

Addressing Inequality from a Human Rights Perspective:

Social and Economic Justice
in the Global South



César Rodríguez-Garavito
(Director)

**ADDRESSING INEQUALITY FROM
A HUMAN RIGHTS PERSPECTIVE:**
SOCIAL AND ECONOMIC JUSTICE IN THE GLOBAL SOUTH

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Rodríguez-Garavito, César (Director), Ana María Belique Delva, Evgeny (Zhenya) Belyakov, Daniel Bertolucci Torres, Andrés Castro Araújo, José Galeano Monti, Juan Ignacio Leoni, Harsh Mander, Karim Nammour, Martha Ramírez Galeana.

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**Introduction:
New Practices and Narratives
on Social Justice from the Global
South**

César Rodríguez-Garavito

In an article published in the early 1980s, Amartya Sen wrote, “It is not surprising that no famine has ever taken place in the history of the world in a functioning democracy” (Sen 1982). Comparing the absence of famines in post-independence India with the tens of millions of deaths during the Chinese famine of 1958–1961, Sen concluded that the key difference was the existence (or lack thereof) of democratic institutions, such as human rights, a free press, and regular elections. If even a small fraction of the Chinese death toll had occurred in India, Sen argued, it “would have immediately caused a storm in the newspapers and a turmoil in the Indian parliament, and the ruling government would almost certainly have had to resign” (ibid.).

Thirty-five years later, Sen is less optimistic about the potential of democracy and human rights to resolve other radical injustices. As he notes in his most recent book, “While democratic dialogue has taken on famine prevention as a social commitment, this has not yet happened with persistent hunger and chronic undernourishment, nor with continued illiteracy and massive lack of elementary health care” (Sen 2015). Put another way, democratic tools and human rights instruments have been insufficient to prevent extreme forms of exclusion.

They have also been insufficient to prevent inequality. Although human rights have played a fundamental role in highlighting inequalities based on factors such as gender and ethnic and racial identity, they have coexisted alongside persistent socioeconomic injustices. What is more, the growth of socioeconomic gaps in recent decades—linked to phenomena such as neoliberal deregulation, globalization, and automation—has facilitated the

rise of authoritarian populism that is placing human rights institutions and discourses around the world in a tight spot.

Against this backdrop, the debate over the present and future of human rights has divided scholars and practitioners into three camps. According to the first camp, human rights norms and strategies have ignored or are ineffective at combatting inequality, especially economic inequality (Moyn 2018). As these critics argue, this—together with the waning of Pax Americana, which served largely as the basis for human rights—is causing us to witness “the endtimes of human rights” (Hopgood 2014).

The second camp includes observers and activists who believe that increasing inequality is not a problem of the human rights movement; rather, the redistribution of resources is an issue that falls into the lap of social justice movements. According to this perspective, human rights standards are useful for protecting civil liberties and defending individuals against abuses committed by the state. Incorporating social rights and redistributive campaigns into the human rights agenda would require the movement to alter its mission and would endanger its accomplishments (Neier 2013).

Finally, the third camp avoids each of these extremes and calls instead for a reflective repositioning of the human rights movement. As I have argued in defense of this position (Rodríguez-Garavito 2013a), it is not true that the human rights movement has neglected the problem of inequality, as Moyn asserts. Additionally, it is unrealistic and unwise to draw a rigid line between the human rights and social justice movements, as proposed by Neier and as practiced for a long time by international organizations such as Human Rights Watch (Roth 2004). It is in the middle of these two positions that the most promising ideas and practices for combatting inequality can be found. Activists, scholars, and the courts of countries such as Argentina, Colombia, India, Kenya, and South Africa have developed robust and effective understandings of social rights (see Langford 2009; Rodríguez-Garavito and Rodríguez-Franco 2015). International human rights bodies such as United Nations treaty bodies and special rapporteurs, the African Commission on Human and Peoples’ Rights, and the Inter-American Court of Human Rights are providing content for social and cultural rights, at the urging of social movements and nongovernmental organizations. And in examples ranging from

campaigns to limit pharmaceutical patents and increase people's access to medicines in South Africa, to the regulation of the food supply chain in India, human rights actors and tools have helped build more robust social movements against inequality and deregulated markets. Importantly, all of this is taking place without diluting the idea of human rights in that of social justice, and without weakening civil and political rights.

But the increase in inequality and the rise of authoritarian-populist governments make it clear that much more remains to be done. To this end, it is critical that we document, reflect on, and learn from the myriad efforts of activists and organizations from the global South that have been struggling against various forms of inequality and which have largely been ignored by both critics and defenders of the classical human rights tradition. That is precisely the aim of this book: to gather and recognize the value of these efforts, recounted firsthand by activists who are fighting inequalities of all kinds across the globe, from Argentina to India, from Brazil to Lebanon, and from Russia to Mexico.

Amphibious Narratives on Human Rights

This book, and the Dejusticia initiative that inspired it, seeks to promote this type of analysis and narrative. In doing so, it proposes a new type of writing on human rights, one with three specific characteristics. First, the writing is reflexive: its authors, who are the very people working in organizations and on the ground, pause to think about the potential, achievements, and limits of their knowledge and their practice.

In this sense, both this book and Dejusticia's larger project, described below, seek to amplify the voices of human rights defenders in academic and practical discussions about the future of the field, which have tended to be dominated by academic studies. In the spirit of the type of action research that elsewhere I describe as "amphibious research" (Rodríguez-Garavito 2015), the chapters combine the methodological and analytical strengths of academic research with the practical experience of the authors and the organizations and communities with whom they work. The objective is to foster a new hybrid genre that is as robust as it is relevant, and which contributes to maintaining and broadening the window of reflection and discussion within the human rights field.

Second, the genre of writing proposed in this book—and the series of which it is part—is narrative. Partly because of the human rights community’s excessive mastery of legal language and knowledge, its preferred mode of writing is that of technical reports and legal briefs. While this genre has enjoyed notable achievements for decades, it has hindered organizations and activists from effectively sharing and communicating the stories that they live and learn about firsthand: those of the victims, of campaigns, of moral dilemmas, of injustices, of victories. Opening the human rights field to other types of actors, knowledge, and audiences means telling these stories—and telling them well. To that end, the contributors in this volume—with the help of techniques borrowed from fields such as narrative journalism—tell and are part of these stories (Rodríguez-Garavito 2015).

Third, the stories come from the global South, from the countries and regions that have tended to be objects rather than subjects of the knowledge and decisions within the human rights field and which have been leaders in ensuring the inclusion of redistributive justice within the human rights movement, through standards and strategies related to socioeconomic rights. In this sense, they attempt to respond to the challenges of an increasingly multipolar world and to counteract the organizational, economic, and epistemological asymmetries between the South and North that have limited the effectiveness and legitimacy of the global human rights movement. The authors of the chapters are activist-researchers who belong to human rights organizations and who write from this geographic and professional angle to enrich global dialogue on the future of the field.

The Origin of This Book

This book forms part of a long-term project undertaken by Dejusticia as part of its international work. The project revolves around the Global Action-Research Workshop for Young Human Rights Advocates that Dejusticia organizes each year to foster connections among and train a new generation of action researchers.

The workshop helps participants develop action-research tools, understood as the combination of rigorous research and practical experience in social justice causes. For one week, Dejusticia brings approximately fifteen participants and ten expert

instructors to Colombia for a series of practical and interactive sessions on research, narrative writing, multimedia communication, and strategic reflection on the future of human rights. The aim is to strengthen participants' capacity to produce hybrid-style texts that are at once rigorous and appealing to wide audiences. Participants are selected on the basis of an article proposal, which is then discussed during the workshop and subsequently developed with the help of an expert mentor over ten months until a publishable version is achieved, such as the chapters that make up this volume.

The workshop also offers participants the opportunity to take advantage of new technologies and translate the results of their research and activism into diverse formats—from blogs, videos, and multimedia to social network communications and academic articles. Therefore, in addition to the annual volume comprising participants' texts, the workshop produces a blog in Spanish and English that features weekly entries by workshop alumni, written in the style described above. The title of the blog—*Amphibious Accounts: Human Rights Stories from the Global South*—owes itself to the fact that action research is “amphibious” in that its practitioners move seamlessly between different environments and worlds, from academic and political circles to local communities to media outlets to state entities. For those who are dedicated to the promotion of human rights, this often implies navigating these worlds in the global North and South alike.

Each year, the workshop is centered on a particular current issue. In 2016, the topic was inequality and human rights, which I described at the beginning of this introduction. In addition to providing coherence to the book and the group of participants, the selected topic determines the workshop site in Colombia—for the sessions are held not in a classroom or convention center but in the middle of the field, in the very communities and places that are witnessing the issue firsthand. For example, the 2016 workshop took place in Cartagena, a city in Colombia's Caribbean region, which is the site of historical and modern forms of inequality—as well as campaigns against them—due to discrimination based on race, gender, sexual orientation, and other factors.

Acknowledgments

A long-term initiative such as this one is more than a collective effort—it requires the support of an entire organization. This text and the ongoing commitment that it represents is an institutional effort of Dejusticia that involves, in one way or another, all of the organization’s members. For the unconditional support that Dejusticia’s staff have dedicated to this project, and for embodying the hybrid of research and action in their daily work, I extend enormous thanks to all of them.

