying official decisions and who have decided to defend their lives, their communities, the dream of a democratic country, the common goods provided by nature and, therefore, their present and future. As Father Melo explains: “*defending human rights is an uncomfortable and high-risk endeavour in societies where the institutions of the state are no longer founded on the law and rather are built around the whims of the*

¹ <https://www.globalwitness.org/en/campaigns/environmental-activists/honduras-el-pa%C3%ADs-m%C3%A1s-peligroso-del-mundo-para-el-activismo-ambiental/>

² Moreno I. (October 2017). Fue la violencia machista la que mató a Berta Cáceres. Revista Envío n 427. Available at <https://www.envio.org.ni/articulo/5404>

³ Frost, M. (January 11, 2019). Special Rapporteur on the situation of human rights defenders. UN Report of the *Visit to Honduras*. A/HR/40/60/Add2, para. 33.

powerful. This risk increases when unresolved and contentious issues are addressed: land claims, the defence of natural goods, health, and education. Just by speaking out or protecting the rights of threatened people, human rights defenders place themselves in grave danger."⁴ This is the path that ERIC-Radio Progreso, the Society of Jesus' social platform in Honduras, wants to follow. It stands side-by-side with the Gabrielas, the Bertas, the Juans... "ordinary" and exceptional people, defenders of life and democracy, with whom we have the pleasure of walking.

The Puppet-Masters and their Ploys

The Honduran social, economic and political model is based on the accumulation of wealth by a business elite composed of a few limited families who have managed to influence and even co-opt public institutions to act solely for their benefit and who have made Honduras one of the most unequal countries in Latin America. This model can only be sustained by employing strategies against those who defend the public and common goods. To this end, these elites have state institutions such as the judicial system, the army and the police forces, practically at their service. After the coup in 2009, strategies targeting human rights and environmental defenders have been "refined" to achieve their ultimate goal, which is to neutralize them.

Persuasion or bribery of community leaders and defenders is usually the first step, followed by the isolation, harassment, stigmatization and defamation of people who cannot be controlled and who oppose the political, social or economic projects of the elites. As stated by the Rapporteur on the situation of defenders: "*politicians, the media and non-State actors, such as companies or religious groups, conduct smear campaigns targeting defenders and journalists that often incite hatred. They are branded as political opponents, terrorists, anti-progress, anti-nationalists or traitors.*"⁵

On the other hand, strategies aimed at the criminalization of defenders are more aggressive. These mainly consist in the misuse of criminal offenses such as usurpation and unlawful association against those who participate in demonstrations or peaceful street actions. Indigenous leaders are even accused of the crime of forced displacement for defending their ancestral lands protected by ILO Convention 169. While the most extreme threat is imprisonment, on many occasions other actions are imposed such as obliging defenders to periodically present themselves in person to the authorities, which has a serious economic impact, especially for *campesinos*⁶ and indigenous peoples.

⁴ <https://www.openglobalrights.org/new-threats-against-human-rights-defenders-require-new-kinds-of-protection1/?lang=Spanish>

⁵ United Nations Visit to Honduras Report... op.cit. para. 32

⁶ Translator's note: *Campesino*, literally translated into English as "peasant". A broad term used in Spanish America to include "peasants, small and medium size farmers, landless people, rural women and youth, indigenous people, migrants and agricultural workers", as defined by Via Campesina International Peasants' Movement. See: <https://viacampesina.org/en/international-peasants-voice/>

Assaults and, ultimately, murder are the last card in the deck that, unfortunately, continues to be used frequently. Honduras is one of the most dangerous countries in Latin America for human rights defenders. Between 2001 and 2017 at least 76 journalists were killed; between 2008 and early 2018, at least 11 LGTBI defenders; between 2010 and 2017 more than 120 land defenders; and in the last two years, 6 murders of human rights defenders and 2,137 assaults have been registered⁷. High levels of corruption and impunity prevail within public institutions with regards to those who act against human rights defenders, and this culture is what makes sustaining these numbers possible. To give just one example, in the Aguán Valley, of the 107 murders of campesinos registered between 2008 and 2014, only 12 convictions have been issued.

How should we Protect Human Rights Defenders? Some Insights

What should be done when a state like Honduras allows attacks on defenders, or indeed directly attacks them? Honduran human rights organizations have pushed an intense advocacy agenda in recent years to demand protection mechanisms, with some significant achievements. For example, by documenting, producing reports and consistently communicating with the regional and international human rights system, they have contributed to the establishment of an office of the High Commissioner for Human Rights, which has been a key ally in these times. Elsewhere, a law for the protection of defenders has been approved which establishes a national protection mechanism, which has opened a small channel of dialogue between defenders and a public institution, something that was practically non-existent before. However, these achievements are debatable within a state that has no real political will to enforce the law and has mechanisms in place to protect those who oppose the real interests of the powers that be. To give an example, despite the creation of a special Prosecutor's Office for defenders, of the 199 complaints received between 2018 and 2020, none of them initiated a prosecution.

International companies' culpability for the human rights abuses and attacks targeting those who speak out against them has also gained importance in the international human rights framework, and advocacy efforts have been directed towards this issue. This has resulted in the visit of the Working Group on the issue of human rights and transnational corporations and other business enterprises, which published a compelling report regarding state responsibility for the damage caused by companies to communities and defenders⁸. Certainly this is a useful tool to apply pressure on the state; however, it will always be restricted by the state's true intentions, or whether it is deemed beneficial to take particular steps to comply with the recommendations, in order to project an image of governance and respect for rights.

The support of foreign investment and international financial institutions for extractive projects plays an important role in territorial conflicts and attacks on environmental defenders. In recent years, some initiatives have had a measure of success in obliging these institutions to halt investments in industries that are provoking violence and human rights

⁷ United Nations Visit to Honduras Report... op.cit. para. 23

⁸ Report accessible at: <https://reliefweb.int/report/honduras/visita-honduras-informe-del-grupo-de-trabajo-sobre-la-cuesti-n-de-los-derechos>

violations. They use complaint mechanisms and advocacy strategies linking up social organizations in the countries receiving the investment, such as Honduras, with others in the investors' country of origin. Some of the recent achievements have directly impacted the interests of the economic elites responsible for the attacks, for example, Dutch and Finnish development banks withdrew their support for the hydroelectric project which was opposed by Berta Cáceres and for which she was assassinated. Another example is the use of the complaint mechanism with the World Bank which in some instances has resulted in the Bank's admission that it failed to apply its social and environmental policies when approving loans to corporations accused of being involved in the murder of farmers. However, these processes are usually very long, cumbersome and do not always achieve constructive and real dialogue with communities and defenders.

International solidarity initiatives between peoples, movements and organizations for the protection of defenders are also worth highlighting as good practices. The example closest to hand is the Society of Jesus itself. The Conferences of Provincials of the American continent and other sister works in Europe have set up solidarity, protection and advocacy actions in times of human rights crisis. These have shone the spotlight on social activists within the works who are active on the ground, not only in Honduras, but in the entire Latin American region.

However, any proposal for an "external" solution must not forget that the true and sustainable protection of defenders resides primarily in themselves, especially through community and collective protection and in their ability to analyse their environment, establish alliances and give a public action dimension to their work. Some of the tasks that human rights defence organizations must carry out are brought to fruition when they don't wait for those in power to offer solutions, but rather build a new power by employing a horizontal logic. This involves understanding the local context, scenarios, allies and opportunities, through a constant analysis of the context; establishing alliances with other organizations based on trust; seeking to link up with other social sectors, even if their positions may differ slightly, so long as they do agree on both building a state that abides by the rule of law and promoting an inclusive and democratic social and economic model; and celebrating achievements and promoting the joy of fighting for human rights.⁹

Some of the victories achieved in recent years in protecting defenders from criminalization, harassment and threats have had several of these characteristics in common. Usually these are collective victories, several of them rooted in a history of grassroots ecclesial organization, embodied and animated by the seed planted by the martyrs. They managed to bring together the participation of various sectors, centring community and collective struggle, from which they sought to coordinate and build alliances with other social and human rights organizations at the national and international level, other networks and alternative media.

⁹ This proposal is a summary of the radio section "Enfoque de Fe" from July 28, 2017 broadcast on Radio Progreso with the title *Tareas de defensoras y defensores de derechos humanos en tiempos de altos riesgos*. This is a weekly section and presents ERIC and Radio Progreso's reflections on reality from a faith viewpoint.

Usually these victories have grasped the underlying conflicts and have left a strengthened social consciousness and organization. These experiences have brought life to the lyrics "*when the poor believe in the poor, freedom can be sung*"¹⁰.

Original Spanish
Translation Nils Sundermann

¹⁰ Reference to the popular Salvadoran mass song "*Cuando el pobre crea en el pobre.*" (When the Poor Believe in the Poor).



Defending Human Rights in Mexico

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For this article we were asked to reflect on the situation facing human rights defenders in Mexico. Due to the characteristics of this publication, these words will not only try to explain how things are in this country - a little broken, a little complex - but also the endeavours of my colleagues, of many of my friends, of my colleagues from other organizations who have walked by our side for many years, of the people we accompany and, of course, of me as a defender. To order these thoughts and feelings, I will try to respond to four questions through which I will seek to give an impression of what it means to defend human rights in Mexico.

I would like to start by reflecting on **'Why a person decides to defend human rights?'** All the answers to this question contain a mix of personal stories, moments and life situations, specific contexts and complex realities. However, I consider that, in general, all of those who one day choose the path of struggle and the defence of dignity share a common starting point: we are displeased with the realities of life, we are forever dissenting and this intertwines with our open discomfort with injustice and the abuse of power. We cannot cope with the idea that some have everything at the expense of those who have less, often with the dispossession of the latter as part of the equation. Some people, as a result of harms caused by severe violence, cannot but opt for this path; they are moved by the indignation that grows from invisibility and impunity.

We are also united in our inability to remain silent; raising our voices is inevitable (especially if it is in the streets and public squares). We value honesty and transparency, which allows us to build from affection, the healing embrace, love, community and tenderness, fundamental elements in the face of pain and violence. That is why we, as human rights defenders, are always on the pathway of organizing, accompaniment and solidarity, which grow stronger when life and its situations become complex, when states, governments and other actors do all in their power to extinguish hope.

Faced with this, the next question I asked myself is, **'How are they seeking to extinguish hope in Mexico?'** For approximately fifteen years, we have lived through a crisis of human rights violations which, among many other problems, has left us with a country where more than 88,000 people are missing and where, despite months of pandemic, more continue to disappear. Currently, despite criticisms of the strategies implemented to combat the violence and insecurity that we face, we continue to rely on security models based on the use of the armed forces in public security duties, further aggravating the problem. In terms of inequality,

the deficiencies in the health system were laid bare by the emergency caused by Covid 19: at the beginning of 2021 around 33 million Mexicans did not have access to any type of health services.¹ And what, too, of the situation of thousands of migrants who have been fleeing (literally) from their countries, crossing Mexico to reach the United States, who find a country that is increasingly harsh in terms of its asylum, refuge and even humanitarian policies, very much guided by the interests of its “northern neighbour”.

Faced with these situations, civil society organizations and, in general, human rights defenders have had to tackle these challenges by accompanying victims, people and communities, all the while imagining alternatives. Certainly there has been some progress in terms of legislation and social welfare; nevertheless, the fight against corruption, impunity and violence continues to be one which involves various risks for those defending human rights in Mexico, especially if the campaigns uncover pacts between local or national governments with economic powers and organized crime.

Defenders who carry out their work outside of Mexico City can give testimony to this fact, as they face situations that range from the criminalization for their work, to threats and assassinations. Although the current government has attached importance to the victims of violence and, in general, people who have experienced some violation of their rights, in the broad panorama of the protection and legitimacy of the work carried out by defenders, various speeches by President Andrés Manuel López Obrador have been unhelpful: he has criminalized voices highlighting errors, outstanding issues or matters that require further exploration. While it is true that civil society should not be idealized in any country, without a nuanced discourse we will never build going forward.

At the beginning of June we received a visit from the Vice President of the United States, Kamala Harris. Among the voices that raised items to appear on the agenda, Human Rights Watch noted that, from their perspective, President Andrés Manuel López Obrador “[...] *has launched an assault on independent media outlets and civil society organizations that are critical of his government and has done almost nothing to protect independent journalists and human rights defenders who are regularly killed with impunity.*”

Despite the fact that in Mexico there is a *Protection Mechanism for Human Rights Defenders and Journalists* under the authority of the Ministry of the Interior, during the current administration's time in office, 45 human rights defenders have been assassinated,² according to the Front Line Defenders organization.³ In 2020 alone, 20 defenders were assassinated, figures similar to those in Guatemala and Honduras, less only than Colombia. Land and territory defenders have been the most affected. As the Mexican Centre for Environmental Law points out, between March 2020 and March 2021, 14 environmental defenders were murdered.

¹ <https://www.forbes.com.mx/noticias-plena-pandemia-33-millones-de-mexicanos-no-acceso-sistema-salud/>

² <https://www.animalpolitico.com/2021/04/amlo-gobierno-activistas-asesinados-crisis-derechos-humanos/>

³ Front Line Defenders Global Analysis 2020

Reviewing these figures, I would like to share my thoughts on the question, '**Who is defending human rights in Mexico?**' I like to think with a broad scope, which encompasses the mothers and, in general, the relatives of the disappeared people, who have had to change their lives to go out and look for their loved ones, their 'treasures' (as they call them) who were stolen from them and whose whereabouts are still unknown. Those families who go out to search in unmarked graves or plots, "armed" with picks and shovels; those mothers, sisters, daughters, sons, fathers, wives who search in hospitals, prisons and other places in the hope of finding their loved ones. I believe that all the mothers of the women who are victims of femicides and violence are also defenders, those who have opened our eyes to the profound gender-based violence that exists in Mexico, those who the president has not wanted to understand, see, or even hear.

The indigenous and peasant communities are also human rights defenders, who every day defend and care for our Common Home, the land and territories. These people are the forest, the jungle, the desert and the sea, and they have to leave their *milpa*, their crops, their fields, or their fishing nets to defend themselves against the dispossession of their natural assets by large companies which, in collusion with local, state and national governments, intend to turn them into commodities.

In Mexico, human rights defenders are also those who walk side-by-side with people who have seen their rights violated. In this group are all of my colleagues who work in very adverse local contexts, where violence is more acute, where tools and resources are often scarce and who, despite this, go to great lengths to carry out their work. We defenders are, in the words of David Fernández SJ, those who are not disoriented from the experience of another's pain being felt in our own bodies, and that is why, *"it is necessary to let the exterior break into the intimate world, let ourselves be touched, go back to the protoword, to the first word: to that 'Ow!' of pain that connects us to someone, not to something, that makes us glimpse a person, not a thing. Feeling this cry as one's own leads to compassion. It leads to "suffering with". Not to political principles, or Covenants and Declarations. What generates compassion is hearing the cry of the Other and being sensitive enough to respond, to echo it. In this way 'com-compassion' passes through the inner organs, a gut instinct: it is a deep and intimate vocation"*.

The thing is, in the "deep and intimate vocation" the most difficult reflection is, '**Which path should I take?**' Depending on the day and time, thinking about alternatives takes an extra effort out of me. There are days when I identify with that slogan "we are going to burn it all down." Other days, I see the people, communities, family members, or groups that we accompany in the Prodh Centre and I once again believe in building community, in dialogue between different actors. I believe that it is possible to punish the guilty and forgive so we can heal as a society, that our best tool to continue building a country where human rights are respected is to listen to the voice of those who have suffered the consequences of violence and insecurity, and that this continues to be our work as human rights defenders. I deeply believe in our work to document, bear testimony, to help to keep alive the memory of what has happened in the past and what continues to be a fundamental part of Mexico. I believe in explicitly naming the violent occurrences, the harm and consequences, if we really want to find solutions. It would also help if local and national governments were to listen more

attentively to our alternatives, and also our criticisms, because we can also build from differences in opinions.

I end this article by sharing one of the main lessons that the defence of human rights has taught me: many years ago a Colombian defender told me that *“you have to keep hoping with your feet firmly on the ground”*. Since then, I think that my work as a defender is framed in that phrase, in seeing what is happening in Mexico, being aware of the reality which we inhabit, without ceasing to hope, without ceasing to believe in others, or to believe that, as the Zapatista comrades in southern Mexico say, *“other worlds are possible.”*

Original in Spanish
Translation Nils Sundermann



The Reverberating Cry of Protest from the Defenders of Human Rights and Nature

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My causes are worth more than my life... When in doubt, stay on the side of the poor.

- Pedro Casaldáliga

From the land, from the territory¹, I live, walk, navigate, learn, unlearn and relearn how to live territoriality, defend life and fight to guarantee human rights and the natural world: the AMAZON.

From this sacred corner I dialogue with the world on the importance of safeguarding the lives of human and environmental rights defenders, of the peoples of the Amazon, and I zoom in on the territory where I put my feet on sacred ground: the territories of the *Xingu Médio* and *Volta Grande do Xingu* (the big bend of the Xingu river).

This Amazonian territory is vital and nutritious, it is both the possibility of sustenance and the limit of life, because it is an extensive territory with a population of more than 33,600,000 inhabitants, of which 2.5 million are indigenous, bathed by the basin of the Amazon River and all its tributaries, which extends over nine countries in South America.

The region is essential for the distribution of rainfall in the regions of the continent and it contributes to vast circulations of air around the planet. But it is also the second most vulnerable area in the world in relation to climate change, as a direct result of the actions of humankind.

¹ Translator's note (TN): The words *Territorio* and *Territorialidad* - translated as 'Territory' and 'Territoriality' - in this context have much broader meanings than a purely geographical delineation of borders. They are multi-dimensional and varying concepts that can encompass the interconnected relationships between humans, environment, nature, culture, history, traditions, spirituality, the cosmos, etc. For a deeper discussion see, SAQUET, M. 2015. *Por una geografía de las territorialidades y de las temporalidades. Una concepción multidimensional orientada a la cooperación y desarrollo territorial*. <http://www.memoria.fahce.unlp.edu.ar/libros/pm.268/pm.268.pdf>. Accessed 07/07/21

Its waters and lands nourish and sustain nature, life and the cultures of hundreds of indigenous communities, traditional communities, *campesinos*² and urban populations. The water cycle connects the ecosystem, the cultures and the territory's development.

In this sacred territory there is a multi-ethnic and multicultural reality, peoples that have built and rebuilt their cosmovision, or worldview, and the vision of their future. In this reality, ancient practices and ancient mythical explanations coexist with modern technology—and modern challenges. We live “bienestar”, “sumak kawsa”, or “well-being”, where we try to live in harmony with ourselves, with nature, with human beings and with the Supreme Being, because all parts of the cosmos are in intercommunication.

No one is excluded or dismissed, nor is anyone exclusionary. Ours is a life vision of harmonious relationships between water, territory, nature, community and cultural life, God and the various spiritual forces. A unique way of organizing with each other, rooted in the family and the community and encompassing the responsible use of all the goods of creation, maintaining harmony with traditional ways of life, balancing ancestral wisdom and technologies with those brought by modernity—these very important holistic elements are precursors to understanding how critically interrelated human beings and Creation are. All this has made these peoples guardians of the Amazon for centuries, or as we otherwise call them, defenders of life, human rights and the environment.

However, this way and style of life is threatened in a place where attacks on nature and its peoples produce visible and audible pain and violence. These attacks come in the form of the appropriation and privatisation of natural goods, timber concessions and the activities of illegal loggers, destructive hunting and fishing, unsustainable mega-projects, hydroelectric plants, forestry licenses, large-scale tree felling, mono-cultural agriculture, roads, waterways, railways, mining and oil projects, pollution caused by the extractive industry and urban landfills, deforestation, fires and climate change, and the loss of fauna and flora and all biodiversity.

These very real threats have severe social consequences for the peoples: pollution related illnesses; drug trafficking; illegal armed groups; alcoholism; violence against women, children, adolescents, young people and the elderly; sexual exploitation; the loss of the native culture; migration and forced inter-regional displacement; forced displacement of indigenous groups, *campesinos* and Afro-descendants; extermination of young people; and criminalization and murder of leaders and defenders of human rights.

All of this is brought about by the economic and political interests of dominant sectors, and the complicit actions of some political leaders. The latter either give their consent to this exploitation of the Amazon and its peoples, or they neglect their responsibility to guarantee life, rights and sound public policies. In this way, they allow and reinforce the impunity

² TN: *Campesino*, literally translated into English as “peasant”. A broad term used in Spanish America to include “peasants, small and medium size farmers, landless people, rural women and youth, indigenous people, migrants and agricultural workers”, as defined by Via Campesina International Peasants’ Movement. See: <https://viacampesina.org/en/international-peasants-voice/>

enjoyed by those responsible for violations of universal and constitutional human and environmental rights, further worsening the pain and violence suffered in the region.

This is the truly painful and violent reality. Take for example the painful reality of the territory of the Xingu Médio, Volta Grande do Xingu. For decades, the communities in this territory have suffered direct and indirect violations of their human and environmental rights, starting with the Rubber Boom, followed by the Gold Boom, then with the construction of the Trans-Amazonian highway - BR 230 - and the colonization all along the Trans-Amazonian. Then, from the 70s onwards, the pressure came in the form of the construction of hydroelectric dams, which culminated in the Belo Monte hydroelectric plant being imposed by force on the communities, without respect and without their free, prior and informed consultation. The territory is also constantly threatened by mining projects, illegal exploitation of natural resources, and encroachments on indigenous lands and traditional communities. Thus, both our biodiversity and the lives of the Xingu peoples are at risk.

All these activities were classified as development projects for the region. The question is, development for whom? We have suffered to this day a series of violations of our rights. Deep environmental, social, economic, cultural, historical, religious and psycho-social impacts were felt in the communities. There was increased conflicts over land and forced displacement of river-dwelling *campesino* and urban populations. The absence of public policies and breaches of commitments intensified, and there was escalating social conflict, violence in the countryside and in the city, and violence against women, young people and children, with many lives being sacrificed in the defence of the communities and the territory. How many times have the communities in this territory had to cry out to the world for life, justice and protection? They are the defenders of life, they are on the frontlines safeguarding the territory.

Acting in defence of human rights in relation to the land is an extremely perilous endeavour, as those who choose this mission are standing against the interests of large groups that exploit the Amazon driven by unsustainable consumerism. These groups not only impose themselves to attain the assets they desire, but also they also impose themselves over the lives, bodies and ways of being or existing in the world, which are in conflict with the model that they want to force on the Amazon. Those who take up the mission of defending life become targets. This is the technocratic paradigm that dominates the communities.

Leaders and communities find that their lives are under threat due to their involvement in struggles such as the defence of the Amazon, the environment, the territory or human rights. The development model in Brazil, since the violent Portuguese invasion, is directed at the concentration of land to the detriment of the peoples and communities that inhabited it, thus generating, from the outset, many disputes and conflicts which in turn become producers of death, as they are not mediated by the state.

We note that 51.6% of the conflicts in the countryside are located in the North Region of Brazil, in the Amazon, and of these conflicts, 92% are due to the concentration of land in the hands of the few. In most cases, this land concentration constitutes a violation of the rights of indigenous peoples and traditional communities. Violence against women is also plain to see, because they are the ones who sustain the resistance of their families and communities in

threatened territories, as in the case of the *Mundurucu* women, harassed for denouncing illegal gold prospectors in their territories. These rights violations strike directly at the leaders of social movements and communities with the very aim of hindering the fight for the right to land, water and other goods.

Different instruments are employed to put a halt to the defenders' struggle. Leaders of social movements are criminalised, and judicial processes are often streamlined to punish workers and communities with the eviction of traditional communities. On the other hand, the courts are neglectful and slow when it comes to convicting the murderers of the poor of the Earth, or following up attacks and harassment by the authorities who relentlessly disqualify and discredit social movement leaders in their fight for life and the safeguarding of their territories.

Those who defend life, communities and territories in the Amazon become victims living under threat, targeted by those who see the Amazon as the world's warehouse, to be exploited in the name of capital, profit, greed and the interests of economic and political groups. It is enough to observe the situation of the *Mundurucu* and *Yanomani* indigenous peoples, and the number of *campesinos*, farm workers, settlers, landless and homeless people who are threatened in regions of conflict in the Amazon. In the state of Pará alone, seventy defenders are living under threat, and they have had to resort to human rights protection programs.

In this context, we believe that the state was, is and will always be the true culprit, because it acts in collusion with the extraction industry while failing to guarantee and even violating constitutional and universal rights by not enforcing communities' rights, thus endangering hundreds of people defending human rights and the natural world. The most vulnerable victims are women, children, young people, and individuals and communities of indigenous, black and disadvantaged backgrounds.

Highlighting the reality of the defenders of life and human rights is to recall precisely what God tells us in Ex 3:7-10:

And the Lord said, "I have seen the affliction of my people who are in Egypt, and have heard their cry because of their taskmasters I know their sufferings, and I have come down to deliver them out of the hand of the Egyptians, and to bring them up out of that land to a good and broad land, a land flowing with milk and honey, to the place of the Canaanites, the Hittites, the Amorites, the Per'izzites, the Hivites, and the Jeb'usites. And now, behold, the cry of the people of Israel has come to me, and I have seen the oppression with which the Egyptians oppress them. Come, I will send you to Pharaoh that you may bring forth my people, the sons of Israel, out of Egypt."

By listening to and reflecting on the cry of the communities and the land in the Amazon, we understand that, as in Egypt, greed for the land is the root of these conflicts which lead to the violation of human and environmental rights and to the ethnocide of the Amazonian peoples. To heed this reality and this cry, we must commit ourselves to summoning others to be allies in the defence of the land and, in turn, the life of the Amazonian peoples. We must go about this with prophetism, denouncing human rights violations, the destruction and the attacks on the life of the Amazonian communities, the lack of territorial demarcation, the projects that affect the environment, and the predatory and "ecocidal" model of economic development.

Here are some recommendations to make the defence of life and territories a reality:

- Promote and strengthen non-violent defence and self-protection mechanisms for the community and people threatened and/or criminalized for affirming the right to life, territorial rights and the rights of Mother Earth;
- Denounce on a national and international stage the propagation of the culture of hatred, threats and impunity in contexts of socio-environmental conflicts, as well as policies that erode human rights and dismantle the rights acquired by traditional peoples and communities;
- Defend and promote effective public policies to protect communities and leaders threatened for promoting struggles in defence of human rights, traditional territories and the rights of Mother Earth;
- Make the peoples' self-determination a reality;
- Carry out the demarcation of territorial boundaries;
- Make prior, free and informed consultation obligatory;
- Advocate politically so that states assume the defence of Amazonian population's rights, by way of the legal and inviolable guarantee of the territories they traditionally occupy, including the adoption of precautionary measures in regions where there is only evidence of their presence, but it is not yet considered official; establish a bilateral mechanism between states when these groups occupy cross-border areas.
- Respect self-determination and the right of these populations to freely decide the type of relationships they wish to establish with other groups;
- Promote illness prevention and healthcare services, promoting the socialization of ancestral knowledge of traditional medicine and science; guarantee public, intercultural and bilingual education and strengthen communication spaces, including the training of communication agents for human development;
- Sign, ratify and comply with the Escazú Agreement and other international agreements and declarations signed by states regarding the guarantee of rights and the defence of life and freedom of humanity on the planet;
- Promote actions within the United Nations, for the effective compliance by the Member States of the agreements, treaties and documents signed in the various international conferences, and promote the accountability of the States before said organizations;
- Launch campaigns and self-protection programs for defenders and threatened communities, while also creating and strengthening public protection policies and protection networks for defenders;
- Support divestment campaigns targeting extractive companies related to socio-environmental destruction in the Amazon;
- Search, support and promote alternative economic models that are more based on sustainability, solidarity and fairness, as well as investment policies so that all operations comply with high social and environmental standards and the fundamental principle of the preservation of the Amazon;
- Create a socio-environmental pastoral observatory to analyse the territory and its socio-environmental conflicts, which collaborates in proposing and making decisions in the defence of the rights of the most vulnerable;

- Demand government programs that guarantee justice, freedom and equality for all citizens and respect for fundamental human rights, especially for the most vulnerable and marginalized;
- Transcend from a vision of an anthropocentric law to an ecocentric one that considers nature as a legal subject, as has already been done in Bolivia and Ecuador. This would contribute to tackling the challenge of the exploitation and destruction of the Amazon and other biomes by other infrastructural and profit-driven exploitative mega-projects that have severe socio-environmental impacts, thus guaranteeing the life and territorial integrity of the communities.

The path presented here, however, must go beyond a list of proposals to become a necessary deep commitment to convene the political class, lawyers, defenders of fundamental human rights and, in general, the whole of society, to care for the fragility of these peoples with strength and tenderness, with struggle and fertility, even if we must overcome individualistic and utilitarian mentalities to achieve this. The time has come to move from a disposable and exclusionary culture that generates rights violations and suffering, to an inclusive culture that promotes human dignity. We are still far from a globalization of the most basic human rights (cfr. *Fratelli Tutti* 188-190)

It is time to navigate deeper waters, propagate human rights as an ethic, preserve the authority of the law that establishes fundamental rights, strengthen the culture of human rights and expand democracies based on the legitimate constitutional structure: DIGNITY.

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This Economy Kills: Violence in the Anthropocene

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Preparing the Ground

This issue of *Promotio Iustitiae* asks the question: “Environmental and Human Rights Defenders: Criminals or Martyrs?” The answer depends on the value-context of those asking the question and those answering it:

For CEOs of certain companies, Environmental and Human Rights defenders are criminals, for Christians, they are martyrs. The former point to their violation of (ideally) “democratically legitimated laws”, the latter to the fact that there are absolute (moral-ethical) values, e.g. human dignity, which is not subject to majority-minority legitimation, but call for absolute respect.

Similarly in the field of migration policy: States call as criminals those, aiding and abetting “illegal residents” when they offer Church sanctuary to refugees in fear of deportation, because it is considered that they violate the right of states to determine access to their territory. Monasteries and convents offering sanctuary defend themselves by saying that the right of states is secondary to the right of the individual to lead a life without fear or harm and that from there arises the obligation to fellow-human beings to protect them from a situation where they foreseeably suffer harm.

This conflict between money, power and human rights is age-old and well-researched. The common denominator is mostly that there is engagement for concrete and specific people, a defence against clear and obvious violations of individual and group rights. And wherever there is such a visible link, conflicts between value systems are the backdrop – as just illustrated. But: once the human rights side won (e.g. in the case of slavery, voting for women, child labour) it is argued that a “moral revolution” took place successfully and established a new standard of justice.¹

¹E.g. Appiah, K. A. (2010). *Honor Code: How Moral Revolutions Happen*. New York: Norton. And: Otto, I. M., Donges, J. F., & al., e. (4. February 2020). Social tipping dynamics for stabilizing Earth's climate by 2050. Retrieved from Proceedings of the National Academy of Sciences of the United States of America: <https://www.pnas.org/content/117/5/2354>

Today, too, we face a moral revolution, creating “martyrs” and “criminals”. But there are important and unique differences to earlier times. For the first time in history, the entire way of organizing society, economy and politics creates duress. People are displaced and killed because of consequences arising from indirect and structural violence, caused at least to a large extent by the present economic order. It is the most comprehensive and complex transformation humanity is having and has to face – and it happens under enormous time pressure.

In this short article I confine myself to explaining relevant questions arising here, hoping that it inspires more relevant experts to look for convincing answers. It will also be a very German point of view since our situation is very different from Colombia or Congo.

What Action does Structural Violence plus Time Pressure Call for?

Ever since Pope Francis’ stated: “This Economy kills!” we have been having discussions whether this must be understood literally or metaphorically, comprehensively or partially, and whether such labelling is constructive or obstructive in the search for improvement. Even though there are many possible positions, consensus is growing that the neoliberal way of doing business with its constitutive elements of lowering wages for the purpose of increasing profits and externalizing costs creates widespread misery and disaster, e.g. inequality, climate change, poisoning of water and soil and so on.

Given the speed of developments (just think of the increase of global average temperatures), this raises the question: How much time do we have before climate tipping points are crossed and things spiral out of control? Here defenders of the present order argue, that innovation and increase in efficiency will do the trick, sceptics argue that we cannot wait for this to happen and that, rather, we need to cut back on economic growth and consumption immediately.

As the last decade shows: Awareness and reform worldwide gathers pace, as indicated by the Paris Agreement, the *FridaysForFuture* movement, and ground-breaking Supreme Court Rulings. But as the last decade also shows: Tipping points come faster than predicted: e.g. the thawing of permafrost is already happening, 70 years too early!