Particular thanks is due to the colleagues and friends who were co-architects of the 2016 workshop and subsequent publication process. First of all, I would like to thank Meghan Morris, senior researcher at Dejusticia, for having believed in the idea of the workshop from the beginning, when it was a mere dream, and for having dedicated her unparalleled talent, generosity, and commitment to the immense task of ensuring that the workshop, this volume, and the blog became a reality. Nelson Fredy Padilla, Claret Vargas, Camila Soto, and Carlos Andrés Baquero did a fantastic job serving as mentors during the workshop and the subsequent writing process.

Finally, any initiative of this nature requires considerable logistical support, which William Morales assumed with an admirable mixture of efficiency, solidarity, and optimism. At the workshop, significant contributions were made by the instructors, some of whom also served as mentors to participants during the subsequent writing process. In this regard, I extend my deepest thanks to Diana Rodríguez, Tianna Paschel, and Rodrigo Uprimny.

During the publication phase, three colleagues were fundamental. Morgan Stoffregen and Sebastián Villamizar went above and beyond their duties as translators, becoming unwavering allies who made continual improvements, proposed alternatives and ideas, and ensured that a polyphonic manuscript was converted into a coherent and legible whole. Elvia Sáenz, in coordinating Dejusticia’s publication process, never ceased to demonstrate precision and creativity.

Both Dejusticia’s international program and the workshop and book were made possible thanks to the generous and enduring support of the Ford Foundation.

I would like to conclude by recognizing perhaps the most essential players of all: the activist-researchers who authored the chapters in this volume. Both during and after the workshop, they enthusiastically supported Dejusticia's commitment to action research and took time from their busy lives to reflect, write, revise, and write again. If the space that we created for them is helpful in their work to contribute to a more effective, horizontal, and creative human rights movement, this effort will have been worth it.

References

- Hopgood, Stephen. 2014. *The Endtimes of Human Rights*. Ithaca, NY: Cornell University Press.
- Langford, Malcolm (ed.). 2009. *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press.
- Moyn, Samuel. 2018. *Not Enough: Human Rights in an Unequal World*. Cambridge, MA: Harvard University Press.
- Neier, Aryeh. 2013. "Misunderstanding Our Mission." *OpenGlobalRights*, July 23. <https://www.openglobalrights.org/misunderstanding-our-mission>
- Rodríguez-Garavito, César. 2013a. "Against Reductionist Views of Human Rights." *OpenGlobalRights*, July 30. <https://www.openglobalrights.org/against-reductionist-views-of-human-rights/?lang=English>
- . 2015. *Amphibious Research: Action Research in a Multimedia World*. Bogotá: Dejusticia.
- Rodríguez-Garavito, César, and Diana Rodríguez-Franco. 2015. *Radical Deprivation on Trial: The Impact of Judicial Activism on Socioeconomic Rights in the Global South*. New York: Cambridge University Press.
- Roth, Kenneth. 2004. "Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization." *Human Rights Quarterly* 26(1): 63–73.
- Sen, Amartya. 1982. "How's India Doing?" *New York Review of Books*, December 16.
- . 2015. *The Country of First Boys*. Oxford: Oxford University Press.

CHAPTER 1
**From the *Bateyes* to Activism:
Racial Discrimination against
and Citizenship of Dominicans
of Haitian Descent**

Ana María Belique Delba
(Dominican Republic)

Introduction

As a human rights researcher and defender, I feel a strong connection with the situation of citizens of Haitian descent in the Dominican Republic. I am not only a defender and activist who works on this issue but also someone who is directly affected by this reality. As a child, I dreamed about being a social leader or participating in important struggles on behalf of my community, but I never imagined that the cause would be so real and close as the situation that I have personally experienced on account of being of Haitian descent. For this reason, throughout this chapter I speak in the first person and sometimes simply include myself within the collective of Dominican citizens of Haitian descent who struggle to change their situation.

My parents, like others who have been affected by the situation described in this chapter, are Haitian immigrants. My mother came to the Dominican Republic at the end of the 1960s and my father at the end of the 1970s. They met in the agricultural *bateyes*¹ in the eastern part of the country. As the daughter of Haitian immigrants, I was born in a *batey*; there, I went to school until fourth grade, which was as high as the education went. Life in a *batey* is not easy, but I didn't grasp the vicissitudes of such living until I became older; I lived in a bubble, always protected by my own, given that most residents there were Haitians and their children, even if there was a marked difference among newcomers, veterans,² and Dominicans.

1 A *batey* is a small settlement around a sugarcane plantation.

2 The derogatory term *congos* is also used among day laborers to refer to Haitians who have recently arrived to the *bateyes* to cut sug-

Protected within my surroundings, I was not conscious of discrimination based on origin, even though I was bullied by my classmates. I remembered how they would tease me because of my curly hair and the way my mother would fix it. Nonetheless, the word “discrimination” was not a part of my vocabulary. Nobody talked to us about discrimination or its manifestations, so if someone had asked me if I experienced it, I wouldn’t have known what to say.

The first time I truly felt discriminated against, I was already quite aware of what it was. I was twenty-four and had gone with one of my brothers to the civil registry office to request a birth certificate so I could enroll in college, and they denied my request. The way the civil servant talked to me made me feel the bitter taste of being different. Despite my insistence, I did not get a copy of my birth certificate because they claimed that they needed to investigate my parents’ immigration status at the time I was born.

The sense of powerlessness I felt led me to tears. I also had the feeling that this “investigation” would never come to fruition, as my brother Isidro, who accompanied me that day, had been waiting for two years for the same thing, with no results. He needed his ID card since he was already of legal age and didn’t have any papers, while I already had my ID card but simply needed a copy of my birth certificate for college. Back home, feeling indignant, I told myself that this was not how it would be—I didn’t know what I would do, but I knew that I could not stand idly by waiting for a response that might never come.

Thus, the following year, the Jesuit Refugee and Migrant Service launched a campaign to raise awareness of the reality of Dominicans of Haitian descent who were being denied access to their ID documents through an administrative decision of the Central Electoral Board. My brother and I participated in that campaign, and together with a larger collective of Dominicans of Haitian descent, we formed the movement known as Reconoci.do (meaning recognized).³ I am one of the leaders of this movement, which is a

arcane. Veterans are those who have more experience cutting sugarcane; they come from Haiti, but they have several seasons of work under their belt.

3 See www.reconoci.do.

collective of young Dominicans of Haitian descent who are fighting for access to our identity documents and our citizenship and who stand up against racial discrimination, knowing that it is the main problem that afflicts us as descendants of Haitians, blacks, *bateyeros*, and the poor.

The Dominican-Haitian Relationship

The Dominican Republic and Haiti are two countries occupying the same island. Following the Haitian Revolution, Haiti made up the entire island of Santo Domingo for twenty-two years (1822–1844). After that period, a relationship of differences emerged between inhabitants of the eastern part of the island and those of the west: each place sees itself as the opposite of the other, where Haiti is equal to black Africans and the Dominican Republic identifies as Spanish, denying its African roots.

Unlike most Latin American countries, which gained their independence from Spain, the Dominican Republic gained its independence from Haiti (Franco 2014). Since then, a strong anti-Haitian sentiment has taken root, backed by the dominant intellectual Dominican class. According to author Pedro L. San Miguel, “anti-Haitianism as a discourse has led Dominicans to define themselves in opposition to Haitians, a dichotomy that is present in nearly all levels of Dominican society. The ideology around national Dominican identity has gravitated markedly around an ‘otherness’ in the Haitian [identity]” (San Miguel 1997, 65–67). Further, Frank Moya Pons has pointed to a distinction between political anti-Haitianism and state anti-Haitianism, which reveals a deep-seated sentiment within Dominican culture of differentiation between state policies and discourse, both of which have capitalized on this sentiment to legitimize their power (Moya Pons 1986).

One marked difference is the fact that Dominicans see Haitians as descendants of black slaves from Africa who practice voodoo and speak Creole, while seeing themselves as Hispanic people who are white, *mestizo*, Catholic, and Spanish speaking, thus valuing Spanish traits above African ones. Haitians, for their part, recognize their blackness and do not claim to be white, much less Spanish.

Anti-Haitian sentiment reached its peak as an ideology and a policy in the Dominican Republic during the dictatorship of Rafael Leónidas Trujillo (1930–1960). In 1937, a massacre killed an estimated 5,000–20,000 Haitians (including black Dominicans) along the border. This massacre was prompted by an unfounded fear within the Dominican population of Haitians’ supposed “peaceful invasion” of the Dominican Republic and by Trujillo’s desire to “whiten” the Dominican people.

Intellectuals such as Emilio Rodríguez Demorizi (1955, 1957), Manuel Arturo Peña Batlle (cited in Henríquez Gratereaux 1996), and Joaquín Balaguer (1990) played a key role in constructing the anti-Haitian ideology. In fact, Balaguer was the one tasked with writing political speeches and with spearheading the negotiations in 1937 following the massacre.

The ideological and political vision of Haitians as the black, poor enemy that brings its misery to the Dominican Republic can still be seen today among a small group that has managed to remain close to power since the Trujillo dictatorship. This group’s main aim has been to infuse fear in the Dominican population by perpetuating the myth of Haiti’s desire to merge the two countries together and the supposed conspiracy of major powers to force the Dominican Republic to assume Haiti’s problems.