If this is not just an exception in current forecasts, but typical for the course of events to be expected, we should be alarmed: At the rate present destruction and pollution of natural resources displaces people already; further displacement will grow exponentially if climate change continues to accelerate along the pathway suggested by the development of the past decade. This leads to the unavoidable conclusion: The longer we wait to take decisive action, the harder and more unpopular necessary measures will have to be initiated, the more the rights and freedoms of future generations will be infringed – a view put forward in April by the German Constitutional Court when, on those grounds, declaring the climate protection legislation of the present government to be unconstitutional.

These are just some thoughts illustrating why activists for social and climate justice argue that time for reasonable arguments only runs out, and that rather actions need to be taken to put pressure behind arguments and speed things up towards the right direction. And this raises

the question: What kind of actions are we talking about? Peaceful demonstrations only, or something beyond?

If today's economic powers, in collusion with political powers, create violence towards the world's poorest as well as future generations and if the consequences of today's economic paradigm predictably leads to mass misery, then it is justified to say, "This economy kills." It is justified not only in cases where this economy kills directly in a clear 1:1 correspondence as is the case of poisoning water and soil and, in consequence, food. It is also justified in view of scientific evidence proving complex links: The Greenhouse Effect, leading to desertification, starvation and migration, can be linked to human contribution beyond reasonable doubt – especially in view of burning fossil fuels.

If these forms of violence are exercised by the present economic order: Does this not justify corresponding activities of defence? If it is a situation of "emergency" (German "Notstand"), as also Pope Francis perceives certain crises today:² Does it justify self-defence (German: "Notwehr"), a category well enshrined in legislation? Certainly no acts to be taken directly against human beings, but why not against infrastructure or buildings symbolizing these violent structures? For example by organizing blockades in industrial or "business quarters", or by obstructing access to banks and factories or by blocking main traffic arteries, bringing rush hours to a standstill, perhaps even obstructing mining equipment?

This kind of discussion is alive among social and climate activists in Germany, and I am often at a loss for good answers, since these actions may invite violence against the activists in turn. But I am convinced that activities of these mostly young and idealistic people, done under great personal sacrifices, are justifiable and necessary. Not the least, because they accept knowingly and willingly arrest, trial and punishment.

For assistance in reflecting about these issues, I think the prophetic strand of the Bible, Theology of Liberation or Christian literature linked with the Peace Movement provide analogical answers since they, too, dealt with structural, indirect and potential (not imminent) violence.³

Where do Christians Stand?

Clearly, Christian values are important in this conflict both as guidelines and as motivation to do the things which are called for. Just one example: The message of peaceful resistance and overcoming evil with love is most certainly the best way to put things permanently on the right track.

² Pope on climate crisis: Time is running out, decisive action needed (14 June 2019) Retrieved from <https://www.vaticannews.va/en/pope/news/2019-06/pope-declares-climate-emergency.html>

³ My thoughts on that (German only) are here: Alt, J. Gewalt & Gegengewalt: Inwieweit rechtfertigt Engagement gegen den Klimawandel Nötigung und Sachbeschädigung? Von Globalisierung und Armutsbekämpfung: https://www.joergalt.de/fileadmin/Dateien/Joerg_Alt/Forum/GewaltGegengewalt.pdf abgerufen

But are Christians acting decisively, both in accordance with these values and the urgency called for by the present crises? Some do, some don't. In order to understand the situation a bit clearer it helps me to distinguish between Church members and "Value Christians".

Churches, being historically grown institutions, unite a diverse and large number of people among their members, often with diverse positions as existing within any given society. There are saints and sinners, progressive and conservative. Certainly, there are many good things going on, e.g. solidarity with persecuted or poor Christians everywhere, or institutional divestment from fossil stocks and shares. But there are also obstacles for doing the adequate due to historic links and entanglement in worldly affairs and with worldly powers. Three examples:

Prominent scientists, when identifying six Social Tipping Points being able to speed changes into the right direction, addressed one to religious leader: Given the clear link between emerging disasters and fossil fuels, they asked these leaders to declare the continuing use of fossil fuels to be as immoral, as they once denounced the holding of humans as slaves to be immoral.⁴ When I mailed this appeal to German bishops, those answering at all told me to be reasonable: Lorries bringing goods to the starving, for example, still run on diesel fuel, one of them explained to me. This is not wrong, of course, but is it helpful? Perhaps more adequate action could prevent the need of having lorries bringing food to the starving in the first place?

Or: Many states, CSOs, Nobel Laureates, UN-Bodies, millions of people, the Church of the Global South and Pope Francis called for the temporary waiving of patent rights for Covid-19 vaccines. German Bishops, however, in a public statement merely welcomed the debate, thus refusing unequivocal solidarity with Pope Francis and the Church in the South. Their very reasonable and balanced statement now provides legitimation for those opposing the temporary waiver, slows down the debate and endangers the willingness of Big Pharma for good compromises.

Or: In 2018, the Bavarian Prime Minister decreed that each state office and ministry has to put up a Crucifix in its entrance area as a sign and symbol of Bavarian culture. A storm of protest rose, asking e.g., how this fits with the deportation of refugees to Afghanistan and other "unchristian policies"? Against this protest, again, Conservative Catholics protested in turn, not comprehending how such public support for Christianity by a Christian Politician can be questioned at all!

Another group is what I called "Value Christians", namely those who were at all times attracted to the timeless message of the bible whether or not they are baptized or even members of a Church. Certainly, those people read the bible also from within their own contemporary and "inherited" value context, but they are freer of "traditional" and "institutional" ballast than many Church members and, when in doubt, put Bible Values above other values such as "tradition".

⁴ See Otto & Donges, Footnote 1

Accordingly, many people fighting in the aforementioned areas are not (or no longer) members of institutional Churches, but feel “merely” inspired by the Christian message of love and solidarity. For example:

In Germany, the Co-Leader of the Green Party, Robert Habeck, once told media that he considers himself to be a “secular Christian”: On the one hand, he does not believe in God and therefore is no member of a Church, but he shares Christian values and respects highly people living and practicing their faith. This triggered critique from Church members, questioning, whether “secular Christians” can exist at all outside Churches. Those probably did not know Karl Rahner’s concept of “anonymous Christians” which, I think, fits on people like Robert Habeck.

A similar observation is possible, when looking at alliances and coalitions in activities protecting refugees or blocking banks and coal mining facilities: The fight for social and ecological justice unites really strange bedfellows in common action. At the same time: those acting together have no problems with the value-contexts of their co-fighters since they know that they are united in the common strive for a better world. And so on.

The previous leads to the following questions: Who are Christians nowadays and who are follower of Jesus? Those organizing rescue ships to prevent refugees drowning in the Mediterranean or those writing theological treatises on ecumenism? Those paying Church taxes or those acting and fighting in the Spirit of Jesus who once threw merchants and money lender out of Gods temple? With St. Augustin we can ask anew: Who is inside, who outside of the Church? Christianity is sorting itself into new arrangements: What type of Church do we need today?

Where do Jesuits Stand?

Recently, a journalist told me that religious orders are among the few Church bodies dealing with the right questions and engaging in the right things. This was kind of him, but even though the Jesuits have 4 Universal Apostolic Preferences which would prompt action in the areas sketched before I have the feeling that most Jesuits are as torn over those issues as other members of Church and society.

There are huge benefits the Society can bring into the present struggle of humanity: Universities, schools, Social Research and Action, outreach to young people, migrants and indigenous... JRS should not/no longer be our token institution to practice solidarity with today’s victims and make their voices heard – inside and outside of the Church!

Would it not be a good idea to incorporate these questions into our annual retreat and to consider from there where our place should be as individual, as community, as province and as Apostolic Body?

Outlook

Today, humanity does not have a deficit of knowledge about both the challenges ahead and the things to do in facing them. We have a problem in implementing the right things rapidly

and decisively. There are many influences delaying progress: Lobbyism, corruption, fear of politicians for re-elections, fear of citizens to be called out of their comfort zones and having to change their life-style and, yes, fear of being criminalized or even penalized....

Christians could be change agents and driver of change. They have a normative compass in the Bible, Christian Ethics/Catholic Social Teaching as well as a Pope with an unequivocal message. And: 2,2 billion Christians are more than a critical mass to initiate Social Tipping Initiatives and move things into the right direction: Research of previous revolutions found that even as little as 3,5% of any given group peacefully resisting the wrong and determinedly working for the right, were often successful. More often, at any rate, than those engaging in violent activities.⁵

In all this I follow Rutger Bregman, who argues: In future it will be more obvious that those called Utopists today are in truth Realists and that those called Realists are in fact Utopists because they misread and misinterpreted the signs of time.⁶

Today we are in the middle of the most important moral revolution of all times. It puts foreseeably the lives of millions at risk and will affect the quality of life of all living beings. Times like these inevitably create its "martyrs" and "criminals". On what side of history do we as Jesuits want to stand?

Original in English

⁵ Robson, D. (14. May 2019). The '3.5% rule': How a small minority can change the world. Retrieved from BBC: <https://www.bbc.com/future/article/20190513-it-only-takes-35-of-people-to-change-the-world>

⁶ Bregman, R. (2017). Utopia for Realists - and how we can get there. London: Bloomsbury.



The Plight of Human Rights Defenders in Kenya: Toxic Activism or Legitimizing Democracy?

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Extrajudicial killings, police brutality, wrongful detention, threats against freelance bloggers, threats against human rights journalists and disappearances of human rights defenders (HRDs) in Kenya have featured in news items across different government media. The environment in Kenya, though generally peaceful, is at times characterized with political instability, corruption and historical injustices; hence the sprouting of more and more HRDs over the last couple of years. Examples are the 2007/2008 and 2017/2018 post-election violence which saw a drastic increase in injustices committed against human rights defenders which include journalist and bloggers to the extent that freedom of media was greatly curtailed. Typically, some human rights defenders during these two historical periods were featured in the news and social media platforms being harassed, wrongfully detained and some even brutally beaten just to keep them quiet. Some were emotionally tortured and their assets withheld by police officers for reporting on human rights injustices. An article by Human rights Watch reported that in 2019, in Lamu, Kenya, security forces harassed and even tagged people who raised concerns about government's massive infrastructure development projects; such people were termed as 'terrorists'.¹

Between May 2018 and April 2018, a report by Article 19 reported 94 incidences of violations against media workers and individual journalists in Kenya.² The most recent occurrence being the violent dispersion of human rights defenders who took to the streets to peacefully stand with Palestine against the accusations of inhumane treatment from Israel.³ This event led to chaos, left some individuals injured and others arrested after a brutal attack by police officers. This is despite having been a peaceful demonstration, allowed by the Kenyan constitution. These occurrences however have their roots in the kind of system the country has in place, in that, however much the country says it is democratic; there are some incidences displaying the contrary when it comes to freedom and human rights as championed by the United Nations.

¹ Human Rights Watch (2020). Kenya Events of 2019. Accessed from: [here](#)

² Article 19 (2018). Kenya: Violations of media freedom 2017-18. Accessed from: [here](#)

³ Reuters (2021). Kenyan police disperse protesters demonstrating against Israeli attacks on Gaza. Accessed from: [here](#)

HRDs in the Hands of Rogue Elites

A great number of HRDs in Kenya have been subject to violations of their human rights. They have been the target of executions, torture, beatings, subjective arrest and detention, death threats, harassment and defamation, as well as restrictions on their freedom of movement, expression, association and assembly. They have also in some instances been victims of false accusations, which lead to unfair trials and jail terms for crimes they did not commit.

Recently, in 2021 after the swearing in of the succeeding president of Tanzania, an activist group in Kenya 'Haki Africa' pleaded with her to release over 100 activists who were in prison for overseeing the 2020 general elections.⁴ In addition, during the 2021 Uganda elections, Haki Africa HRDs also sought to stand with Ugandans against elections injustices. There is a stipulated procedure for protests in Kenya, where one has to give notice to the police and give a letter for the same. However, Haki Africa activists were arrested as they went to present a letter notifying a protest. The authorities used teargas and force to disperse the growing masses who tried to stop them.⁵ Those arrested included the Haki Africa Executive Director among others. The use of teargas, water cannons and police brutality against human rights activists in Kenya stems back to the former government regimes where some of those who seemed to be of a contrary opinion to the administration either mysteriously disappeared, through murder or exile.

The death of two human-rights activists⁶ and a Nairobi business man⁷ -who had sued the state over business deals that went wrong- and a human rights lawyer who was brutally beaten and killed together with his client and taxi driver after filing a complaint against police injustices⁸ are perfect examples of human rights defenders who have been murdered in their line of duty. Despite there being legal frameworks to protect such activity, extrajudicial killing, wrongful arrest and threats to HRDs continue to rise.

The Place of HRDs in a Democratic State

The UN Commission on Human Rights, in 2002, strived to promote a common understanding of democracy by adopting a milestone resolution which defined some of the requisite elements for democracies. These elements include respect for human rights and fundamental freedoms; freedom of association; freedom of expression and opinion; access to power and its exercise in accordance with the rule of law; the holding of periodic free and fair elections by universal suffrage and by secret ballot as the expression of the will of the people; a pluralistic system of political parties and organisations; the separation of powers; the independence of the judiciary; transparency and accountability in public administration; and a free,

⁴ Citizen Digital (2021). Haki Africa appeals to President Suluhu to release activists, journalists detained in Tanzania. Accessed from: [here](#)

⁵ Nairobi News (2021). Four Kenyan activists arrested in protests over Uganda elections - PHOTOS. Accessed from: [here](#)

⁶ CNN (2009). Human rights activists killed in Kenya. Accessed from here: [here](#)

⁷ BBC News (2016). Kenyan businessman Jacob Juma shot dead in Nairobi Accessed from: [here](#)

⁸ World Organisation Against Torture [OMCT] (2016). Extrajudicial killing of human rights lawyer Willie Kimani, his client and their taxi driver. Accessed from: [here](#)

independent and pluralistic media. Some of these elements have openly been flouted in Kenya through use of administrative force. For example, around 2006, a local media house in Kenya found itself on crossroads with the administration due to alleged activism reporting. This move resulted in a cessation of transmission equipment, arrest of a journalist and the torching of newspapers that were to be circulated the next day leading to a closure of the media house for a while.⁹

Whether developing democracies acknowledge it or not, Human Rights Defenders (HRDs) play a key role in legitimising a democracy. The relationship between human rights and democracy is viewed to be symbiotic and mutually dependent on each other hence a state cannot deal unjustly with HRDs and expect international acceptance. In 1998, Kofi Annan, former Secretary General of the United Nations, stated that “when the rights of human rights defenders are violated, all our rights are put in jeopardy and all of us are made less safe.”¹⁰ Regardless of the importance of the work of HRDs in the advancement and realization of democratic societies, they are often targeted, through campaigns that seek to criminalize them and de-legitimize their work, as well as threats and attacks by both the state and non – state actors.¹¹

The symbiotic relationship emanates from the fact that HRDs can only be protected in a democratic state while a democracy can only be checked by HRDs to ensure that power is not abused or concentrated in the hands of politicians and elites. In this era of globalisation, democracy is the most preferred ideology with transparency, inclusivity and freedoms being crucial. A sustainable democratic framework is that which includes protection of human rights and the HRDs being recognized and protected.¹² This is not always the case as most so called democratic states especially in Africa have an elitist group that seeks to concentrate power to itself as opposed to the people and because they control resources, they use these resources to abuse human rights and attach more power to themselves either by grabbing land, awarding themselves government projects or grants and or misusing public resources. When called out by front-line defenders of justice, they often use the police to abuse, arrest or even kill the protestors to breed fear in other HRDs, thus exerting emotional torture and additionally even financial torture through freezing their access to finance.

The Country’s Legal and Institutional Framework in Defence of HRDs

Kenya today prides itself in the 2010 Constitution, which probably would not have come to be except for the constant uproar of HRDs and the putting of their lives in the line. The constitution dedicates a chapter on the Bill of rights with which the state must comply. The Bill of Rights further reflects international standards for the protection of HRDs by according

⁹ Aljazeera (2006). Kenya clamps down on media. Accessed from: [here](#)

¹⁰ Commissioner's Human Rights (2006). Human Rights Defenders must be able to criticise. Accessed from: [here](#)

¹¹ The Kenya National Commission on Human Rights [KNCHR] (2015). Champions of Rights. Report on The Situation of Human Rights Defenders (Busia, Kwale and Marsabit Counties). Accessed from: [here](#)

¹² International Institute for Democracy and Electoral Assistance [International IDEA] (2013). Democracy and Human Rights: The Role of the UN. Accessed from: [here](#)

relevant rights such as the rights of assembly, association and speech, rights of arrested persons and rights to a fair trial. HRDs are also protected in the 2010 constitution through institutional mechanisms with the establishment of 3 independent National Institutions which are: the Kenya National Commission on Human Rights (KNCHR), the office of the Ombudsman and the Gender and Equality Commission.¹³The developed draft Model Human Rights Defenders Policy and Action Plan plays a central role in the protection and defence of HRDs against the criminalizing their activities. The aim is to provide a safe operational environment for HRDs with provision for global interactions.

Regionally, the African Charter on Human and Peoples' rights (which does not mention defenders since its pre-dates 1998) authorizes individuals and NGOs to make complaints about human rights violations.¹⁴ The African Commission adopted its first Resolution on the Protection of African Human Rights Defenders and further introduced the post of a 'Special Rapporteur' for Human Rights Defenders in Africa answerable to the Commission.

The State's Legal Hindrance to HRDs

Despite these and other legal frameworks in Africa, some local legislations in Kenya are used by the government to suppress and hinder the rights of HRDs. The Kenya Information Communication Amendment Bill 2013 and the Media Council Bill 2013 which were passed in 2013 gravely restrict freedom of the press and they are inconsistent with the Constitution of Kenya (CoK) 2010.¹⁵ The 15 per cent budget limit set by law on the receipt of foreign funding by NGOs was set in order to financial cripple HRDs and human rights organisations which are mostly fully sponsored by foreigners or international organisations. When the government is unable to charge a particular HRD, the use of threats and tainting of one's character by either branding them terrorists or as being malicious against development of the country, is what ensues. By these means two human rights journalists- who during the West Gate saga in Kenya aired an investigative report on how the police force raided a mall during the attack, were landed in detention and were branded as the 'evil in society'.¹⁵

The Computer Misuse and Cybercrimes Act (2018) the Copyright Act (2001), and the Books and Publication Act (CAP 111) also arm authorities with illogical and disproportionate powers with which to interfere with human rights protections in Kenya. These frameworks grant wide search-and-seize powers to police officers, without the requirement of judicial oversight (that is, obtaining a warrant), and contain punitive criminal penalties.¹⁶

¹³ Kenya National Commission on Human Rights [KNCHR] (2015). Safeguarding Constitutional Gains of Human Rights Defenders. Media brief - 25th February 2015. accessed from: [here](#)

¹⁴ ACHPR (2001). Minority Rights Under The African Charter on Human and Peoples' Rights: Pamphlet No. 6. African Commission on Human and Peoples' Rights [ACHPR]. Accessed from: [here](#)

¹⁵ RSF Reporters Without Borders (2013). Parliamentary offensive against freedom of information. Accessed from: [here](#)

¹⁶ Article 19 (2020). Kenya: Arrest of activist Edwin Mutemiwa Kiama ignores human rights protections. Accessed from: [here](#)

The Extent to which International Forces can Intervene

The concept of sovereignty of a state cannot be challenged internationally and hence most international treaties are signed on the grounds of consensus, which gives the individual state discretion on what to apply locally and how to apply it. Most countries that are members of the UN are still filled with human rights injustices despite the integration of the UN Declaration on Human and People's Right into their domestic laws. It is important to note that international law compliance is non-coercive and imposing rules on states by force creates the risk of eruption of war. Most international bodies often use sanctions to coerce developing countries into obeying international rules and regulations. However, sanctions only cause suffering to the innocent population and has no effect on the government and elites.

The fact that international relations are underpinned by compliance and cooperation and coercion cannot be used, presents a state of stalemate in the international arena. The requirement of consent creates a powerful status quo bias that hinders attempts to solve global issues.¹⁷ Therefore, the role of international instruments to ensure that human rights are not hindered is left to the discretion of individual member states. This means that even UN member states are free to abide or not abide by the international laws of which they are signatories. The only risk that these member states face is the use of international instruments like economic sanctions to coerce them into cooperation.

What Next?

Informed by the aforementioned state of HRDs in Kenya and the existing legal and institutional frameworks; it is clear while some HRDs can find themselves on the wrong side of the law due to 'Toxic Activism' more often than not most play a pivotal role in 'legitimising a democracy'. Jesuit Justice & Ecology Network Africa (JENA) a diverse community of faith-inspired Social Centres working for the eradication of the injustice and poverty through inclusive development and championing for a just society is of the conviction that if advocacy on justice for HRDs is not taken up, then justice and peace for the vast majority of the voiceless citizens is at risk. As such, some of the ways in which the government of Kenya can ensure HRDs are protected and the country builds a just and healthy society include:

- i) The government needs to revoke restrictions on NGO access to foreign funding in conformity with the rights to freedom of expression and association.
- ii) Finalise the draft HRDs policy and action plan that entails the protection of HRDs.
- iii) Ensure a strict adherence to the law especially on arrest, detention and charging; to only when a crime has been committed rather than when the government or some elites feel threatened.
- iv) The Information Communication Amendment Bill 2013 and the Media Council Bill 2013 need to be amended or repealed so as to comply with the regional and international human rights instruments ratified by Kenya.

¹⁷ Andrew, G. (2011). The Consent Problem in International Law. UC Berkeley Berkeley Program in Law and Economics, Working Paper Series. Accessed from [:here](#)

- v) There is need for Independent Policing Oversight Authority - IPOA Kenya, subject to vetting by existing legal institutions, to be given prosecution powers so that as they check on the powers abused by the police, and find breach, they should be able to proceed with prosecution so as to protect human rights.

Original in English



Champions of Human and Environmental Rights: An Incongruous Commitment

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In the context of a developing country such as the Democratic Republic of Congo (DRC), reflection on the commitment of champions of human and environmental rights can profit greatly from the increasing interest enjoyed by development programmes approached through human rights.¹ When we know that champions of human and environmental rights tend to work in milieux where development projects and programmes are undertaken, this perspective enables us to examine the relevance of their commitment right down to the dynamics that give rise to these projects, dynamics which are supposed to raise their quality and durability quotient. When we know in addition that the milieux concerned are characterized by a strong socio-economic fracture, evident not only in remote milieux but even in towns where unemployment and new customs described as deviant are becoming more and more firmly rooted in socio-cultural structures, we get a firmer grasp of the importance of a better configuration of the profile of the individual who champions human and environmental rights.

As I am close to several local bodies and have activist family members in the Great Lake region, it is of great interest to me in this brief reflection to express my apprehension as regards the work of the activists who champion human and environmental rights in a country like my own, the DRC. After a political-social and economic overview describing the major characteristics of the framework in which human and environmental rights champions work, I shall attempt to identify the factors that jeopardize their work before proposing a perspective which would produce human rights champions who are less dedicated to martyrdom and, in some cases, to a criminal status.

An Excessively Muddled Context

In the DRC, those who defend human and environmental rights campaign on problematic ground where almost everything needs to be (re)done. Although they are engaged in one sector, it is easy to approach them from a different and separate angle. In the following lines,

¹ Further reading, Nyamu-Musembi, C. and Cornwall, A. (2004). *What is the rights based approach all about? Perspective from international Development Agencies*. (Brighton : Institute of Development Studies).

I propose to sketch in broad strokes the characteristics of the terrain in which they operate in the DRC. First of all the work sector. The periodical *Congo-Afrique* has devoted an entire issue² to the description and analysis of the nightmare which young people are living, even those with university degrees.

François-Xavier Akono discusses the worker's resourcefulness and the precariousness of workers as social pathologies³ in which one learns the meaning of "being nothing,"⁴ where having a place in the sun requires a co-optation that profits from the position of a relative or a benevolent contact in the hierarchy. Eric Weil attributes this state of affairs to an imperfection of the specific organization under the form of social injustice⁵ responsible for turning an important segment of the population into vagrants, reduced to the state of "disposable people",⁶ mere reservoirs of organs or on borrowed time.

As regards the Congolese media,⁷ their operation is adrift – they lack proven professionalism and have a deficiency of ethics and of deontology. Individuals, tired of being unemployed, transform themselves into journalists. They transcribe and transpose whatever they are asked to do in a rough and ready, frequently clumsy way, using inexact language. They neither analyse nor investigate. All they provide is coverage of the deeds and actions of whoever pays them best. Congolese politicians bellow day after day on the channels they have acquired with ill-gotten gains in order to express their opposition or to threaten the process underway.⁸

In recent decades, the DRC, with its two wars,⁹ has been in the news regarding armed conflicts. The metastases of the cancerous regimes known in previous years ended by contaminating the region, crystallizing their perverse effects here. The first Congo war (1996-97) was the war of the armies without borders, whose declared aim was to remove the dictator Mobuto from power, an aim seconded by the international actors hoping for the implosion and disintegration of the RD Congo. What followed was a war of looting, with the pillaging of natural resources (1998-2003). The official reasons which sparked the conflict were to change constantly and were to influence other conflicts in the sub-region: a military leadership obsessed by wars, the quest for a regional leadership against a background of bad governance. This opened the door to organized international crime, that of a political-financial mafia.

² *Congo-Afrique*, n° 515, May 2017.

³ Akono F.X. (May 2017). "Une éthique du travail : critique de la précarisation et culte de l'excellence comme condition du progrès africain", in *Congo-Afrique*. n° 55. pp. 409-425.

⁴ François-Xavier borrows this expression from the singer, Lapiro de Mbanga.

⁵ Mentioned by Akono F.-X., *op. cit.*, p. 411.

⁶ Terms highlighted by Akono F.-X.

⁷ Mashin, Charles Mazinga. (2007). "Médias et incitation à la haine et à la violence", in *Elections, paix et développement en R.D. Congo. Prise de position des Universités*. (Congo/Qises, Kinshasa: Publications of the Konrad Adenauer Foundation). pp.51-52.

⁸ Ibid.

⁹ Read the report in République Démocratique du Congo. *Démocratie et participation à la vie politique : une évaluation des premiers pas dans la IIIe République. Une étude d'AfriMAP et de l'Open Society Initiative for Southern Africa*, published by Open Society Foundations, November 2010.

The DRC, like many other countries, continues to paddle in the so-called club of "third States,"¹⁰ featuring in the UN, since most of the strategies to extricate them from their precarious situation were conceived without any weight being given to their own opinion. On top of this, the absence of their right of veto makes them truly "third", outsiders who, paradoxically, find themselves subjected to the obligations resulting from the so-called Conventions. Consequently, how can we hope to carry productive activism ahead in a field where the duplicity of the international powers¹¹ has caused gangrene to set in? The fact that the international community has closed its eyes to the massive violations of human rights that these wars have caused has proved most disappointing. The conflicts – including a galloping prevalence of HIV / AIDS – have led to a number of victims that revolts people's consciences. A recent report by the Public Affairs Office (PAO) shows how the proportion of badly nourished Congolese increased from 35% in 1990-92 to 64% in 1997-99, making the DRC one of the poorest countries in the world. This sombre picture has modified the biotope at various levels: villages destroyed, plant and animal species wiped out, polluted rivers, the unsafe transport of uranium-bearing materials, ignorance of the rights of entities impacted by exploitation, etc.

Against a different background, that of the elections, the past two ballots caused us to hope for an end to the repeated conflicts. However, the discovery by the people of the masquerade surrounding their right to vote in 2011 led to a disturbance of public order: polling stations in several places were set on fire, agents of the Independent National Electoral Commission (CENI) and suspect voters beaten up. Some people, bent on exercising their freedom to demonstrate, lost their lives. The right to independent information suffered: some radio and television channels were suspended, as well as SMS and social networks... As well as the psychosis created by this climate of confusion, the right to peace and to the security of individuals and their possessions was also hit very hard in a disillusioned and suppressed population against a background of intimidation by armed soldiers and policemen in order to quell any resistance. These facts have highlighted something obvious: the interdependence and indivisibility of human rights. The violation of a single right has harmful repercussions on other rights. We thus see how the violation of a single freedom (the freedom of opinion of voters) has moulded several human rights and basic freedoms: the rights to life, to physical integrity, to peace, to the security of people and of goods, to information, to the freedoms of expression, of the press and of demonstration.

What can we say of women's rights?¹² Women are and continue to be the major victims of repeated conflicts and of the survival of unfavourable traditions. The laws, resolutions and treaties in their favour are unknown to them because they are insufficiently popularised. Their access to education would be a great help in this respect. It is this that would enable women

¹⁰ Bitota, Muamba J. (February 2017). speaks of strategies for the development in the third world in his article "Le respect des droits de l'homme, gage d'un développement participative". *Congo-Afrique*. n° 512. (Kinshasa: CEPAS). pp. 119-123.

¹¹ Minani Bihuzo, R. (2008). Du pacte de stabilité de Nairobi à l'acte d'engagement de Goma. Enjeux et défis du processus de paix en RDC. (Kinshasa : CEPAS/ RODHECIC). p. 13.

¹² Kambale, G. (March 2017). "La femme africaine, avenir du continent?". *Congo-Afrique*. no. 513. p. 198.

to step forward to induce legislators to reconsider their quest for equality in rights and duties in all areas.

In a different area, let us mention respect for texts. It is notorious that lack of consideration for the respect of texts¹³ inevitably leads to an arbitrary governance which, in turn leads to injustices that give rise to psychological frustrations, political crises and stormy, ravaging social disorders. In an extremely interesting paper on the subject, P. Ngoma-Binda reveals some strong cases¹⁴: systematic violation of the law on free primary school education, on the deduction at source by the provinces of 40% of revenue, on the transfer of charges and resources to provinces and their free administration, etc. He deciphers their causes¹⁵: the existence of inner flaws in the texts, bad faith in the work of juridical exegesis, the strong urge to cheat, the absence of a tradition of respecting laws and the reality of objective difficulties. In such a murky context how is it possible to become an apostle of rights without creating enemies among those whose interests are threatened? What attitude should anyone who aims to launch themselves on this path take?

The Champion of Human Rights: Changing Perspective

It should be recognized that in almost all cases those who champion human rights here have always worked in the movement that views human rights from a universalist perspective.¹⁶ This perspective was introduced by foreign organisations which ensured its funding and also decreed its manner of implantation. The situation has not changed much. In a context of war and precariousness where finding a job is an achievement as mentioned above, becoming an activist for human and environmental rights is an alternative whose aim is something other than sacrifice and combat. A well-known activist in the East of the DRC testifies:¹⁷ "Many Congolese have become past masters at drafting projects for the profusion of NGOs created. Their formulation of terms of reference and the motivation given for their objectives are enough to bring tears to the eyes of donors who, in a surge of humanitarianism, do not hesitate to put their hands into their pockets. Millions of dollars or euros are granted. Yet they leave no noticeable traces in the area." He adds: "Very often the promoter of the NGO transforms himself into a businessman, he imports goods, owns shops and warehouses and builds houses and hotels. A nouveau riche is thus born who becomes notably politically eligible." Very few truly independent activists are to be found who are motivated solely by a concern for rights, for freedom and for the development of their society. The opinion is gaining ground that sees

¹³ Ngoma-Binda P. (April 2017). "Démocratie et culture du respect des lois et des accords, base de la gouvernance et de la paix". *Congo-Afrique*. no. 514. p. 370.

¹⁴ Ibid. pp. 372-374

¹⁵ Ibid. pp. 374-379

¹⁶ She identifies a bottom-up process of human rights, the opposite of the cultural relativism that leads to a strong attention to cultural differences to what Sally Merry calls contextualization, adaptation or indigenization of human rights. See Levitt P. and Merry S. (2000). "Vernacularization on the ground: local uses of global women's rights in Peru, China and the United States", *Global Networks* 9, 441.