Despite the racist ideology that has sought to infiltrate Dominican society, a double standard has been created with respect to Haitians. The same Haitians that Dominicans don’t want to see in the streets, to use the hospitals, or to exercise their rights are the same people who, for decades, have propelled the national economy to the point where practically all economic sectors feature a significant Haitian workforce (Cefasa and Cefinosa 2012). Nearly all sectors of the national economy have benefitted from the cheap and undocumented labor of Haitians (“Detienen alcalde de Las Yayas” 2017), and on many occasions the very representatives of the government are the ones who, in their quest to lower costs, promote the illegal labor of Haitians. In fact, the current president of the Constitutional Court, Milton Ray Guevara, before becoming a pioneer of massive denationalization,⁴ was a Dominican government representative for the hiring of Haitian laborers (Vásquez

4 In 2013, the Constitutional Court issued a ruling permitting the

Frías 2013)⁵ to work in Dominican sugar mills in 1978, during the administration of Antonio Guzmán.

In other words, one could argue that the Dominican economy would be unable to sustain itself were it not for Haitian workers. These people, who in the Dominican Republic are illegal immigrants, are the same ones who have benefitted various presidential administrations through cheap labor (Peña 2013; Yangüela 2001), at the same time that the government promotes a double standard against it.

In light of the Dominican Republic's geographic proximity and its relatively better economic opportunities compared to Haiti, the country has been the main destination for Haitian migrants. Such migration, in addition to being voluntary, could even be seen as induced on both sides of the border. Such urging has been present since the US occupation at the beginning of the twentieth century, when Haitians were urged to work as temporary sugarcane cutters in the Dominican Republic. Haitians who came for this purpose were housed in settlements known as *bateyes*. Anchored around the cane fields (Moya Pons 1986), these settlements led to the creation of small communities of Haitian immigrants throughout the country.

The hiring of Haitian laborers greatly benefitted not only the Dominican sugarcane sector but also the Haitian government, which received a payment for every migrant hired. More than a few times, during protests by the National Federation of Sugarcane Workers, I have heard people shout that "Haiti sold us like slaves" to the Dominican sugarcane industry.

Racial Discrimination and Citizenship

Some people in the Dominican Republic do not see rude gestures, disparaging words, or insults toward black individuals who "seem to be" Haitians as acts of discrimination. Sometimes, those who commit such acts are unaware that these words, gestures, and attitudes are discriminatory, and they justify them as normal behavior, acts of "affection," or even expressions of "closeness."

retroactive revocation of citizenship of thousands of Dominicans of Haitian descent.

5 According to a bilateral agreement, the Dominican Republic would recruit 15,000 day laborers for the 1978–1979 harvest.

For example, in popular Dominican vocabulary, the words *moreno*, *haitiano*, and *piti* are actually derogatory ways of referring to someone with a dark complexion, of Haitian nationality, or of Haitian descent. Being Haitian in the Dominican Republic is sometimes seen as offensive or insulting, in light of the perception that everything bad emanates from blackness or Haitianess, as if being white were synonymous with good and being black synonymous with bad.

Analyzing the connection between racial discrimination against Dominicans of Haitian descent and the acquisition of Dominican citizenship is important because this has been a key issue facing this population. In a 2015 report on human rights in the Dominican Republic, the Inter-American Commission on Human Rights describes structural and intersectoral discrimination against Afro-descendants, particularly Dominicans of Haitian descent (Inter-American Commission on Human Rights 2015).

As part of the racist ideology against Haitians in the Dominican Republic, the groups that have upheld a discourse of racism, fear, and hate toward Haiti have developed political strategies to curtail the rights not just of Haitians but also of their descendants. In particular, the last ten years have seen the implementation of administrative and legal mechanisms aimed at restricting the acquisition and enjoyment of Dominican citizenship for the descendants of Haitian immigrants.

Moreover, a series of decisions and policies have shaped the process of the “denationalization” of Dominicans of Haitian descent, which culminated in Sentence 168-13 of the Constitutional Court establishing that children born to migrants under irregular conditions⁶ between 1929 and 2007 are not Dominican nationals. This ruling was the final seal of legitimacy for a range of measures used to discriminate against and strip of citizenship a population that makes up 2.7% of the Dominican Republic’s residents. It seems that the civil registry has offered the perfect tool for restricting the rights of the children of migrants.

6 Under Dominican law, migrants are considered to have an irregular migratory status when their particular situation is not covered by Dominican immigration law, when they are undocumented, when they entered the country illegally or with illegal documents, or when they did not renew their paperwork after coming to the country legally.

Administrative Measures to Restrict Citizenship

For several decades, attempts were made to pass laws and other restrictive measures preventing Haitian migrants and their children from acquiring citizenship. Figure 1 shows a letter sent to the head of the armed forces suggesting that people hired for temporary work be granted an identity document marked with the category of “foreigner in transit.”

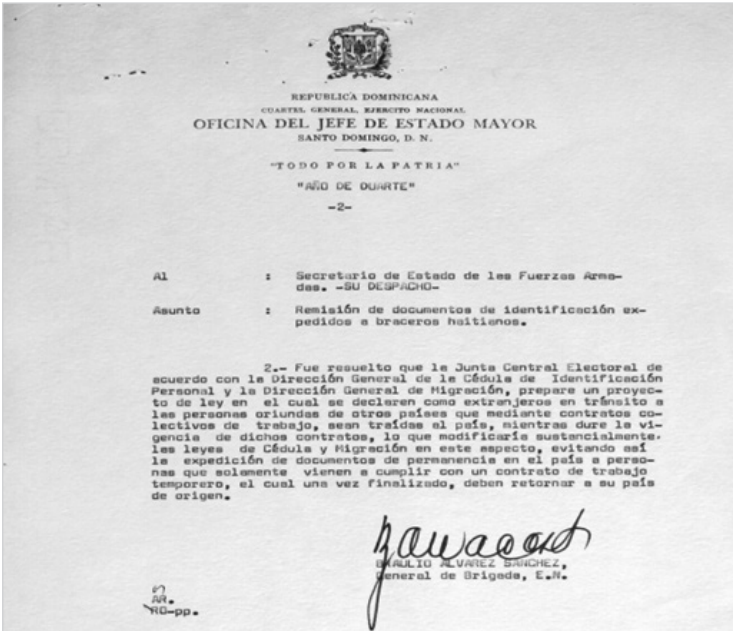


Figure 1
Letter to the minister of the armed forces
Source: Fondo Presidencia Palacio Nacional

Figure 2 shows a letter from 1969, directed to then president Joaquín Balaguer, warning of the danger posed to the nation if the large number of Haitians was left uncontrolled. The letter also stated that the situation was even more dire because Haitians were procreating with Dominicans, and their children would have the right to Dominican citizenship, thus “increasing the invasion” of Haitians. Since that time, the children of Haitian immigrants have been seen as a form of peaceful invasion of the Dominican Republic.

In 1996, during the administration of Leonel Fernández, ultra-nationalist groups acquired greater power within the government,

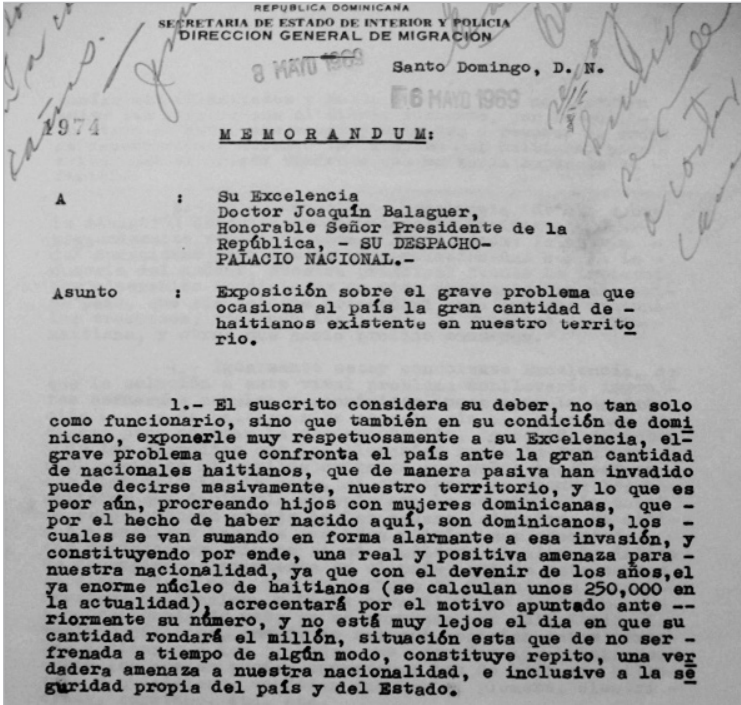


Figure 2
Letter to the president from Manuel de Jesús Estrada Medina, undersecretary of state and director of the National Migration Office, May 1969
Source: Archivo General de la Nación-Santo Domingo

securing strategic positions in entities such as the National Migration Office, the Central Electoral Board, and the Ministry of Foreign Affairs. They took advantage of this power to roll out their plans to limit the rights of Dominicans of Haitian descent and further restrict immigration procedures for those Haitians seeking to settle and obtain legal residence in the country.