¹⁷ As well as my sister, active in the protection of women and children in a context of conflict in Kivu, the person testifying here is a nephew who teaches law at the Catholic University of Bukavu and is a lawyer. His experience in the fight for human rights is about to be published.

the funding of NGOs as a source of enrichment since donors are often governed by an “exchange of favours.”¹⁸

A person whose activism arises from his or her own convictions would never be accused of being a criminal or a foreign agent. And to avoid the fate of ending up a martyr one needs to change perspective and reorient one’s activity. Does not the champion of human rights operate as a speaker in the name of all? The speaker, the *I*, the singular subject in action, designates every individual who occupies the first place in dialogue.¹⁹ As a singular subject, he or she assumes speech and individuality, and is universal to the extent that his or her dialogue may henceforth be taken on by anyone from the moment of entering the scene. Better still, the *We* which is generally associated with him or her in the discourse accentuates and crowns this universality of the *I*. It is thanks to this collective *We* that human feats are possible. What do we mean by this? Since human rights are the prerogative of all it is appropriate to put them within reach of all. Their popularisation in socio-cultural associations and their inclusion in school programmes would lead to making a very large segment of the population passionate about human rights.

Conclusions

We would no longer see individuals standing up to confront power or State agencies, but rather entire masses. It is thus a question of leading human beings to become participants in their own right to development by means of a consideration of their rights. In this way a human collective can be brought into being, a *living together* as a relentless aspiration which is imposed on each and every one as the only way to save the individual, but above all to save humanity. This makes the emergence of singularities disappear, rapidly transformed into “foreign agents” and martyrs. Pascal Sundi Mbambi offers an understanding of human rights²⁰ as freedom, need, respect for others and above all as “*bu-mutuu*.”²¹ And R. Bastide defines each being as a “bearer of culture.”²² Personal or collective identities are now shaped, built, stabilized and enriched. It is this that we should work for and radically change the profile and way of action of those who champion human and environmental rights.

Original in French
Translation Catherine Marceline Rice

¹⁸ Another testimony of the activist.

¹⁹ Ilunga K., L.-M. “Je fais un rêve’ de Martin Luther King : des repères sémantiques pour le vivre ensemble”. *Congo-Afrique*. no. 512. (Kinshasa : CEPAS). p. 155.

²⁰ Sundi Mbambi, P. (May 2017). “Le droit à l’eau potable en milieu rural : le cas du programme ‘village assaini’ dans le Bas-fleuve”, *Congo-Afrique*. no. 515. pp. 448-453.

²¹ A Bantu notion designating humanism. “*Bu-muutu*”, this is what expresses the human.

²² Lirus-Galap, J. “Identité culturelle et rapport de citoyenneté” in Bogumil J. and J. Letourneau (ed.), *Identités en mutation, scialités en germination*, published by Septentrion. p. 134.



Voices for Justice and Hope in India

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Natasha Narwal and Devangana Kalita (members of women's rights group Pinjra Tod and students of the prestigious Jawaharlal Nehru University) and Jamia Millia Islamia student Asif Iqbal Tanha today represent the youth of India: struggling for justice. For more than a year, all three of them were in jail, incarcerated under the Unlawful Activities Prevention Act (UAPA). On 15 June, the Delhi High Court granted bail to all three. The Court order was a singular blow for freedom of speech and expression and the right to dissent. Among other things the order said, *"In its anxiety to suppress dissent, in the mind of the State, the line between constitutionally guaranteed right to protest and terrorist activity seems to be getting somewhat blurred" ... "If this mindset gains traction, it would be a sad day for democracy."* The court also said there was a *"complete lack of any specific, factual allegations...."* and *"(such serious sections) must be applied in a just and fair way, ..."*

The court said that for a prima facie case under UAPA provisions, there have to be *"specific or particularised"* allegations. It notes that the prosecution has only made inferences using *"hyperbolic verbiage."* Adding, *"Allegations relating to inflammatory speeches, organising of chakka jaam, instigating women to protest and to stock-pile various articles and other similar allegations, in our view, at worst, are evidence that the appellant participated in organising protests, but we can discern no specific or particularised allegation, much less any material to bear-out the allegation, that the appellant incited violence, what to talk of committing a terrorist act or a conspiracy or act preparatory to the commission of a terrorist act as understood in the UAPA."*

The day they were released on bail, scores gathered outside the prison gates to welcome them. Natasha, Devangana and others sang songs of protest and shouted slogans of freedom. They were fearless and defiant: very clear that despite being made to suffer in jail, their struggle could continue till justice and truth triumphed. Obviously, the Central Government will spare no effort to send them back to jail – but their mood was high and all too clear: *"we shall overcome one day!"*

Aisha Sultana, a native of Lakshadweep's Chetlat island, is another of India's young visible faces in the cry for justice! She is a well-known actor and director and also an environmental activist. Lakshadweep, a Union Territory, is an archipelago of 36 islands in the Arabian Sea: is a paradise with pristine beauty. Its 70,000-strong population is predominantly Muslim (with

smaller percentages of Hindus and Christians); although having strong ties with Kerala (the nearest place on the Indian mainland), they have a distinct social and cultural identity.

Recently, the new administrator (a hard-line politician of the ruling party) introduced a slew of draft legislation, which has sparked widespread protests not only in Lakshadweep but all over the country. The proposed policies are clearly anti-people and unjust, bound to have a wide-ranging impact on the islands: on the lives and livelihoods of Lakshadweep's residents. A land development plan gives the administrator vast powers to take over land and relocate people, and provides for stringent penalties for those who resist. The plan allows for mining and exploitation of mineral resources in the islands. Under the new rules, the slaughter of cows and transport of beef products has been made an offense. The Prevention of Anti-Social Activities (PASA) Regulation provides for detention of a person without any public disclosure for a period of up to a year. The legislations are clearly designed to help the crony capitalist friends of the ruling regime!

On a Malayalam news channel recently, Sultana blamed the administrator for the surge in coronavirus cases in the Union Territory, claiming a *"bio-weapon"* against the people of Lakshadweep. A case of sedition was filed against her accusing her of *"anti-national comments"* and *"tarnishing the patriotic image of the central government"*. Aisha has plenty of support with many saying that the filmmaker was only speaking for the rights of the people on the islands and about the administrator's *"unscientific, irresponsible draconian decisions"*. On 17 June, the Kerala High Court granted her interim anticipatory bail if she is arrested but also directed her to appear before the police in Lakshadweep for interrogation.

Some months earlier, Disha Ravi, a 21-year-old student and climate activist from Bengaluru was arrested for her alleged role in sharing a 'toolkit' on social media related to the national farmers' protest that is on in Delhi since 26 November 2020. The police accused the activist of distributing/ propagating the toolkit which was later used by Swedish climate activist Greta Thunberg and hit the headlines on February 5. Later, the Delhi Police asked Google and some other social media giants to provide information about email IDs, URLs and certain social media accounts related to the document's creators. Disha, was arrested, kept in jail for almost a week and finally released on bail. Disha graduated from the Mount Carmel College and is one of the founders of the 'Fridays for Future' (FFF) campaign in India. It's message is for students to skip Friday classes to participate in demonstrations to demand action to prevent climate change and for transition from fossil fuels to renewable energy.

All that Disha was doing was to support the demands of protesting farmers in India. Since 26 November 2020, millions farmers have been protesting in and around Delhi (and in other parts of the country) for the immediate and unconditional revocation three anti-farmer laws, designed to help in the profiteering of corporate friends of the ruling regime. Their protest (in its seven months now) is non-violent and is regarded as one of the biggest ever peoples protest in the world.

On 26 January (India's Republic Day), some violence did break out; and non-partisan media are unanimous that the violence was engineered, with the police being complicit. On 28 January, the Uttar Pradesh police booked some politicians and journalists, including

Congress Member of Parliament Shashi Tharoor; *India Today* journalist Rajdeep Sardesai; *National Herald's* senior consulting editor Mrinal Pande; *Qaumi Awaz* editor Zafar Agha; *The Caravan* magazine's editor and founder Paresh Nath; *The Caravan* editor Anant Nath, and its executive editor Vinod K. Jose, under sedition laws alleging sharing unverified news during the farmers' tractor rally in Delhi. The police further alleged that the accused persons "*instigated violence*" on January 26 through their posts on social media. The FIR alleges, "*it was done deliberately so that it causes a large-scale riot and communal violence among various communities,*"; adding, "*this act of theirs tried to build insurrection against the Indian Republic and tried to sow the seeds of enmity, violence and create a riot-like situation between communities.*" Earlier, Sardesai (a popular TV personality and anchor; was taken off the air for two weeks and a month's salary deducted from him by his employers, the pro-Government 'India Today Group' for his tweet and on-air announcement that the police shot a farmer.

On 18 December 2020, a bench led by Ashok Bhushan issued contempt notices to stand-up comedian Kunal Kamra on a batch of petitions filed against him over his tweets attacking the top court for granting bail to *Republic TV* Editor-in-Chief Arnab Goswami after his arrest in an abetment to suicide case. In an affidavit to the Supreme Court on 29 January, Kamra offered no defense for his jokes saying they were based on a comedian's perception, to make the audience laugh. His brilliant affidavit has been going viral; and courageously and an excerpt states, "*I believe there is a growing culture of intolerance in this country, where taking offense is seen as a fundamental right and has been elevated to the status of a much-loved national indoor sport. We are witnessing an assault on the freedom of speech and expression, with comedians like Munawar Farooqi being jailed for jokes that they have not even made, and school students being interrogated for sedition. At such a time, I hope that this Court will demonstrate that the freedom of speech and expression is a cardinal constitutional value, and recognise that the possibility of being offended is a necessary incident to the exercise of this right. Should powerful people and institutions continue to show an inability to tolerate rebuke or criticism, we would be reduced to a country of incarcerated artists and flourishing lapdogs.*"

Late on Saturday 30 January night, the Delhi police arrested freelance journalist Mandeep Punia, from the Singhu protest site of the farmers, for apparently 'obstructing them in the discharge of their duties and beating police personnel;' a charge which Punia vehemently denies. He has already been remanded to fourteen days judicial custody. Several journalists are already protesting his arrest. His wife Leelashree who is a research scholar at Panjab University says, "*If they start suppressing their (journalists') voices, society will be silenced. This is very unfortunate*". On 1 February, Twitter blocked (apparently on the directives of the Government) 250 accounts over "*fake, provocative*" posts on the farmers' protest. The timeline of each account is blanked, 'Account withheld' is written across it and below it says "*your account has been withheld in India in response to a legal demand.*"

In December 2019, the Government introduced the Citizenship Amendment Act (CAA), the National Population Register (NPR) and the National Register of Citizens (NRC) at an all-India level. Most believe all three are patently discriminatory, divisive and draconian and go against the grain and spirit of India's Constitution. The CAA, the NPR and the NRC are bound

to have a serious and detrimental impact on the poor, the excluded, the minorities and other vulnerable groups like the Adivasis and Dalits. These policies are clearly seen as a strategy toward the establishment of a 'Hindutva *Rashtra*' (Kingdom). Until 24 March 2020 (when the lockdown was announced nationwide), millions of citizens, from every walk of life, were out on the streets, in every corner of the country protesting and demanding that this anti-people law and related measures, be withdrawn unconditionally and immediately. Young and old, students and their professors, social activists and other eminent citizens, the rural folk and the suave urbans, protested in an unprecedented show of strength and solidarity, never seen before in post independent India! Till today the Government has not framed the necessary rules to govern the implementation of the law; but has gone overboard in arresting several students, academics and others protesting against the law.

It is three years now, since the first arrests in the Bhima-Koregaon conspiracy case were made in June 2018. Today, sixteen (referred to as the BK-16) of the country's committed citizens continue to languish in jail, with bail being denied to them (one was given medical bail) and with absolutely no signs of any trial beginning; those arrested include the aged and ailing Jesuit Fr Stan Swamy, trade unionist and lawyer Sudha Bharadwaj and three young persons from a drama troupe. These are ordinary trade unionists, human rights activists, academics, lawyers, intellectuals and artistes. Their crime? To take sides with the poor and the marginalised, to be a voice for the voiceless, to fight for the rights of the Adivasis and Dalits, the workers and farmers. They have fought battles in courts; helped organise people to fight for their legitimate rights; consistently exposed the nexus between the politicians and their powerfully rich friends; they have exposed how those engaged in extractives (the mining mafia) have depleted precious natural resources for their own profiteering and have denied the Adivasis and the other forest-dwellers of their '*jal, jungle aur jameen*' (water, forests and land) – which have been theirs since time immemorial. All the sixteen, have been selflessly committed to the establishing of a society which is more just, equitable, free, fraternal and humane – and based on the Constitution of India.

In doing so, they have also raised the hackles of powerful vested interests, who have made it clear that such human rights defenders have to be out of the way! The arrests were preceded by long interrogations and investigations; During the raids, the police seized their laptops, mobile phones, pen drives, CDs, documents and apparently whatever they could lay their hands upon. All sixteen of them have been charged under provisions of anti-terror law Unlawful Activities Prevention Act (UAPA) and other sections of the IPC: all fabricated charges – without the slightest shred of evidence! Recently' a US-based digital forensic analyst in a report has provided significant information of how so-called 'electronic evidence' was planted in the computer of one of them.

Human Rights Defenders have been facing a running battle with 'officialdom.' Several students from prestigious Universities, who have had the audacity to think differently, to defend the secular ethos of the country and freedom of expression, have been hounded, beaten, ostracized and even imprisoned. Some have committed suicide and at least one prominent student has just 'disappeared'. In several cases, there is the blatant misuse of official machinery like the police, the Income-Tax Department, independent Constitutional

authorities and even the judiciary. Even upright Government officials who refuse to 'toe the line' – are either transferred to a posting of irrelevance or denied a promotion which is merited.

The State has been indulging in every form of repression to quell voices of dissent and protest. Those who take a stand against, anti-Constitutional policies are hounded and harassed; subjected to raids and investigations; with false and fabricated charges levelled against them: under draconian terrorist and archaic sedition laws, on the flimsiest of reasons; several are languishing in jail for many years without a trial. Some are even killed!!

The last few years have been difficult ones in India: and at the receiving end of a brutal, unjust, divisive and violent system are the poor and the marginalised, the excluded and the exploited; among these, those who suffer the most are the Adivasis (the indigenous people/tribals) and the Dalits (those who comprise the lowest strata of the caste system); migrant workers and farmers; women and children. Also, in Gujarat the rights of minorities to administer their educational institutions are systematically being abrogated.

The well-known global alliance of civil society organisations, CIVICUS strives to promote marginalised voices specifically in the Global South; it has members from over 170 countries. In October 2020, a report published by them '*Punished for speaking up: The ongoing use of restrictive laws to silence dissent in India*', highlighted the increase in official harassment of activists, journalists, and protesters. The report regards the political environment of the country as becoming increasingly repressive. It speaks about the arrest and detention of activists particularly in the light of the Citizenship Amendment Act and raises concerns about the violations in Jammu and Kashmir. The Report also observes India's slide towards authoritarianism through the conflation of dissent with anti-nationalism and smear campaigns against human rights activists. In 2019, the CIVICUS Monitor had downgraded India's status on space for civil society from 'repressed' to 'obstructed'

At the release, a CIVICUS official stated, "*It is appalling that human rights defenders are locked up in overcrowded prisons and continuously denied bail despite calls by the UN to decongest prisons and release political prisoners during the pandemic. Holding them at this time puts them at serious risk of contracting COVID-19 and adds another layer of punishment for these activists, who have been detained just for speaking up for human rights*" The report also frowns on the Unlawful Activities (Prevention) Act, (UAPA), Section 124A of the Indian Penal Code, the National Security Act (NSA), and the Public Safety Act (PSA), which is applicable in Jammu and Kashmir. The official added, "*The laws are incompatible with India's international human rights obligations as well as India's Constitution. Not only are the laws themselves inherently flawed, but their implementation makes it clear that they have become tools for judicial harassment, rather than for preventing or addressing criminality.*"

At the end of September 2020, 'Amnesty International India' (AI-I) had to wind up its operations, because the Government had frozen its bank accounts. Writing in the 'Deccan Chronicle' (29 September 2020), well-known journalist and former head of AI-I, Aakar Patel says, "*It is not in the interest of India or its people or even the government, to persecute and harass these organisations. Unfortunately, ... many of them, ... will have to wind up operations and others will have to scale down. India's civil society is full of motivated people and much of their work will continue*

because these individuals are not doing this work because of the money. ...Such Indians will continue their work and it is a shame that they are being hindered”.

In March 2021, the prestigious US-based ‘Freedom House’ in its ‘Freedom in the World Report 2021’ downgraded India’s status from a ‘free’ country to a ‘partly free’ country for the first time saying, “... from Free to Partly Free due to ... pattern in which the Hindu nationalist government and its allies have presided over rising violence and discriminatory policies affecting the Muslim population and pursued a crackdown on expressions of dissent by the media, academics, civil society groups, and protesters”. The ‘Overview’ is more direct, “...Prime Minister Narendra Modi and his Hindu nationalist Bharatiya Janata Party (BJP) has ...increased violence affecting the Muslim population. The constitution guarantees civil liberties including freedom of expression and freedom of religion, but harassment of journalists, nongovernmental organizations (NGOs), and other government critics has increased significantly under Modi. Muslims, scheduled castes (Dalits), and scheduled tribes (Adivasis) remain economically and socially marginalized”.

Another well-known global organisation from Sweden ‘V-Dem’ (Varieties of Democracy) released its fifth annual democracy report entitled ‘Autocratisation Goes Viral’, it has downgraded India from “the world’s largest democracy” to an “electoral autocracy”. In a section ‘India: Democracy Broken Down’, the report notes “The Indian government rarely, if ever, used to exercise censorship as evidenced by its score of 3.5 out of 4 before Modi became Prime Minister. By 2020, this score is close to 1.5, meaning that censorship efforts are becoming routine and no longer even restricted to sensitive (to the government) issues.” “...the Modi-led government in India has used laws on sedition, defamation, and counterterrorism to silence critics. ... over 7,000 people have been charged with sedition after the BJP assumed power and most of the accused are critics of the ruling party.”

The voices for justice are also voices of hope, one cannot help but revisit the incisive poem ‘**Pity the Nation**’, written some years ago by American Lawrence Ferlinghetti (based on a similar work written earlier by the Lebanese poet Khalil Gibran):

*"Pity the nation whose people are sheep
And whose shepherds mislead them
Pity the nation whose leaders are liars
Whose sages are silenced
And whose bigots haunt the airwaves
Pity the nation that raises not its voice
Except to praise conquerers
And acclaim the bully as hero
And aims to rule the world
With force and by torture*

*Pity the nation that knows
No other language but its own
And no other culture but its own
Pity the nation whose breath is money
And sleeps the sleep of the too well fed
Pity the nation oh pity the people
Who allow their rights to erode
and their freedoms to be washed away
my country, tears of thee
Sweet land of liberty!"*

Original in English



Human Rights Defenders: Analysis from an Indian Perspective

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The Context of the Discussion

In 1998 the United Nations (UN) made an important declaration on Human Rights Defenders.¹ Since the adoption of the Declaration, there has been growing recognition of the significance of human rights defenders as agents of change. 'Human Rights Defender' (hereinafter inter-exchanged or referred as HRD) is a term used to describe people who, individually or with others [read collective], act to promote and/or protect human rights. Human rights defenders are generally identified by what they do and it is through a description of their actions and of some of the contexts in which they work that the term can best be explained.

Human rights defenders address any human rights concerns, which can be as varied such as summary executions, torture, arbitrary arrest and detention, ethnic cleansing, ethnic conflict, caste discrimination, apartheid, racial disparity, gender disparity, religious and faith based intolerance, cultural dogmatism, assault on gender and sexual minorities, all forms of socio-cultural and sexual violence, female genital mutilation, discrimination, employment issues, labour questions, forced evictions, access to health care, toxic waste and its impact on the environment. Defenders are active in support of human rights as diverse as the rights to life, to food and water, to the highest attainable standard of health, to adequate housing, to a name and a nationality, to education, to freedom of movement and to non-discrimination to rights of the minorities, to rights of the ethnically marginalised groups to that of the socially oppressed groups. They sometimes address the rights of categories of persons, for example women's rights, children's rights, indigenous rights, Dalit rights, refugees' rights, rights of internally displaced persons, and the rights of national, linguistic or sexual minorities (George, 2019).

¹ Declaration on the 'Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms' (commonly referred to as the Declaration on human rights defenders), adopted by UN General Assembly resolution 53/144, 9 December 1998. A/RES/53/144.

India is a signatory to many international human rights covenants, resolutions, treaties and accords including the protection of HRDs. In accordance with these various provisions measures and institutions were put in place by the Indian government through the constitution of National and State Human Rights Commissions. Other statutory bodies such as National Commissions for Scheduled Caste, Scheduled Tribe, Minorities, Women, Protection of Child Rights and the Disability Commissioner are in place in the centre.

HRDs and Bitter Experiences

India is a land of hundreds of social movement and people's organisation. Any movement or organisation consists of both men and women who play critical role in raising the question of rights and legitimate entitlements in a legal, historical and cultural way. These individual members of such movements and organisations constitute the majority of HRDs, who play a crucial role in ensuring that the victims are able to pursue justice. However, their work is often challenged and undermined by state agencies including ministries, departments, bureaucrats, authorities, officials and all those in power. At the same time non-state actors such as illegal armed groups, business enterprises, henchmen, middlemen, etc. also pose another set of challenge (George, 2019). With the objective to protect their own interests and reputations, these groups will sometimes adopt any possible means and methods to impede the peaceful activities of HRDs. In this context, HRDs become the target of unlawful physical hardship, physical violence and psychological trauma.

In 2010 Soni Sori in Chhattisgarh who was arrested as a Maoist conduct, and further subject to inhuman torture in police custody was primarily to teach a lesson to the Adivasi population that anyone who dares to oppose the taking over of land from the Scheduled Tribe in Fifth Schedule area would face similar consequences. She stood for the Adivasi rights over land, forests, water and environment (George, 2015). In 2017 Kuni Sikaka, a young Dongaria Kondh woman, was arrested by the Odisha police under the pretext of she being a Maoist. The Dongaria Kondhs have been battling against the mining of Niyamgiri Hills for the past 20 years against all odds under the banner of *Niyamgiri Surakhya Samiti* (NSS).

Take the matter of Bhima Koregoan - Elgar Parishad in which sixteen persons have been arrested till date including Stan Swamy. A Jesuit priest who had spared his entire life for the Adivasi cause in Jharkhand, Swamy was picked up by the National Investigation Agency (NIA) in late 2020 based on concocted evidences and thrown into the jail in Mumbai. He has been a strong voice against development induced destruction and supported the Adivasi cause. His case clearly indicate that it is a tactics seeking to silence the HRDs voices by resorting to quasi-legal tactics including smear campaigns, baseless charges and prosecutions. Therefore the criminalisation of HRDs has become an area of growing international concern.

Apart from these instances, people defending the rights of marginalised communities such as Adivasi and Dalit encounter death threats, destruction of their properties, fabricated charges, physical attacks, as well as caste-based discrimination by state and non-state actors alike. Sudha Bharadwaj, the State General Secretary of the People's Union for Civil Liberties (PUCL) was another HRD arrested in the Bhima Koregoan matter in the year 2018. It clearly provides the background that criminalisation has been a common pattern, particularly in the context of

those defending rights over land, water, forests and environment. This modern weapon of criminalisation stems with the intent to discredit, sabotage or impede the work of HRDs through a critical misuse of the legal system, creating adverse circumstances and cynical manipulation of public discourse.

The tactic of criminalising HRDs provides unscrupulous state and non-state actors with a significant strategic advantage at times when a violent or heavy-handed approach is not politically viable. Due to its legitimate facade, criminalisation is by nature a nuanced and sophisticated strategy that can be extremely difficult to counteract (PBI, Nd).

Indian Democracy and the Question of Human Rights

In any democracy, the process of governance is based on the rule of law. Accordingly it is the duty of the State to create laws and conditions that protect the basic human rights of its citizens including social, economic, cultural and political. India being a democratic country has upheld such rights within constitutional frameworks and other legal promulgations. Under Part-III of Indian Constitution, the Fundamental Rights ascertains rights such as Right to Equality, Right to Freedom, Right against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights and Right to Constitutional Remedies (GoI., 1949).

Shah (1997: 40) notes that India believes that democracy, tolerance and pluralism are best guaranteed for the full realisation of human rights. At the same time, it must be recognised that while democracy provides the best political framework to safeguard human rights, efforts to ensure the social and economic rights of people are also essential to enable citizens to live a life of dignity. Accordingly human rights defenders in India face a diverse range of attacks and harassment from state and non-state actors alike including killing, physical assault, sexual assaults, arbitrary detention, threats and judicial harassment. There is certainly a wielding of social dynamics of power, which primarily includes caste system, patriarchy, ethnic identity and religious faith. The biggest irony is that police officials are either silent supporter of such incidences or otherwise the perpetrators of violence against HRDs with impunity. Armed groups and private companies also target HRDs for work related to economic development projects and their impact on the local communities or the environment. HRDs are increasingly the targets of online smear campaigns by radical nationalists.

Women HRDs are targeted with gender-specific threats – death, gang rape, sexual assault, physical harassment or acid attacks – both online and offline. Women HRDs are particularly vulnerable in regions with heavy presence of the military and armed groups. In the Red Corridor (generally referred to the Naxalite-Maoist insurgency belt), HRDs, including activists, lawyers, researchers and journalists face acts of intimidation and persecution and work under tremendous pressure from authorities, rebels, and vigilante groups. On March 9, 2021, security forces brazenly gagged anti-displacement Adivasi leader Hidme Madkam. She has been a key leader of the *Save Nandraj Mountain* movement. The ecologically fragile mountain ecology was being handed over to the mining giant Adani group.

Defenders without Any Defence!

Defenders of land, environmental and indigenous people's rights should ideally be central to global efforts to combat climate change, but for this to happen far greater attention needs to be paid to the threats and violence they face; they must be seen as key allies in this battle and provided protection of the state and international community. The struggles of the indigenous Dongaria Kondh's in Niyamgiri is the most classical example of this where they are the means of preventing climate change, demanding corporate accountability, reclaiming lands, exposing mining scams and struggle against displacement. George (2014) writes a detailed account of this battle. Their right to say 'no' and to choose their own models of development must be respected by governments, companies and development finance institutions. The killings, intimidation, harassment and systemic exclusion they experience must no longer be met with a collective shrug and biased narratives of those who seek to use their lands, forests and water as sources for making profit.

In many cases, there is a state of impunity with the establishment camps of security forces, particularly that of CRPF and the presence of police. Bastar is a classic example of these in recent times. On May 17, 2021, the violent history of the last Adivasi frontier witnessed the security forces opened fire at unarmed Adivasi in Silger killing four and injuring at least thirty people. In Bastar, apart from the CRPF camps, many cases of state police and state armed police force have barricaded villages, occupied schools, *panchayat bhawans*, community halls, public health centre, slapped hundreds of fabricated criminal charges against individuals opposing the State's favour of the corporate plunder.

The anti-POSCO movement between 2005 and 2017 has seen a plethora of fake cases against the local residence in Odisha who were only there to save their land and environment. The coastal ecosystem provided them with *dhano*, *paano*, *meena* (paddy, betel vines, fish) - which was the livelihood to several thousands. The people had hundreds of stories of abuse of power. Because of these abuses, most of the project-affected communities lived under a state of siege and suffered clear violations of their rights to security of person and freedom of movement, their rights to be free from arbitrary arrest and detention, and from discrimination. Living under siege has also affected a host of economic and social rights, including villagers' rights to work, health, education, and food (IHRC & ESCR, 2013). Importantly even after POSCO called its project the land was further annexed to the government's land bank and later disposed off to the Jindals, thereby further undermines a range of human rights and their ability to live a life of dignity.

Violations of Civil and Political Rights

On several occasions, the administration and police authorities have engaged in illegal use of force against protesting project-affected people, resulting in serious bodily injuries to many individuals, whose access to medical care was then restricted. In all the people's movements one could see hundreds of similar cases where the project-affected communities face a constant threat of arrest and detention on fabricated charges. The number of such cases is anybody's guess. In a study done by me on some major anti-displacement movements in Odisha, on an average every active member of the movement has got 3-5 cases against him or

her while the leader has an average of 8-10 cases. Such individuals are generally picked at will and later scout the corridors of courts for decades. Such fictitious and entirely fabricated cases would have section that would charge one for an ordinary argument to that of severe criminal sections such as murder, rape, attempt to murder, attempt to rape, sedition, anti-national activity, warring against the state, terrorist activities and so on (George, 2019).

In most of these cases, one could see a certain pattern while in the FIR. It would have a few specific names filled according to the whims and fancies of the police official at the behest of the authorities, bureaucrats, politicians, corporate houses, etc. Many of those implicated in such cases do not know what charges have been brought against them. If they get arrested, it becomes too difficult for individuals to get bail or afford the conditions placed for bail. Some under trials languish in jail without bail for years before the actual trials takes place. During the study in Odisha, many people's movement members reflected that the fear of arrest, combined with the intermittent physical barriers that the police put in place to cordon off the villages, has had the effect on the villages. Such villages remain under virtual siege for the long time. Dhinka village of the anti-POSCO movement is the trembling example, where they could neither go to the market to buy or sell things either, nor their children could go to school, or the people could access healthcare system.

Violation of Economic and Social Rights

In Adivasi areas one could observe a clear policy of creating multitudes of hurdles leading to a virtual cordon of the people with the presence of CRPF and security forces camps. Such ruthless restrictions cut the community's access to institutions like schools, health care facilities, public distribution system (PDS) and market.

Many studies have also pointed out that in most of the areas with people's movements such restrictions have brought drastic adverse impact on community life. Some of these are the closure or seizure of schools by police and paramilitary forces, malnourished women and children, issues of healthcare particularly during epidemics such as cholera, malaria and with pregnant women. A private doctor visiting such difficult terrains is very seldom and almost impossible. Such visits incur huge monetary expenses. Many people in such cordoned zones cannot visit their relatives even if they have money.

If in any geographical setting like that of Bastar, where militarised impunity and fear of punitive action roves among the inhabitation, it can cause serious psychological pressure causing insomnia, anxiety, stress and depression. Some parents do not send their children, particularly girls, to school out of fear for being harmed by the security men. People are restricted to celebrate their local festivals and celebrations. These certainly violated all forms social spaces and cultural institutions that are the benchmark indicators of community developments. Such backward push in socio-cultural terms has a definite long-term impact on their upward economic mobility too.

I have already identified a number of ways in which HRDs are criminalised or victimised, that includes unfounded accusations, specious charges, arbitrary detention, non-adherence of due legal process, stigmatisation by government officials and media, the misuse of law,

application of draconian laws and creation of an emergency-like situation to impose restrictions on the rights to assembly and association, and the right to freedom of expression.

Criminalisation – A Key Strategy

In Indian context one could observe a wide variety of national and state laws being invoked in order to implicate HRDs working on land and environmental issues. In most cases the charges are unfounded or based on unreliable evidence or fabricated evidences and statements. False charges against HRDs are often accompanied by apparently corrupt administrative inefficiencies and failure to uphold due process. With a weak and biased judiciary, community members are arrested without a warrant, mistreated during arrests and detention, forced to sign fabricated confession documents, fails to inform the HRDs of charges brought against them, ineffective witness protection mechanism, witness intimidation and statement retractions, as well as unreliable testimony. This is accompanied by failure to admit key evidences, presence of pressure groups inside the courtrooms during hearings and lack of independence of judiciary. Inevitably, flaws in the judicial system fall in favour of those seeking to silence the activities of organisations under suspicion. In April 2017, the Union Home Ministry lists NSS as a Maoist outfit.

Any law can be misinterpreted in a way contrary to the legislation's original spirit, where the actions of those HRDs conflict with State's ideology, policy or strategy then they could be the soft targets. Another nuanced strategy used to impair the functions of HRDs is by applying 'secondary' law, or the use of various statutory restrictions and powers. Secondary law could include invoking prior notice requirements for public assemblies, or seeking permission with complex administrative requirements. These strategies effectively 'criminalise' HRDs, as they are incapable of complying with the administrative or regulatory demands placed upon them (George, 2019). For instance, people's organisation like NSS or Save Nandraj mountain movement is left with a choice between not carrying out its role at all, or carrying out its role and facing criminalization.

Allegations against HRDs in public statements by government officials, business enterprises, and 'independent' commentators in the media undermine HRDs' work and delegitimise human rights work in general. This stigmatisation spreads throughout society, resulting in a generalised suspicion of HRDs and their organisations. This is the case of most of the organizations working in states like Chhattisgarh, Jharkhand and Odisha. Even the criminal stigmatization of movements like *Pathalgadi* (erection of a stone in memory of ancestral freedom) has left the mark on HRDs thus targeting them for illegal activities, violence, anti-national activities and association with banned organizations. Thus a combination of threats and criminal persecution on the basis of claims made in media or by section of vested interests starts a defamed perpetration.