In 1999, a group of organizations filed a claim in the inter-American human rights system centering on the government's refusal to issue birth certificates for two girls born in the Dominican Republic.⁷ In 2005, the Inter-American Court of Human Rights issued its ruling in this case, *Girls Yean and Bosico v. Dominican Republic*, condemning the Dominican Republic for denying the girls' rights to legal personality and to nationality. Thereafter, the state not only disregarded the court's ruling—thereby ignoring

⁷ Inter-American Court of Human Rights, *Girls Yean and Bosico v. Dominican Republic*, judgment of September 8, 2005.

the orders contained therein—but also, through the Central Electoral Board, began to implement administrative measures aimed at denying and further restricting access to citizenship for the Dominican-born children of immigrants.

In other words, perhaps as a form of retaliation, the state began to implement even more restrictive administrative procedures. One such measure was Circular 017-2007 issued by the Central Electoral Board, requiring civil registry officers to “thoroughly examine birth records before issuing certified copies of or any document related to the civil status of persons.” Moreover, it claimed that “in the past, [civil registry offices] issued birth certificates in an irregular manner to children of foreign parents who did not prove their legal status or residence in the country” and, finally, called on officials, when confronted with any such irregularities, to “abstain from issuing and signing copies of such documents and to refer any such cases to the administrative chamber [of the Central Electoral Board].”

On its face, this circular appears harmless. Nonetheless, it was utilized to deny us access to documents that we already possessed, such as birth certificates, on account of being the children of “irregular immigrants.” This administrative instrument also led to controversy within the Central Electoral Board, with some judges in favor of the tool and others viewing it as discriminatory and an overreach of the board’s power (“JCE decidirá con circular 017” 2008).

Following Circular 017-2007, the Central Electoral Board issued Resolution 12-2007, which served to cement the circular’s provisions within an administrative framework, as resolutions have greater force than circulars. This resolution ordered essentially the same actions as the circular, but this time with stronger justifications, as can be seen from its very title: “to establish procedures for the temporary suspension of state-issued identity documents obtained in an irregular manner.” The resolution is based on the discourse of modernizing the country’s civil registry, where even the World Bank has financed programs, such as the program on late birth registration aimed at reducing the under-registration of births. The “irregular” documents referred to in Resolution 12-2007 are defined as birth registrations declared by parents with irregular migratory status—essentially meaning that

the children of immigrants would not have the right to the documents that they already possessed.

These processes of modernizing and “cleaning” the civil registry have been nothing more than instruments to restrict Haitian descendants’ access to their rights as Dominicans. The processes have been based on the argument that these certificates were issued in an irregular manner. According to the Central Electoral Board, the certificates are invalid because our parents were here illegally when the documents were issued. But even if that were true, the very Dominican Constitution, prior to its reform of 2010, recognized the right to nationality under the principle of *jus soli*, or birthright citizenship. Thus, even though our parents may have been in the country illegally, the law ensured our right to citizenship.⁸

Why argue that our parents are not irregular migrants in the Dominican Republic?

Most of the parents of Dominicans of Haitian descent arrived to the country under the agreements that were signed between Haiti and the Dominican Republic during the Trujillo, Balaguer, and Guzmán administrations. On January 5, 1952, Haitian president Paul Magloire signed an agreement with his Dominican counterpart, Rafael Leonidas Trujillo, concerning the hiring of seasonal cane cutters from Haiti (Páez Piantini 2007). The agreement established a course of action for both countries and for companies that hired Haitian day laborers with regard to these workers’ conditions for stay and work. Articles 5 and 6 of the agreement stated:

Art. 5. Within one month of the workers’ arrival to their destinations, the companies that have hired them shall take steps to obtain their temporary residence permit and the Dominican identity card, as well as the registration card in the Haitian consulate. The registration card shall contain the first and last names of the day laborer as they appear on the list stamped at the border.

A company’s employment of a Haitian worker who does not have, within thirty days of their arrival to the Dominican Republic, their

8 The Constitution that was in effect until January 2010 stated, in article 11, that “Dominicans are those persons born in the national territory, with the exception of the children of foreign members of diplomatic and consular delegations, and of foreigners in transit.”

registration card will be sanctioned with the fine stipulated for employment of a foreigner without a residence permit.

Art. 6. Companies must send to the Haitian consulate, through the Directorate General of Migration, a complete list of Haitian temporary day laborers whom they employ. Alongside each name should appear the numbers of their residence permits, of their Dominican identity cards, and of their registration cards.

On this basis, we can ascertain the obligations held by the Dominican state through the companies that hired Haitian day laborers. However, virtually none of the companies complied with their obligations to document immigrant employees. In most cases, including for state-owned companies, the companies merely delivered a data sheet containing a list of day laborers.

Another agreement between the two countries—signed on November 14, 1966, between Presidents François Duvalier and Joaquín Balaguer—reaffirmed the abovementioned conditions. But it went even further, stating in its article 8 that “workers and their families shall remain on the companies’ land parcels during the entire employment period. Any abandonment by an employee of the location indicated in the labor contract will result in their immediate repatriation. Abandonment shall be understood as the refusal, duly confirmed, by the employee to reintegrate into the company’s fields.” This gave rise to day laborers’ obligation to remain in the *bateyes* without any possibility of mobility.

It is also important to mention that the companies did not comply with their duty to arrange for workers’ return to their country after the harvest, as it was cheaper for them to keep Haitian laborers in the *batey* during the off-season. This way, they had cheap workers handy throughout the year, without the need to prepare new labor contracts, pay for transportation expenses, or cover any additional expenses other than the monthly salary.

The Dominican state directly benefitted from this arrangement, as several sugar mills belonged to and were administered by the State Sugar Council (Vásquez Frías 2013). These mills, like many others, hired Haitian laborers and allowed the workers to stay in the *bateyes* to care for and cut the sugarcane.

This is how our parents, lacking all of the documents outlined in the bilateral agreements, with just the card they were given upon their entry into the country, built their life in the Dominican

sugarcane fields. With this document, they not only received their monthly or biweekly salary but also paid their social security taxes (Pérez 2010) and were able to register the births of their children who were born in the country. Except in very few cases, these birth registrations are not fraudulent or based on falsehoods: they are acts of the Dominican state, enveloped in the principle of legitimate expectations and the presumption of legality, yet before which state officials have attempted to claim that we are “Dominicans by mistake.”

In recent years, a new migration law—Law 285-04—has conflated irregular migrants with migrants who are “in transit.” This new interpretation was upheld in 2005 by the Supreme Court. It was also embraced in a 2013 ruling by the Constitutional Court, Sentence 168-13. According to this ruling, any immigrant who is in the country in an “irregular” manner is considered to be in transit, regardless of whether that person has been there for ten days, twenty days, or twenty years—and as a result, that person’s children, if born after 1929, are retroactively denied Dominican citizenship, even if the state had previously granted it.

Circular 32-2011: A Worthless Piece of Paper

I remember, in 2011, after much national-level lobbying by civil society organizations and the news of an impending thematic hearing on the issue before the Inter-American Commission on Human Rights, the Central Electoral Board tried to ease up the pressure by issuing Circular 32-2011 ordering the delivery of birth certificates to Dominicans of Haitian descent that had been suspended.

The grassroots community that had fought for this cause felt quite content upon having achieved such a victory. Many young people were subsequently able to get copies of their birth certificates, but that is all they got—the birth certificate. When they then used this as a basis to apply for their ID card, they never got the card and, in many cases, were not even allowed to apply. I remember my brother Isidro’s exasperation: “They’ve given us a bad check.” The ultimate goal, which was to obtain the ID card, was not achieved; the very Central Electoral Board that delivered the birth certificates through the civil registry offices

subsequently denied the issuing of ID cards through the Department of Identification.

The issuing of birth certificates lasted only three months. After that point, it became almost impossible for a Dominican of Haitian descent to obtain an official copy of his or her birth certificate. Thus, since 2011, there has been a constant struggle among young Dominicans of Haitian descent to get their birth certificates along with their ID cards, documents that open the door to the enjoyment of other fundamental rights.

During this time, the movement Reconoci.do—as a space for Dominicans of Haitian descent to articulate their struggle—continued to denounce the discrimination being experienced by this population at the hands of the Central Electoral Board. The movement carried out a range of activities to demonstrate to the Dominican population that these were discriminatory and racist actions (Méndez de Vigo and Cruz 2015). Furthermore, we advocated before public officials—including President Danilo Medina and the National Congress—to seek a solution to our problem (“#VigiliaJCE” 2013). Unfortunately, however, they did not heed our calls, preferring instead to say that our accusations were unfounded and that we were being paid by foreign organizations seeking to harm the country.

Sentence 168-13 and Retroactive Denationalization

We spent a lot of time calling for a solution to our situation. During the entire year of 2012, the Reconoci.do movement undertook a series of advocacy activities that brought greater visibility to our struggle. By 2013, we had become nationally renowned experts on the issue of Dominicans of Haitian descent and how Resolution 12-2007 affected us. Our testimonies as directly affected individuals gave strength to the work of a variety of organizations.