Criminal allegation is often an easy means to create a public image of one being a 'troublemakers', 'criminals', or 'terrorists' and consequent stigmatise the HRDs. Such labels create the perception that HRDs 'hinder the development of society and therefore deserve persecution' and to be dealt with as criminals (PBI, Nd). The stigmatisation that results from detentions and specious charges or prosecutions tends to continue long after the HRDs are

released, as their names are rarely cleared. All these could be summed up in the following forms.

- Increased physical attack
- Psychological distress
- Family breakdown
- Undermining of the legitimacy and credibility of the organisation
- Crippling of financial, judicial, and administrative capacity
- Weakening the human rights movement
- Breakdown of democracy and rule of law
- Spurious charges, arbitrary detention and baseless prosecutions
- Weakness of the judicial system
- Misuse of law and legal instruments
- Stigmatisation

The psychological effects of criminalisation include extreme stress, paranoia, depression, isolation and insecurity. Strategically criminalisation aims to tarnish the reputation of the HRD and their organisation, thereby seeking to negate any support they may receive. In practice, this can mean that the defender and their organisation could lose face and political capital within their own communities, as well as with general public, civil society, media, the state, and international community (PBI, Nd).

People's organisations across India speak out against impunity, gross human rights violations such as forced displacement, loss of land, water, forests, environment, ecology, resources, culture, etc., challenges the very notion of development and actors involved, raises questions on torture, violations of Constitutional rights and so on. Such individuals are frequently subjected to suppression by criminalisation thereby divert attention away from the real issues of human rights violations and the rights of vulnerable groups seeking justice and remedy. Vulnerability of individuals and organizations could be summed up in four points -

- (i) Speak against abuses by state and non-state actors
- (ii) Campaign for socio-cultural and economic justice
- (iii) Campaign against social inequalities and discrimination
- (iv) Challenging the anti-people development paradigm

To Sum Up

The last three decades has witnessed a number of movements across India. Development-induced displacement leading to livelihood deficiency, cultural genocide, loses of people's customary rights over land, water, forest and environment as well as socio-cultural discrimination has become the epicentre of people's movements. In this, the state, social system and multinational corporation stand at one side whereas on the other it is the local people and their organisation. Since it clearly would disrupt community life and hamper livelihoods of millions of *Adivasis*, Dalits and other indigenous communities they stand up against such projects of dismal dismissal. Hence, the displaced people or those who are at the risk of displacement organise, mobilise and resist giving clear indicators that they refuse to accept any forceful removal.

Apparently, this raises critical questions on the present developmental pattern, which has failed to end the deprivation faced by marginalised communities. In fact it has contributed to the social reproduction of marginalisation. The current development economics operates on the principle of 'optimum utilisation' of natural resources, which is diametrically opposite to the economics of egalitarian model evolved through community life and active interaction with the nature and its ecology. For the community, economy is part of the lifestyle and culture. The goals of fulfilling the blueprint of corporate development – by diverting the geo-cultural survival and sustainable resources by few at the cost of a large majority – destroy the arguments of economic theories and principles in a welfare state.

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Original in English



Hope in Indigenous Leadership in Philippines

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Andavao Diwangan, Jr. is the eldest son of a well-respected chieftain of the *Umajamnen* tribe, one of the seven tribes in Bukidnon, in the Southern Philippines. At the age of 8, he witnessed how his father was pinned down, handcuffed, and forcibly dragged out of their house one evening. In the dead of the night, about an hour later, gunshots were heard in their small village. He knew at that very moment that he lost his father to baseless accusations and selfish charges levied against him by fellow *Umajamnens* affiliated with the armed wing of the Communist Party of the Philippines. Thirteen years later, the case remains unsolved. No one has been prosecuted for the murder. In 2020, his uncle, the brother of his father was also murdered while tending his farm in broad daylight. Over a year later, the suspect remains at large. The incident, however, reopened the trauma and fear he felt some 13 years ago. The declaration that all male members of the Diwangan clan will have to be liquidated exacerbated his plight.

Addie, as he is commonly known, grew up carrying with him not just trauma but also anger and vengeance. Initially, he resolved to join the Philippine military to exact his father's much-deserved justice. This, however, did not sit well with him because even the military could not be trusted. Reports of violations hounded their communities. It was also for this reason that some relatives and fellow *Umajamnens* joined the rebel group. Moreover, the presence of the military in the mountain villages did not translate to peace; rather a warning of a brewing conflict that would prompt them to evacuate and move to safer grounds. "If the government could not even protect us, to who else can we turn to for security?" Addie sighs.

Who is the Real Culprit?

"It is a very complex issue," Addie replies. "The very basic social services have not reached our communities. If they do, these do not meet what we actually need. It seems the government do not understand us and our needs fully. Some politicians and government leaders and their rich business connections even use their power to exploit our ancestral domain. They manipulate our elders to accede to their schemes. Some enterprising fellow *Umajamnen* have adapted to these schemes and duped even their fellow Indigenous peoples. Even my father and my uncle are not completely faultless. But who can blame them? They did not know any better. They were not equipped and educated to handle such issues as they

should. They never had the opportunities that we have.” On the other hand, the rebels, most of whom are also members of the same tribe, exploit these injustices to recruit more members among the *Umajammen*. “We, who simply want to live peacefully, are caught in the crossfire. Most of our families have members and relatives affiliated with both military and rebels. This has caused distrust and even led to the break-up of our families. Even our culture has been gravely diluted by the influx and influence of the lowland culture.”

Addie paused for a while and continued, “Not much has changed in the life of the *Umajammen*. Except for those whose children were sent to study by the Jesuits and other Christian groups, most families have remained poor, gullible, and illiterate. Yes, a number of them already know how to count out of necessity; but they can still be easily duped and they readily adapt to the scheming ways of the lowlanders. We cannot even move forward. Our ancestral lands have either become the battleground between the government and rebel forces or have been used by politicians and their friends for their own benefit. With no prominent development in our area, I understand why my fellow *Umajammen* professionals would rather stay in the cities and earn their keep.”

What Now?

The prospects for Addie remain bleak. A son of a chieftain yet exiled from his very own people for fear of his life, he could only sigh in despair. Hope is not gone, however. “If the government cannot help us keep our peace and provide the basic services to our communities, we have to do it and find ways ourselves. No, we will definitely not use armed struggle.” He, then, vividly recalls how his elders advised him when, as a teenager, he thought of taking revenge (an intrinsic part of the *Umajammen* culture). “I vividly remember my elders reminding me at the height of my desire to seek revenge for the death of my father and then again when my uncle died – violence will never grant you the peace you long for. Just do good always. Repay violence with goodness. Sublimate that energy borne from anger into the passion to help our people. Study. Empower yourself and then empower our people.”

Right after finishing his Accountancy degree from a Catholic college in Bukidnon, Addie planned to begin working mainstream. However, he was offered by the Jesuits to volunteer for Fr. Leoni Mission Foundation, Inc., the newly reorganized Indigenous Peoples Ministry in 2019. When asked why he chose this line of work, his ready reply was, “I want to pay it forward. A Jesuit has personally supported my education. I owe it to him and the Jesuits.” His stay in the foundation, however, has opened his eyes to a more pressing reality. “If other people, like the Jesuits, have taken on the cudgels of believing and helping us, why can we not help ourselves? His elders’ words of wisdom once more reminded him of his role as the son of a well-loved chieftain. If the government cannot help us, then we can help ourselves. The foundation, with its scholarship program for my fellow Indigenous youth, can be the avenue to prepare them for the role we have to play in our tribe. We will have to be the voices of our elders. We will have to be the hands and legs and hearts for our tribe. It might be late for our elders to effect the change our tribe ardently desires; but it is not late for us. We have to take the lead.”

“My two years of working with the Jesuit IP Ministry has opened my eyes to the power we have as Indigenous youth. Those two years have impassioned my desire to really make a difference. We do not have to rely solely on external forces, those we cannot control. The Jesuits have graduated dozens of *Umajammen* professionals over the last three decades. Contrary to the common notion that they are already satisfied because they have alleviated their families’ economic status, these *Umajammen* professionals are very much willing to help. They just need someone to bring them together and guide them to work out a plan.”

Reflection

Addie is just one of the many young indigenous men and women who lost family members in defense to the injustices wrought on the Indigenous Peoples in the Philippines. There are even far worse cases than what Addie and his fellow *Umajammen* experienced. In the Philippines alone, schools have been shut down, students and teachers are hunted and arrested for insurgency charges.¹ Families are torn apart because of pressure from both the government and the rebels. The Philippine Commission on Human Rights has been at the forefront of this battle against the violation of the human rights of the indigenous peoples² which has heightened under the Duterte government. The creation of the National Task Force to End Local Communist Armed Conflict further promote the indiscriminate use of military power in the countryside. This adds to the already burdensome life of the indigenous communities living in the countryside. Last December, the National Commission on Indigenous Peoples, itself, on a unanimously approved resolution, outlawed the use of the term, “Lumad,” a Cebuano term for native. The term, according to the commission is commonly used by the insurgents. The indigenous peoples of Mindanao use that term to refer to them collectively. With the intensified pursuit against insurgency, the act of the NCIP ironically further puts the indigenous peoples at risk of being red-tagged and summarily executed. Aside from this pressing concern over life, safety and liberty of indigenous peoples, they also face threats over the loss of their lands and territories to oligarchs, government development projects that often times do not benefit their communities.

The state of the Indigenous Peoples in Asia-Pacific is not any different. Land and logging issues without the Free Prior and Informed Consent haunt some indigenous communities in Cambodia. Human rights violations against the Uyghurs and other indigenous communities in China continue. In Indonesia, the main indigenous organization is standing against the Job Creation Law which the group believes contain provisions that are disadvantageous in indigenous peoples. An internet blackout on the unrest in West Papua and the well-funded disinformation campaign further hampered the desire of the Indigenous peoples for self-determination. The right to self-determination and the free, prior, and informed consent also

¹ <https://www.aljazeera.com/news/2021/2/16/philippines-police-raid-targets-displaced-indigenous-students>

² <https://chr.gov.ph/tag/lumad/>

remains elusive for the Ainu tribe in Japan. The lack of formal legal recognition continue to impact the rights of the Indigenous Peoples in Myanmar.³

What Now?

When even the very government tasked to protect its citizens has become the source of threat to the indigenous peoples, to whom can they run to? The United Nations can be a conveniently quick response; however, the process can be long, complex, and arduous. One has to have a strong network of connections for his travails to be heard. What about the Church? What can the Church do in the face of this structural injustice and inequality? After all, “the joys and hopes, the grief and anguish of the people of our time, especially of those who are poor or afflicted, are the joys and hopes, the grief and anguish of the followers of Christ as well. Nothing that is genuinely human fails to find an echo in their hearts” [Gaudium et Spes, #1, VC II].

Despite that sense of hope being threatened, the invitation is to look at “reality with the eyes of faith, with a vision trained by the *Contemplatio [ad Amorem]* we know that God labors in the world” [GC 36, D1, #3]. True enough, hope springs amidst the insurmountable injustices the Indigenous Peoples in Asia are facing. A bill that protects the rights of the Indigenous Peoples is not being deliberated in Indonesia. The Yangtze River Conservation Law has been implemented in December 2020 in China. In Laos, a government decree has been issued to protect the ethnic groups. There is a growing awareness and support for the Indigenous Peoples in the Philippines despite the stance of its government. The Salween Peace Park of Myanmar, an IP community-led initiative of protecting its natural resources received the 2020 Equator Prize in June. The COVID-19 pandemic also saw the various indigenous communities in Asia Pacific step up and assert their rights to protect their communities through a dignified lockdown.⁴ These sparks of hope may not trump the deeply rooted injustices suffered by the Indigenous People but these are already steps, nonetheless, towards the right direction.

Stephen Covey’s concept of the spheres of control, influence, and concern can be summoned to help us parse out the immensity of this challenge looming before us. While the whole issue may be a major concern, reality tells us that this is beyond our control and even our influence. The academics and the bureaucrats and established research institutions can focus on a systemic and structural way of addressing the issues.

As communities, we can begin where we are with what we can control – our respective localities and start a ripple revolution! We can only do so much with the current set of leaders, both of the government and the local communities. It is quite difficult to teach and correct old dogs with new and better tricks. We can only learn from them. Those environmental and human rights defenders who have spilled their blood for human and environmental rights of

³ For details of the status of the Indigenous peoples, refer to International Work Group for Indigenous Affairs (IWGIA). Dwayne Mamo. (Ed.) *The Indigenous World 2021*. (Copenhagen, Denmark: Eks-Skolen Trykkeri, 2021). pp. 174-317.

⁴ IWGIA. *The Indigenous World 2021*. pp. 174-317.

our day, no matter how much their governments attempt to taint their integrity, will still be martyrs. Yet, what are we doing to honor the lives they have given?

Addie's disposition towards the same question, "what now?" is instructional. "If the government cannot help us keep our peace and provide the basic services to our communities, we have to do it and find ways ourselves." The Church and her ministries have to find the Addies in their ministries – the youth who can be formed, molded, and empowered to stand for their people's rights. This can also be true for the children of ruling classes who are often students in our prestigious academic institutions. These students today will become tomorrow's government leaders who will wield power to transform the status quo.

The generation of youth can be the change-makers, the key to the transformation of their respective communities and nations. By providing them access to education and to these realities and molding them on the social teachings of the Church, that now includes *Laudato Si* and *Fratelli Tutti*, in both theory and praxis, the youth may be able to rewrite more legibly and more profoundly the continuing story of creation and of their nation. Addie is starting a ripple revolution among his fellow indigenous professionals under the guidance of the Jesuit Indigenous Peoples ministry. Having been a recipient of mentoring and formation, Addie now mentors college-aged Indigenous youth and has started organizing and equipping local communities in Bukidnon. In a few months, the indigenous *Umajammen* professionals will gather together to start the work of carrying on what their elders failed to accomplish.

This may sound too idealistic, however, this is what local communities can do. It is their hope that other Jesuit institutions may also do their share in molding and preparing the young for a future that we, in our generation, have deprived them. More than 1,800 years ago, Tertullian wrote, "The blood of the martyrs is the seed of the Church." And this seed, like the dandelion seeds, very small that it is, is carried where the wind blows and spreads faster that we can imagine!

Original in English



The Suffocation of Human Rights

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“I can’t breathe” were three simple but potent words that painfully and tragically triggered and also energized the cry for justice and human rights in 2020 around the world – a world that was also battling a pandemic. As the coronavirus spread, so did the online voice and images of George Floyd as he repeated his cry 20 times while a police officer knelt on his neck for 9.5 minutes and snuffed the life out of him.

This tragedy breathed new energy to human rights campaigns and defenders as the Black Lives Matter movement drew support in many countries. But still human rights violations and social repression continued to worsen in 2020 as pandemic restrictions became opportunities for governments to clamp down on critical voices and gatherings, on borders and migrants, on racial minorities, and many in the margins.

[UN Secretary General Antonio Guterres warned in April 2020](#) that “against the background of rising ethno-nationalism, populism, authoritarianism and the pushback against human rights in some countries, the crisis can provide a pretext to adopt repressive measures for purposes unrelated to the pandemic.”

The Chokehold in Asia Pacific

In Asia Pacific, where the first cases of the coronavirus pandemic emerged, governments imposed lockdowns and restrictions that exacerbated human rights situations in countries where these were imperilled. There was a minority of countries such as South Korea, Singapore, Australia, and New Zealand that took preventive measures that were non-discriminatory and inclusive, ensuring early information for their citizens.

But for most countries in the region, controlling the pandemic impinged on the rights to health and life, food and movement. Social divisions, inequities, and inequalities further deepened as the economic devastation hit the most vulnerable.

Infections and deaths were not as high as in other parts of the world, but health systems were also overwhelmed as infection spikes occurred. Equally devastating was the increased unemployment that deepened poverty. The hunger situation worsened and extended for the many who are poor as daily wage earners lost jobs, poor farmers lost their produce that rotted when the supply chain broke, and communities in the margins were further marginalized.

Those that dared to assemble and called for change such as in Myanmar, who were mostly the youth, were met with brutal force and shot at, killed, and imprisoned.

Gasping in the Philippines

In the Philippines, the human rights situation “is marked by an overarching focus on public order and national security” according to a 2020 [report](#) of the UN Office of the High Commissioner for Human Rights (OHCHR) to the 44th Session of the Human Rights Security Council, even as there were acknowledged gains achieved in economic and social rights in recent years.

This focus shunts human rights, due process, the rule of law, and accountability to the side when implementing laws and policies, and when adopting new measures. As this is the context by which human rights is understood by enforcement agencies, the concern for national security is primary. Human rights violations are thus “justified” in the pursuit of national security and public order maintenance. And these are encouraged and reinforced by pronouncements from government officials, thus promoting the tolerance for impunity when crimes are committed by the State.

The Philippine government’s “war on drugs” continued during the pandemic even as media attention shifted to the coronavirus pandemic. With no transparent and comprehensive reporting system, the number of victims of extrajudicial killings (EJKs) by police and by vigilante groups cannot be verified. The OHCHR report presented a conservative figure based on government data - 8,663 victims since the President started the campaign in July 2016. The Philippine Commission on Human Rights and local human rights groups that monitor EJKs believe that the real figure may be triple that of the OHCHR report. [#RealNumbersPh](#), a Facebook page that the Philippine Drug Enforcement Agency put up to share government’s drug-related operations, puts the total killed at 5,856, but only refers to those killed by police and does not include killings by gunmen.

And these police killings increased during the pandemic as Human Rights Watch reported a more than 50 percent increase in “drug war” deaths during the lockdown from April to July 2020 based on [#RealNumbersPh](#). The average monthly “drug war” death rate was 26 during the four-month period before the lockdown (December 2019 to March 2020). This monthly average rose to 39 during the four-month lockdown period from April to July 2020. And in August 2020 alone, there were 46 deaths, indicating there was no let-up in the drug-related killings.

While the campaign on illegal drugs dominated most of the reported human rights violations, the Philippine government also intensified its counterterrorism and anti-insurgency operations, and these also impact on human rights. Threats and attacks, as well as killings, target civil society actors such as human rights defenders, lawyers, farmers, journalists, church groups, indigenous men and women, environmental activists, among others. There is the practice of red-tagging or labelling those in the opposition or critics and dissenters as communists or terrorists without substantial proof and can be a death sentence for those who have been named.

The way forward: ICC provides a ventilator

On 14 June 2021, the outgoing Prosecutor of the International Criminal Court (ICC) Fatou Bensouda, released a [statement](#) requesting the opening of an investigation of the human rights situation in the Philippines.

“...On the basis of that work, I have determined that there is a reasonable basis to believe that the crime against humanity of murder has been committed on the territory of the Philippines between 1 July 2016 and 16 March 2019 in the context of the Government of Philippines "war on drugs" campaign...Following a thorough preliminary examination process, the available information indicates that members of the Philippine National Police, and others acting in concert with them, have *unlawfully* killed between several thousand and tens of thousands of civilians during that time. My Office has also reviewed information related to allegations of torture and other inhumane acts, and related events as early as 1 November 2011, the beginning of the Court's jurisdiction in the Philippines, all of which we believe require investigation.”

And with that, the thousands of voices that perished in this horrifying “drug war” and the widows, orphans, fathers and mothers they left behind, are finally heard. As [one mother said](#), “I am happy because I realized that justice never sleeps...God is not sleeping, he always finds a way.” Normita Lopez is one of the complainants that brought the case to the ICC and whose 23-year old son was killed in May 2017.

Those following this process with the ICC are aware that the challenges are massive, especially with the Philippine government expectedly pronouncing that there will be no cooperation forthcoming. Legal pundits are weighing on the merits and what can be realistically achieved by this ICC request.

But even if this process will stop at this point and the succeeding ICC Prosecutor is unable to move this investigation forward - and the chances are high that this will be the scenario - this is still a landmark development and a much-needed respiratory relief for the suffocated human rights situation in the country.

In a rational and caring world, the concept of human rights is not a matter for debate and divisiveness. We have these rights because we are human beings. I understand that sometimes we do not want to reckon with figures, but sometimes figures are needed because these figures are human beings whose ultimate human right - the right to life - was violated.

Original in English



Encomium and a Critique of *Promotio Iustitiae's* "Healing Democracy: in an Era of Authoritarianism & Populism"

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Introduction

The coronavirus pandemic was the most challenging crisis of the corona year, 2020. But a persistent unhealthy democracy posed a far more existential challenge to human societies before the corona year, during the corona year, and after the corona year. In its final scholarly publication to draw down the long-anticipated curtain of respite on the corona year, *Promotio Iustitiae (PI)* dedicated that entire edition to highlighting vaccines and cures for our corona democracy. "The Pandemic has made health a priority. However more than the physical health of an individual, the democratic health of many nations is under serious threat,"² declared the insightful editorial of that issue of *PI*. On the severity of our coronally sick democracy, the editorial is pithy as it is grim: "Today, it looks like democracy is in the Intensive Cardiac Care Unit (ICCU), requiring an open-heart surgery."³ That *PI* devoted its final publication of the corona year to diagnosing the health of modern polis's preferred system of governance is telling.

The corona year subdued many worthy causes, pushing other vital issues to the periphery of our time and resources. *PI* realized that though addressing the coronavirus pandemic is important, equally important –or even more important – challenges needed our attention, too. That edition of *PI* signals a focus that refused to be unnecessarily swayed by the corona year. This unbending focus ought to be sustained in the post corona years. This reaction Article is first an encomium to this unyielding fidelity to a sacred enterprise –safeguarding our democracy – that *PI* and its epistemic collaborators are crusading in spite of –or better still, because of – the corona year.

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² Jeyaraj, X. SJ., (December 2020). "Editorial". *Promotio Iustitiae*, n. 130. p. 7

³ Ibid.

But still, the diagnosis of these physicians of democracies and their proffered cures and vaccines appear to be deficient to the task of returning sick democracies to robust health and/or effectively inoculating healthy democracies. Their vitamins and vaccines for boosting the health of democracy lack what I think is the most effective antidote for our corona democracy – the Rule of Law. Of the 20 articles, few authors mentioned the “rule of law” as relating to a fallen and falling democracy. These isolated references to the Rule of Law were merely in hasty passing with very little paid to outlining and detailing the rather critical role of this important ideal in immunizing and steadying a healthy democracy robust enough to catalyze a flourishing life in the modern polis. This encomium and constructive critique therefore make the case that the Rule of Law is the most effective antidote for the soul and health of our democracy.

The Rule of Law is the most Effective Corona Democracy Vaccine.

The bellwether of the desiderata of the Rule of Law is the subservience of even governments under the law. This is “the lead idea of the Rule of law ...”⁴ because it makes the exercise of political power “less objectionable, less dangerous, more benign and more respectful.”⁵

The state has enormous power because citizens delegate their rights, privileges, and power, *a la* Hobbes’ “Leviathan,” to the state in return for the state’s protection. The modern state, especially a strong presidential system, is even more powerful. The Rule of Law prohibits the state from exercising its delegated power capriciously, without this restraint “presidential administration can fly off the rails ...”⁶ The constrains on the use of power is the strongest safeguard for democracy.

Even the individual, if unfettered, may act arbitrarily. “[T]he strong do what they can while the weak do what they must,”⁷ writes Thucydides. The Rule of Law “limits ... what the strong can do. [It] block[s] and limit[s] the possibility of unruly power ...”⁸ The restraint of individuals from acting as they please is another strong safeguard for democracy.

The problem is power, Friedrich Hayek argues, “power itself has always appeared the archevil ...”⁹ Therefore, “[t]he effective limitation of power is the most important problem of social order.”¹⁰ The Rule of Law solves this problem by “impos[ing] the limits.”¹¹

The Rule of Law for Judith Shklar “has only one aim, to protect the ruled against the aggression of those who rule ... it fulfills only one fundamental aim, freedom from fear ...”¹²

⁴ Zanghellini, A. (2016). “The Foundations of the Rule of Law,” in *Yale Journal of Law & Humanities*. Vol. 28. pp. 213-217.

⁵ Ibid.

⁶ Rubenstein, D. S. (2018). “Taking Care of the Rule of Law,” in *George Washington Law Review*. Vol. 86. p. 168.

⁷ Thucydides. “The Peloponnesian War,” bk. 5. para. 89.

⁸ Krygier, M. (2019). “What’s the Point of the Rule of Law?” in *Buffalo Law Review*. Vol. 67. pp. 743-769.

⁹ Hayek, F.A. (50th anniversary ed. 1994). *The Road to Serfdom*. p. 159.

¹⁰ Hayek, F.A. (1979). *Law, Legislation, and Liberty*. p. 128

¹¹ Hayek, F.A. (1973). *Law, Legislation, and Liberty*. p. 1

¹² Shklar, J. N. (1998). *Political Thought and Political Thinkers*. (Stanley Hoffman ed.) p. 24-25

Montesquieu agrees, “the prevention of evil, rather than a quest for the good, is the signal virtue of the rule of law; its goal, supremely important but negative, is ‘damage control.’”¹³

Arbitrary power never serves any good, not even in the hands of a benevolent person. Because “whenever someone has power to treat you arbitrarily, even if they choose not to, you are ... subject to [their] domination ...”¹⁴ Arbitrary power is “a constant source of fear, a constant threat to freedom and dignity ...”¹⁵

A set of Rule of Law guardrails – predictability, certainty, publicity, transparency, and a legal system embedded with sound morality – goad the exercise of arbitrary power.

The Rule of Law demands predictable exercise of power. Hence a state actor is barred from unjustifiably acting in one way, and next in a different way on the same or similar set of facts. “In a fundamentally just society,” observes Ronald Cass, “the rule of law serves to channel decision making in attractive ways, to make decisions more predictable, and to increase the prospects for fair administration of public power.”¹⁶

Predictable laws give citizens advance notice of the expectations of the law. Such “[a]dvance notice of the law’s requirements ... allows private parties to plan their affairs and hold government officials accountable to law.¹⁷ It ensures “that government in all its actions is bound by rules fixed and announced beforehand – rules which make it possible to foresee with fair certainty how the authority will use its coercive powers in given circumstances and to plan one’s individual affairs on the basis of this knowledge.”¹⁸

Laws are likely to be predictable and likely to provide advance notice if public and accessible to citizens. One of the tenets of the Rule of Law is public and accessible laws.

The Rule of Law restrains state power also by “enforce[ing] ... transparency ... It requires that the factual premises for the government’s [action] be tested in some sort of adversarial process, giving interested and knowledgeable parties a fair opportunity to question the accuracy and reliability of evidence.”¹⁹ The Rule of Law demands of government to give reasons for its actions. “A government that is not compelled to give reasons for its actions may soon have no plausible reasons for its actions.”²⁰

Finally, and most importantly, the Rule of Law is anchored on sound morality. “[T]he rule of law is ... morally valuable because, it [serves] ... predictability and certainty, it reduces opportunities for arbitrary state action; and in doing so, [expresses] respect for human dignity by taking seriously people’s ability to plan their lives.”²¹ These views, “echo Fuller’s claim

¹³ Krygier, M. (2019). p. 770.

¹⁴ Ibid. p. 767.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Hayek, F.A. (1994). p. 72.

¹⁹ Krygier, M. (2019). p. 781.

²⁰ Ibid.

²¹ Ibid.

that rule of law requirements effectively force the state to justify its exercise of power and hence make it less likely to pursue morally repugnant goals.”²²

The Rule of Law constrains the power of non-state actors, too, restraining power “wherever and in whatever hands it is powerful enough to harm.”²³ “[I]f arbitrary power is obnoxious ... it is not obvious why we should focus so single-mindedly on state arbitrariness ... [The] corporatized world of today ... are likely to be ... centres of great power liable to arbitrary and consequential abuse, apart from the state.”²⁴

The list of non-state power wielders who need tempering is long including al Qaida, the Mafia, banks, huge corporations, Facebook and Google.

All over the world, capital has huge power and consequences, and often they are not tempered; indeed they typically resist tempering, and with powerful resources. The struggle to temper power must extend to these sorts of power as well, and often traditional legal measures are weak, sometimes spectacularly weak in dealing with them. We should not forget every other source of challenge just because one has traditionally loomed so large.²⁵

The Rule of Law is more than Just Laws

The claim that the Rule of Law is the most potent antidote and vaccine that both effectively cures corona democracies and robustly inoculates healthy ones against infectious must address a lingering, common concern: Is it the lack of the Rule of Law or its implementation that poses the real problem for most countries? Rephrased, most countries have all the beautiful laws on how to check abuse of power. Is not the real problem with implementing these laws?

In the last 2,500 years, Rule of Law scholars have invested a lot in explaining this basic misunderstanding of this normative ideal. The Rule of Law is not merely about laws and their enforcement. In fact, certain laws and legal systems, familiar example of some were the legal system of Hitler Germany and the laws of Apartheid South Africa, are adversative to the Rule of Law. The Rule of Law is a mixed ideal consisting of sound laws, conventions, morals, norms, traditions, and customs that promote a flourishing life in the polis. Clearly defining these key, non-law aspects of the Rule of Law has dodged Rule of Law thinkers over the last 2,500 years.

But it needs re-iterating that to successfully temper the exercise of power the Rule of Law needs more than laws:

For the complex conditions of contemporary capitalism, the simple liberal prescription of writing laws and enforcing them equally and consistently is an

²² Rubenstein. (2018). p. 221.

²³ Ibid. pp. 785-786.

²⁴ Ibid. p. 786.

²⁵ Ibid.

empty vessel ... Domination reduction requires a plurality of institutions that temper abuse of power: anti-corruption commissions; independent election commissions; human rights commissions; ombudsmen; public auditors-general interacting productively with private-sector auditors; private and public ratings agencies; private regulation by stock exchanges; public regulation of stock exchanges and securities; anti-fraud policing; competition authorities that hold monopolization to account; prudential regulators; and more. More importantly than all of these elements, it requires a vigilant civil society ...²⁶

The architecture of the Rule of Law that supports its crucial role of tempering power – both state and non-state – is to be found outside traditional law institutions, too. “[M]any of the Rule of Law’s most significant potential sources of support are often likely to be found, indeed will need to be found, in institutions, practices and traditions in the wider society, not merely in or even near the obvious institutional centers of official law.”²⁷ This non-law component of the Rule of Law is equally critical but often escapes common understanding of the concept.

Conclusion

The bolt that came loose and with it a falling democracy is the Rule of Law. This nut is not tightened by addressing chimeral problems associated with a declining democracy. Donald Trump, Viktor Orban, Jair Bolsonaro, Jaroslaw Kaczynski, Recep Tayyip Erdogan, and their likes are not really the problem. Fighting authoritarians and populists is scratching the symptom of the problem as is focusing on solely restoring democracy. The real challenge is ensuring a sharp Rule of Law in the polis that tempers power in whatever form manifested.

In fortifying the Rule of Law to secure democracy, a local, nativistic approach is insufficient. Here, the contributors of *PI* are spot on in suggesting an international, global approach to governance; their defect is failing to front the Rule of Law in tackling the problems of governance in particular and our shared problems in general.

With the Rule of Law as our true North, whether a polis is a democracy or not is not the most useful question. Rather, we should ask whether a democracy is firmly anchored on the Rule of Law. For more than democracy, the Rule of Law “offers all citizens political, economic ... rights ... It ... ensur[es] proper use of public resources for the common good ... Equal treatment [that] goes beyond the bounds of class, caste, creed, birth, religion, language or wealth. It promotes social justice and the dignity of the human person ...”²⁸ Even more important and desirable, the Rule of Law tempers the exercise of power, both state and non-state. Therefore, only when our corona democracy receives a sufficient dose of the Rule of Law would it leave the Intensive Cardiac Care Unit (ICCU) healthy, and only when our

²⁶ Braithwaite, J. (2017). “Hybrid Politics for Justice: The Silk Road for Restorative Justice,” in *Restorative Justice*. II 5. 7, 22 passim

²⁷ Krygier. (2019). p. 789.

²⁸ Andebo, P.P., (December 2020). “Diminishing Democracy in Africa: Engaging Youth to Turn its Course,” in “Healing Democracy: In an Era of Authoritarianism & Populism,” *PI* n° 130, p. 75.

healthy democracy receives the Rule of Law would it be inoculated against infections. Until then chaos would be the lot of the polis; for the Rule of Law is the holy grail of development – and democracy.

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