At the legal level, we exhausted nearly all relevant remedies; the only one remaining was a decision of the Constitutional Court, a new judicial body created after the 2010 constitutional reform. We thought that the court, in light of its mission, would issue a judgment protecting the fundamental rights enshrined in the Constitution and that, in light of the entity’s incipient nature, it wouldn’t be tainted by bias—but sadly, we were wrong.

Even prior to the court's publication of its ruling, there was a polarized national debate. Some people from the ultranationalist camp were already familiar with the substance of the ruling, and one of the court's judges even publicly stated that a forceful response to the lawsuit would be issued (Taveras 2013). For several days, all we heard were rumors. One close colleague told me, "Get ready for what's coming, because it's going to be heavy. Take advantage and rest, because the struggle is going to be a long one."⁹ In other words, people already knew what the ruling held, even though it hadn't been made public. But even so, September 23 was a day of great shock and sorrow for me and many Dominicans of Haitian descent; I could not believe that the country's highest authority for the protection of fundamental rights would hand down a ruling as destructive as Sentence 168-13.

In Sentence 168-13, the Constitutional Court held:

Juliana Dequis (or Deguis) Pierre, although born on the national territory, is the daughter of foreign nationals who were in transit [in the Dominican Republic at the moment of her birth], which means that she has no right to Dominican nationality according to article 11.1 of the Constitution of 1966, in effect on the date of her birth.¹⁰

The court ordered the Central Electoral Board to submit Juliana Dequis's birth certificate to the competent court in order to determine its validity and to proceed in the same manner with respect to similar cases.

In other words, Juliana Dequis was stripped of her citizenship and documentation, becoming a foreigner in her own land. In its ruling, the court ordered the National Migration Office to "grant a special permit for temporary stay in the country to Mrs. Juliana Dequis (or Deguis) Pierre, until the National Plan for Regularization of Foreign Nationals Residing Illegally in the Country, provided in article 151 of Migration Law No. 285-04, determines the legalization of the conditions of these types of cases."¹¹ With its decision, the court placed a veneer of legality over an action that had been placing our lives in limbo for years. It institutionalized

9 Personal conversation with Father Mario Serrano, August 2013.

10 Corte Constitucional, Sentencia 168-13, sec. 3.1.5.

11 Ibid., "Decides" section, para. 4.

discrimination and established segregation in the civil registry by ordering us to be removed from the registry and ordering the creation of a special list to be sent to the embassies of our parents' home countries. This was a moment of great crisis for myself and the entire movement. We are not doctors of law, nor lawyers, nor constitutional experts, but we immediately recognized the barbarity committed by the Dominican Republic's Constitutional Court.

Although we had been suffering from the suspension of our documents since before the issuing of Sentence 168-13, the new ruling placed us in a situation of even greater vulnerability. Our lack of identity documents—given the way our parents arrived to the country—not only gave rise to institutional discrimination but also limited our access to rights such as the rights to equality before the law, to an identity, and to a nationality. Not having a birth certificate restricted our access to an ID and voter registration card, which made it impossible to obtain dignified work, social security, and health insurance.

Despite not being recognized as Dominicans, we couldn't leave the country since we didn't have passports. We couldn't open a bank account or purchase household appliances in our names. Our children also couldn't be legally recognized as our own, since parents cannot declare a child's birth if they lack an ID card. We also couldn't access public assistance programs, since they require showing an ID card. In addition, anyone in any public or private establishment felt entitled to ask us about the origin of our last names, as if we were a disease.

The struggle to defend my and other Dominicans' rights has been longer and trickier than I would ever have imagined. At times, I have doubted the value of our claims, as it seems that everything we do to advance our rights is later turned against us and, in the end, we suffer more than we triumph from these struggles. But then a biblical reference comes to mind in which someone asks why the bad guys are always so lucky, and I realize that this is not the first time that evildoers always seem to win. I thus grow hopeful again, knowing that one day we will triumph, and that this is why we fight: so there will be justice and equality in the world.

Law 169-14 and Naturalization against Institutional Discrimination

Law 169-14¹² was the result of national and international pressure to find a solution to the destructive content of Sentence 168-13. The law was the result of a political agreement and reflected a wide consensus among various sectors and interests. It appeared before National Congress as an urgent measure and was adopted unanimously. Nonetheless, it was a consensus that seems to have been built with certain views and criteria holding more sway than others, and in which victims are subordinated to the considerations and interests of certain sectors of power.

The law, which was supposed to resolve the situation, created two classifications for Dominicans of Haitian descent affected by Sentence 168-13, specifically those born on Dominican soil to Haitian parents between 1929 and 2010. The first group, “Group A,” consisted of Dominicans of Haitian descent who had at some point been registered in the Dominican civil registry. Meanwhile, “Group B” was made up of Dominicans of Haitian descent who had never been registered.

For Group A, the law ordered the Central Electoral Board to issue identity documents (birth certificates and ID cards) immediately and without any administrative proceedings, to those affected by Sentence 168-13. For Group B, the law specified the need to issue a regulation (Decree 250-14) outlining the evidence required to prove one’s birth in the country. For people who had never been issued a birth certificate, the law gave them ninety days—a period that was later extended by another ninety days—to register as foreigners before the office of the National Plan for the Regularization of Foreigners. Fewer than 10,000 people registered under this process. After signing up, they would receive a special birth certificate and a residence card. To date, fewer than 5,000 individuals have received these documents. It should be stressed that these individuals had to register as foreigners in the country where they were born. In summary, a person belonging to Group B had to register, regularize their migration status via

12 This law establishes a special regime for people who were born in the national territory and irregularly registered in the Dominican Civil Registry and addresses the issue of naturalization.

an immigration card, and then have the option (two years later) of becoming a naturalized citizen.

For the time being, only about 3,000 people have received a permanent residency card and a special birth certificate. The strangest thing of all is that these individuals have a card saying that they were born in the Dominican Republic but that they are of Haitian nationality; in other words, the Dominican Republic, through this document, has taken the liberty of assigning people the citizenship of another state. In addition, it is unclear how the naturalization process will play out, as no mechanism has yet been established to this effect.

Human rights organizations were surprised upon seeing how the law created a distinction between the children of registered immigrants and those of unregistered ones. But we were even more surprised by the fact that the law gave a foreigner identity document to people who were born in this country and who know no other soil than the soil that was damp with the sweat and juice of sugarcane that our parents cut for so long in order to build this country.

We do not currently know how many types of civil registration books there are in the Dominican Republic, since authorities, in their rush to remove the children of Haitian immigrants from the registry, have created a series of additional books. Ultimately, they have established a regime of racial segregation via the civil registry, where we are separated not only from other Dominicans born in the same place and at the same time as us, but also from ourselves.

The Civil Registry as an Instrument of Racial Segregation

The Constitutional Court's Sentence 168-13 ordered

the Central Electoral Board [to] forward the List of Foreigners Illegally Registered in the Civil Registry of the Dominican Republic to the Minister of the Interior and Police, who chairs the National Immigration Council, so that this institution, in accordance with the mandate conferred by article 151 of Migration Law No. 285-04, may do the following: (i) Develop, in accordance with the first paragraph of article 151, within ninety days from the notification of this ruling, the National Plan for Regularization of Foreign Nationals Residing Illegally in the

Country; (ii) render to the executive branch, according to the second paragraph of article 151, a general report on the aforementioned National Plan for Regularization of Foreign Nationals Residing Illegally in the Country, with its recommendations, within the same term mentioned in the preceding paragraph (a) [sic].¹³

When the judgment was released, many Dominicans were moved to join us in the fight against it. A group of intellectuals and other individuals came together to form the Solidarity Committee for Denationalized Persons, but after Law 169-14 was passed, many of our supporters believed that the problem had been resolved, even though it hadn't. Today, it is even more difficult for us to explain that the problem has yet to be definitely resolved and that we continue to exist in a type of limbo, as we do not feel secure with our current identity documents, with good reason.

The "transcription book" is the main reason why we children of Haitian immigrants cannot remain calm. This book, created after Law 169-14, was the brainchild of the then president of the Central Electoral board, Roberto Rosario, despite the fact that the law did not contemplate the creation of a new registry but rather ordered the board to reinstate our original registrations. And this new registry has been carried out with total impunity.

It is important to remember that this law was a political agreement among those in power, which is why it does not adequately protect the rights acquired by Dominicans of Haitian descent. The law was meant more as a way for the country to free itself from international pressure than as a way to remedy the violation of our rights by the Constitutional Court.

For Group A, Law 169-14 established the following:

Article 1. Objective. This law has the exclusive objective of establishing: (a) a special regime for children born within the national territory of nonresident foreign parents in the period between June 16, 1929, and April 18, 2007, and whose names appear in the records of the Dominican Civil Registry but were listed on the basis of documents that the current laws do not recognize as valid for those purposes; and (b) the registration of children born in the Dominican Republic to foreign parents in an irregular migratory situation and whose names are not listed in the Civil Registry.

13 Corte Constitucional, Sentencia 168-13, "Decides" section, para. 6.

Article 2. Regularization. The Central Electoral Board shall proceed with the regularization and/or transcription in the Civil Registry records, free of any administrative process or cost to the beneficiaries, of people who are in the situation set out in subsection (a) above. Once the aforementioned irregularity is rectified by virtue of this law, the Central Electoral Board shall accredit them as Dominican nationals.

When the bill was originally made public, we had trouble understanding the term “transcription.” We worried that it could be a trick—and in effect, it was. The law’s drafters told us that the aim was to re-regularize all those who had been removed by the Central Electoral Board from the civil registry and that this article sought to return them to the normal registration book. Nonetheless, the Central Electoral Board has interpreted this same article to mean that we are Dominicans only by virtue of Law 169-14 and therefore must transcribe our birth certificate in order to gain citizenship—as if we had not been Dominicans before. Moreover, this transcription must be performed in a special book.

The legal consequences of this interpretation can be seen in the Constitutional Court’s recent ruling on behalf of citizen Juliana Dequis, whose original birth certificate was annulled by the Central Electoral Board. In this ruling, the court categorically concludes that Dequis (and by the same logic, all of us who are transcribed) is a Dominican by naturalization, not by birth, on the basis of Law 169-14. In other words, the Central Electoral Board’s legal interpretation has now attained validity before the courts and has succeeded in depriving us of more fundamental rights (such as the right to elect and be elected).

Just reading these words fills me with indignation. How can the Central Electoral Board claim that we are not Dominicans if we have felt this way from the moment of our birth? How can the board say that our birth certificates are not valid when the board itself issued them? How can a national-level court strengthen this abomination in a ruling affirming the annulment of a birth certificate? On this issue, I remember my father saying once in an interview he gave that he didn’t run a civil registry office, that he didn’t put a gun to anyone’s head in order to register his children’s births, that he didn’t bribe anyone—and now the president of the Central Electoral Board was saying that our documents were not valid.

Despite the intention of the law’s drafters, the president of the Central Electoral Board adopted his own interpretation, which was not publicized until it had been approved, transcribed, and scanned. It seems like fiction, but it is real and is being experienced by all those affected.

Meanwhile, article 3 of Law 169-14 creates an additional problem for many of us, including myself. The article states, “Exception: Registrations based on the falsification of data, identity theft, or any other type of forgery of a public document shall be excluded from the provisions of the preceding articles, provided that the offense is directly attributable to the beneficiary.”

Since 2011, I have been involved in legal proceedings to obtain my birth certificate. That year, we filed an *amparo* that was decided in our favor, in which the Central Electoral Board was ordered to immediately deliver a copy of my birth certificate. The board disregarded the ruling by failing to give me the certificate. Five months after the ruling, the board filed a nullification claim for my birth certificate and then appealed the court’s decision. Nine months later, the Supreme Court issued a resolution ordering my birth certificate to be delivered to me notwithstanding the legal actions being taken against me, and so at the end of 2012 I finally obtained my birth certificate and was able to enroll in college.

However, the Central Electoral Board has stubbornly continued with its actions against me. My case began before the Constitutional Court issued Sentence 168-13. In 2015, a group of twenty-three young people (whom I do not know and in which I was not included) filed a complaint against the then president of the Central Electoral Board and two other judges alleging the violation of their human rights. The president, during a press conference on the case, instead of referring to these young individuals, referred squarely and exclusively to my case and accused my parents of having registered me in an irregular manner with a document that didn’t belong to them.

I responded publicly to his statements about me and my parents (“Ana María Belique responde al presidente de la JCE” 2015). Among other things, I stated:

Roberto Rosario Márquez’s statements from yesterday regarding my personal case (which has nothing to do with this complaint) are false. My parents never said that they were Dominicans when they went

to register my birth. My parents are Haitian, and that's what they claimed when they registered me. Since they were not in transit but rather were permanent residents in this country, I was declared as a Dominican in accordance with the Constitution in force at the time, and that is why I was issued a birth certificate, which I later used to obtain my ID card. (ibid.)

Two weeks later, I received notice of a hearing in my case, which had been pending since 2012. It was clearly an act of retaliation.

Between 2015 and 2016, I attended three hearings for my case. The last was in February 2016; in August of that year, a ruling was issued, and in January 2017 I was notified. I bring all of this up in order to analyze the consequences of article 3 of Law 169-14. According to this provision, any documents that are based on falsification are excluded from the benefits of the law, provided that these documents can be attributed directly to the person affected. The court's ruling accused me of a falsehood that I could not possibly have committed, given that I was less than a month old when my birth was registered. In this regard, the judge did not apply the law in my favor, as should have been the case and as has been the case in other claimants' proceedings.

I won an appeal in 2018. The appeals court recognized the validity of my original birth certificate, but the Central Electoral Board has once again filed an appeal against this new judgment.

One final issue concerns article 4 of the law. According to this provision, "The Central Electoral Board shall provide that beneficiaries of this regime who in the past were issued identity and electoral cards be endowed with the same document and previous numbering, and that those who have never had this document shall be granted one." This is another provision that has been disregarded, as the Central Electoral Board, whenever any Dominican of Haitian descent seeks his or her ID and voter registration card, requires that person complete a long process of personal interviews, supporting documentation, interviews with the mother, documents from parents, grandparents, schools, and so forth. In other words, a process that should be quick and simple is converted into a long line of red tape that delays even further the delivery of identity documents to beneficiaries.

“Group A” Dominicans and Transcriptions in the Civil Registry

As I mentioned earlier, the transcriptions of birth records for Dominicans of Haitian descent into a new registry book is one of the procedures that most worries us in terms of citizenship for those who already had birth certificates, as this new book is not stipulated in Law 659 of 1944 on Civil Status Acts. This book operates within the margins of Law 659 and is a form of apartheid in the registry because it separates us from Dominicans who are not of Haitian descent; this book is exclusively for those of us with Haitian parents.

The interpretation put forth by Rosario, the former president of the Central Electoral Board, was that Dominicans of Haitian descent are not rightful Dominicans and should not have access to the original registry. He proposed the creation of a special registry for foreigners, and virtually no Dominican of Haitian descent should receive a birth certificate without first appearing in this book. I—like many other Dominicans of Haitian descent—am inscribed in the original Dominican civil registry. What the state is seeking through this barrage of nullification claims and rulings is my removal from that original registry and my placement in the transcription book.

It goes without saying that the transcription book is used to register the births of children born to Dominican citizens *outside* the country and who choose to have dual citizenship, for it does not create a new registration but rather—based on the source document (that is, the birth certificate of the country they come from)—registers their information in the transcription book. But in our case, the questions arise, What country are we coming from? If our first birth certificate was issued by the Central Electoral Board, as was the second birth certificate, where are we from?

As I have explained in this chapter, at stake here are the limitations that could be faced by a Dominican of Haitian descent in the not-too-distant future due to possessing a transcribed birth certificate—for example, the uncertainty whether we will be able to enjoy the same civil and political rights as other Dominicans. This is one of the questions that we constantly ask ourselves and for which we have no clear answer at the moment. Only with

time will we discover the limitations to our political participation. What I do know is that, for now, we feel like second-class citizens. As imparted by Law 169-14, we are *Dominicans by mistake*.

All of these elements are what allow us to confirm that we live not only in a state of limbo but also in one of legal insecurity, as the laws are adjusted according to the interests of those in power. Moreover, for basic questions such as those concerning human rights and the right to nationality, the state has done everything in its power to ensure that judicial and legal interpretations restrict our enjoyment of rights, which prevents us from having the same opportunities as other Dominicans.

The best solution to this problem is the pure and simple recognition of the rights of Dominicans of Haitian descent born in the country prior to the 2010 constitutional reform, regardless of whether they have been registered. The way I see it, the simple act of being born in the country should confer certain rights or a certain status on individuals that is different from the status of someone who has immigrated there. It is important to keep in mind that these individuals who have been born in the country will probably make their lives here, and they will acquire the cultural expressions of a citizen and perhaps never leave the country.

Conclusion

Prior to the passage of the 2004 migration law, it was already difficult for a child of Haitian parents to acquire citizenship in light of the many obstacles and delays confronted in civil registry offices. Under the migration law that was in effect until August 16, 2004, foreigners “in transit” were considered to be those who remained on national territory for fewer than ten days. However, the current Law 285-04 on migration, in its article 28, establishes an immigration registry for all children born to foreign mothers in the Dominican Republic. This provision assumes that all children of foreigners—particularly those without documentation—are not Dominican, as it declares their parents to be “in transit,” regardless of the time they have spent living in the country. As a result, since 2004, it has been nearly impossible for the children of undocumented Haitian parents to acquire Dominican citizenship.

One of the most worrying elements of the 2004 migration law is that it is unclear how those registered in this immigration

registry may acquire Dominican citizenship. According to article 18 of the 2010 Constitution:

Dominicans are: (1) the sons and daughters of a Dominican mother or father; (2) those who enjoy the Dominican nationality before the entry into effect of this Constitution; (3) persons born in the national territory, with the exception of the sons and daughters of foreign members of diplomatic and consular delegations, and of foreigners in transit or residing illegally in the Dominican territory. Any foreigner defined as such in Dominican law is considered a person in transit.

For the purposes of denying citizenship to the children of Haitians who were already Dominicans, the state applied a retroactive interpretation to Law 285-04 and the 2010 Constitution, violating the principle of non-retroactivity of law. As a result, for those born before 2010, it is nearly impossible to acquire Dominican citizenship if they had not previously done so.

As someone who believes in democracy and the rule of law, I understand that the constitutional reform of 2010 could be acceptable if it were not applied retroactively, as has been the case here. Further, it should be accompanied by clear mechanisms that lay out what will happen to someone born and registered in the country, how that person can lead a normal life despite not being a citizen, and how that person can obtain Dominican citizenship.

The Dominican government should establish clear mechanisms for how the Dominican-born children of migrants can obtain citizenship. Our leaders should reconsider the various measures that have been restricting the ability of Dominicans of Haitian descent to exercise their rights to nationality and citizenship and should create a mechanism that allows all those who have experienced some form of denationalization to have their rights restored and to obtain a valid identity document and citizenship.

For those who have never had any kind of document but who were born in the country, the state should create a mechanism that allows them to obtain documentation and to fully access their rights. Additionally, it should establish procedures that allow people registered in the special registry for foreigners and who were born after the 2010 constitutional reform to obtain Dominican nationality once they turn eighteen. The government should also take affirmative steps to compensate for the harm that it has caused to Dominicans of Haitian descent.

Civil society organizations should embrace strategies to continue highlighting the reality being experienced by Dominicans of Haitian descent, especially those who have never had any kind of identity document. Moreover, we should promote national-level conversations that help authorities understand the situation of statelessness that they have forced onto thousands of people who were born in the country.

Lastly, denationalization affects not just the lives of Dominicans of Haitian descent but also society in general. It is thus important to embrace a human rights-based perspective that encourages all of society to feel engaged. Those of us who are directly affected must strengthen our strategies for fighting for our rights, come up with new forms of struggle that are more compelling and methodical, and promote settings for reflection on the struggle and identity of Dominicans of Haitian descent.

References

“Ana María Belique responde al presidente de la JCE.” 2015. *Hoy*, July 10. <http://hoy.com.do/ana-maria-belique-responde-al-presidente-de-la-jce>

Balaguer, Joaquín. 1990. *La isla al revés: Haití y el destino dominicano*. Santo Domingo: Corripio.

Cefasa and Cefinosa. 2012. *Condición y aportes de la mano de obra de origen haitiano a la economía dominicana*. Santiago de los Caballeros: Cefasa.

“Detienen alcalde de Las Yayas, Azua, transportando haitianos ilegales.” 2017. *CDN*, January 24. <http://cdn.com.do/2017/01/24/detienen-alcalde-de-las-yayas-azua-transportando-haitianos-ilegales>

Franco, Franklin. 2014. “El problema racial dominicano en los textos escolares.” In *República Dominicana y Haití: El derecho a vivir*, edited by Fundación Juan Bosch. Santo Domingo: Fundación Juan Bosch.

Fundación Juan Bosch, ed. 2014. *República Dominicana y Haití: El derecho a vivir*. Santo Domingo: Fundación Juan Bosch.

Henríquez Gratereaux, Federico. 1996. *Peña Batlle y la dominicanidad*. Santo Domingo: Taller.

Inter-American Commission on Human Rights. 2015. *Situation of Human Rights in the Dominican Republic*. OEA/Ser.L/V/II. Doc. 45/15.

“JCE decidirá con circular 017.” 2008. *Diario Libre*, July 2. <https://www.diariolibre.com/noticias/jce-decidir-con-circular-017-DBDL22775>

Méndez de Vigo, Valeria, and Teresa Cruz. 2015. “El apartheid de República Dominicana.” *Europa Press*, March 21. <http://www.europapress.es/internacional/noticia-apartheid-republica-dominicana-20150321095024.html>

Moya Pons, Frank. 1986. *El batey: Estudio socioeconómico de los bateyes del consejo estatal del azúcar*. Santo Domingo: Fondo para el Avance de las Ciencias Sociales.

Páez Piantini, William. 2007. *Relaciones dominico-haitianas: 300 años de historia*. Santo Domingo: Secretaría de Estado de Relaciones Exteriores.

Peña, Gustavo Olivo. 2013. “Milton Ray Guevara contrató 29 mil haitianos, le recuerda Huchi Lora.” *Acento*, November 21. <https://acento.com.do/2013/actualidad/1138805-milton-ray-guevara-contrato-29-mil-haitianos-le-recuerda-huchi-lora>

Pérez, Ruddy G. 2010. “Cañeros reclaman ante IDSS les paguen pensión.” *El Nacional*, September 1. <http://elnacional.com.do/caneros-reclaman-ante-idss-les-paguen-pension>

Rodríguez Demorizi, Emilio. 1955. *Invasiones haitianas de 1801, 1805 y 1822*. Ciudad Trujillo: Editora del Caribe.

———. 1957. *Guerra dominico-haitiana*. Ciudad Trujillo: Impresora Dominicana.

San Miguel, Pedro Luis. 1997. *La isla imaginada: Historia, identidad y utopía en La Española*. San Juan-Santo Domingo: Isla Negra.

Taveras, Yamira. 2013. “TC dará respuesta contundente a caso de nacionalidad.” *Hoy*, September 4. <http://hoy.com.do/tc-dara-respuesta-%C2%93contundente%C2%94-a-caso-nacionalidad>

Tejada Yangüela, Argelia. 2001. *Bateyes del Estado: Encuesta socioeconómica y de salud de la población materno-infantil de los bateyes agrícolas del CEA*. Santo Domingo: Amigos del Hogar.

Vásquez Frías, Pastor. 2013. *¡Éxodo! Un siglo de migración haitiana hacia República Dominicana*. Santo Domingo: Santuario.

“#VigiliaJCE.” 2013. <https://www.youtube.com/watch?v=qQN7-AHq5jY>

CHAPTER 2
The Fate of Indigenous Women
in Mexico: Ajmú Mbaa
and the Roots of the Earth

Martha Ramírez Galeana
(Mexico)

A New Experience

For as long as I can remember, my Me'phaa¹ grandparents have nourished me with stories, legends, and fables. As a little girl, I reveled in these fantastic and extraordinary tales; but as I grew older, I began to understand that they also contained deep life lessons. One day, I heard a wise elder pray to Xíña'lu mbàtsun, Grandfather Fire, our most sacred deity. With great fervor, he was asking the god to grant him the wisdom and wit needed to understand the secrets of life and to protect him from the selfishness that acts like a blight that ravages the cornfields, because that is what destroys life and memory. At that moment, I understood that my grandparents were preparing me for that quest, which is now my mission.

It is not an easy task. Many wise elders say that it can take more than half one's lifetime and still produce no answer. I often ask myself what those secrets of life are. It turns out that every human being is born with a natural gift or quality: there are those who read corn, fire, who speak with the wellsprings, with the mountains, with the rain, and dozens more wisdoms. It is a gift that one discovers within oneself and that one guards warily, humbly, once found. It might sound strange, but that is how things are among the Me'phaa. I am certain that the world would be interested in this and that it is important to share it through stories, as my grandparents did with me.

1 Me'phaa is the name of an indigenous language and an indigenous community living in the Montaña and Costa Chica regions of Guerrero, Mexico.

The chance for me to go to school and learn Spanish makes this task even greater because my first mission is to search for a juncture between both worlds—the ancestral Me’phaa and the modern urban worlds—to be able to jointly share our wisdoms. If I do not begin to do it by narrating and writing stories, I will close myself off to discovering those secrets; it is also true that one can live one’s entire life without discovering them, and I do not wish for that to happen, being the granddaughter of fire. But venturing to do it is not easy, for we newer generations are no longer taught to write what we think, what we experience, our dreams or nightmares. This is sometimes due to the absurd notion that one needs to be a great scribe, but we forget that the scribe discovered this quality one day among his secrets of life, which were being shaped day by day. Proof of this can be found in the stories captured in the codices affirming that memory must live on.

Of the many stories told by my grandparents, I recall one about their long treks to visit the most sacred sites of the Me’phaa. There are so many names that I am still learning them; one of them is the town of À’phaa, known today as Tlapa, which is home to the Me’phaa, Na’savi, and Nahua peoples, as well as an important ceremonial and trade site. At school, I learned the story of the Azoyú Codex, the most sacred pictorial codex of the mountain peoples. I also learned about the symbols depicted by the Tlachinollan Kingdom, in which the Me’phaa, Na’savi, and Nahua peoples paid tribute in precolonial times, and whose territory included what is today known as the Montaña de Guerrero, which extends to the beaches of the Pacific.

Years later, I heard the word Tlachinollan again, when a human rights center was created with that same name in 1994, with its headquarters in Tlapa. The organization was founded by anthropologist Abel Barrera Hernández, who dedicated himself to documenting the stories of indigenous people from Guerrero who were being detained. One of his slogans was a quote written on the wall of a prison in Tlapa in the late 1980s, which said, “In this cursed place where sadness reigns, crime is not punished—poverty is.” Since then, he has dedicated his life to defending the human rights of the indigenous peoples of this region.

Tlachinollan is the Nahuatl word for burned fields. It is the name that became my new, intangible place of learning: the human

rights center of which I am now a member. It is interesting that a place of burned fields wishes to make the mountains blossom with justice. That is what the center says: *The mountains will flourish when justice lives among the Na'savi, Me'phaa, Nahuas, Nn'anncue, and mestizos.* The organization has become a leader in the region through its work on human rights cases, some of which are extraordinary and unprecedented stories of the battles of Mexico's indigenous peoples who are mapping the new course of a society.

The New Journey

It took me a year, after completing my degree in comprehensive community development, to read through the numerous stories and reports of Centro Tlachinollan. The cases of Inés Fernández and Valentina Rosendo Cantú caught my attention not just because we shared a language and culture but also because I was impressed by the strength and courage that they showed throughout the years of their struggle. Being a woman in the Montaña region is synonymous with pain and poverty, which we are taught to bear our entire lives. This force was the same that allowed them to draw a last wind from the depths of their being in order to avoid reaching the end of life with the same pain that they had experienced since birth.

In June 2013, Inés had just given birth to the little Dùun Mixa, which means “white cloud,” the last of her seven children, in a hospital in Chilpancingo, the capital of Guerrero. Complications during childbirth meant that I was called to the hospital to serve as a Me'phaa interpreter. Meeting Inés has been one of my greatest life experiences in light of her struggle and her awe-inspiring personality. It was the beginning of a new journey alongside Inés on behalf of Centro Tlachinollan and as my first case as a human rights defender, as well as in my quest to unlock my life secrets.

I had met Valentina years before, during an anniversary event at Tlachinollan, when I was a student. She is a young and charismatic Me'phaa who draws people in, especially when talking about her struggle. That same year, Guerrero commenced a period of greater repression of social movements. As on other occasions, there were countless murders and detentions of human rights defenders. This setting brought us closer to these women, going beyond the verbal transcription of their language and the interpretation of

their culture. The community work involved embracing Inés and Valentina as Me'phaa compatriots and sharing their concerns regarding their families and their land. In spite of the circumstances, they always remained calm and courageous, not caring about the distance that had to be traversed to achieve dignity.

Guerrero's ancestral paths and roads are very difficult, but they lead to the most remote communities that do not appear on maps. For example, Centro Tlachinollan began its work on behalf of indigenous communities by travelling through this small indigenous area located in the Costa Chica and Montaña regions of Guerrero. In this area is one of the most symbolic Me'phaa towns—Tsüii, better known as Ayutla de los Libres, located in a mountain valley. Ayutla emerged following the settlement of the Me'phaa and Na'savi peoples in the Tlachinollan Kingdom. Later, after Mexico's independence, the area was home to the proclamation of the Plan of Ayutla, which subsequently prompted the new national Constitution. The town has been stigmatized as a paramilitary area due to its residents' liberal views and notions of justice, which has brought them killings, repression, and more poverty.

The early investigations performed by Centro Tlachinollan allow today's generations to return our gaze to one of the regions of Mexico that has suffered the most severe human rights violations, among them the cases of Inés and Valentina. Their cases are clear examples of the military and institutional violence against indigenous women. Stories such as those of Inés, Valentina, and women who fight to make the truth known are a random sampling of a descriptive and accurate statistic that is invisible amid the diversity. Statistics hide the reality of the context in which we indigenous and nonindigenous women of the country live, where the numbers inch toward an infinitude of impunity. There thus emerges a battlefield between the nonofficial statistics gathered by victims and their defenders, and those published by the state. As a result, these women's testimonies will never be able to be assessed through numerical probabilities.

Inés and Valentina

Inés Fernández was born in the Me'phaa community of Camalote. As with every Me'phaa baby, her umbilical cord and placenta were placed high in a tree so that her life would be filled with

courage and would conquer the heights of the trees. This is a tradition among Me'phaa parents whenever a new family member arrives. Inés was a little girl who traversed every sort of path and trail despite her young age, because becoming familiar with the territory is critical for any young person.

For Inés and the women in her community, there is no better comfort than walking barefoot to feel the beating of the Kumbáá (Mother Earth) in their hearts. The women from this region, like Inés, are like the translucent, strong, and immense Velero River, one of the largest rivers in the area.

Inés's story is intertwined with that of her dear Me'phaa companion, Valentina Rosendo Cantú, who was born upstream in the village of Caxitepec. As an adolescent, Valentina was given in marriage to a boy from the Barranca Bejuco community, very close to Barranca Tecuani, where Inés too was given in marriage.

Inés and Valentina, as is customary in Me'phaa culture, left their communities to begin new lives in the communities of their husbands and help farm the land along the hillsides, where they would grow corn, beans, and squash during the rainy season. This ensures that their households have food each year. Inés, moreover, experienced motherhood in Barranca Tecuani. She carried each of her children in her *rebozo* (a type of shawl) while she prepared *chilate*, a traditional drink made with cocoa, and would carry them with her to the cornfields. For Valentina, washing clothes in a small river near Barranca Bejuco was the only deviation from her myriad household chores.

What happened to them?

This story is based on Inés's and Valentina's testimonies, as well as on the voluminous dossiers from their cases of sexual assault. The events took place in February and March 2002, *rú'phuu*, as the dry season is called in the Me'phaa world. During this time, the small region of Ayutla was militarized by hundreds of soldiers who swept through the communities, supposedly to eradicate poppy fields. Nonetheless, the testimonies of many families claimed that the soldiers were really searching for guerrilla fighters.

On Saturday, February 16, 2002, Valentina left her house to wash clothes in the river as usual. She had recently married and, two days prior, had turned seventeen. Eight soldiers approached

her at the river and began interrogating her about the whereabouts of the guerrillas. When she didn't answer, they began to hit her, throwing her to the ground; two of them taunted and shouted as they raped her and left her lying on the riverbanks.

One month later, a few hills over, during the afternoon of March 22, 2002, Inés was home with her four small children, preparing juice. Days earlier, her husband, Fortunato, and his family had killed a cow and hung the meat in the outdoor patio to dry, as is family tradition. It was 3 p.m. when the sounds of eleven soldiers from the Mexican army echoed in her patio. Three of them entered the house and immediately began to interrogate her: "Where is your husband? Where did he rob this meat that's hanging in your yard?" Inés, afraid and feeling helpless because she could not speak Spanish, remained silent. The soldiers pointed a gun at her chest and one of them, the tallest, violently threw her to the ground. He shouted, "Are you going to talk or not? Where did your husband rob that meat from?" They grew angry at her silence and pointed the gun at her again. One of them held her and raped her in front of her children and the other two soldiers. A few minutes later, laughing, they left, taking the meat with them.

The stories of Inés and Valentina resonated throughout the entire mountain region. The women were stigmatized by public entities and health centers, which denied them care in order to avoid discord with the soldiers. For the people in their communities, there was no chance of apprehending the suspects and punishing them; although the government was obliged to sanction the soldiers for their actions, it was never going to happen. Inés and Valentina crossed paths and, like the mighty and infinite Velero River, began a difficult struggle that unveiled the cynicism and impunity of the Mexican state and its armed forces.

Centro Tlachinollan, as a human rights organization, provided legal support to Inés and Valentina. Defending the impossible—and against the military—would mark the beginning of a new history for a country that idolizes the heroism of soldiers in times of war. Lovers of impunity tried their best to impede Inés's and Valentina's efforts, through a justice system that refused to let them speak their language, to take their declarations, or to offer them a doctor, a psychologist, or care as victims. They paid a price for their journey: Inés received threats to her family and

suffered the murder of her brother Lorenzo Fernández Ortega. Valentina had to flee her community and go far from her family. Nonetheless, their strength endured, like the steady stove fire that burns in our Me'phaa homes.

Ten Years of Struggle

Throughout ten years of legal battles, every possible door was closed in their faces. But they did not give up. As in most struggles, the number of people walking alongside them was small. However, a piece of anxiously awaited news arrived unexpectedly, in October 2010, during the *rùjua* (rainy) season, when the mountains turn green and are blanketed in a deep fog that obstructs any step, any word, and only the wood stove flourishes to share its heat and dry the moisture. That month, the news reverberated in the women's ears: the Inter-American Court of Human Rights had ruled in their favor, ordering the Mexican state to provide reparations in light of its responsibility for "institutional military violence."

One year later, the harsh policies of President Felipe Calderón occupied newspaper headlines thanks to the country's constitutional reform via a series of human rights amendments adopted in June 2011. The aim of this constitutional reform was to move from "individual guarantees to human rights and their guarantees" (Rodríguez García 2011).

A wave of political pressure took hold, as did reforms to the military courts. In the state of Guerrero, the cases of Rodolfo Montiel Flores and Teodoro Cabrera García, ecologists from Petatlán; Rosendo Radilla, from Sierra de Atoyac de Álvarez; Bonfilio Rubio Villegas, from Tlapa; and especially Valentina Rosendo Cantú and Inés Fernández squeezed a Pandora's box of impunity and forced the government to implement changes in order to ensure respect for human rights. But what about women's human rights? For Inés and Valentina, as well as many other women, this remains an issue to be resolved.

Inés and Valentina's court victories became a reference point for many universities and civil society organizations. This was due to the many elements found within the rulings: gender, poverty, indigenous people, and youth, together with a serious violation committed by the state's armed forces. Despite their arduous

struggle, the problem they encounter today is a government administration and justice system that is turning a blind eye to this precedent, which could benefit thousands of indigenous women and millions of nonindigenous women in the country. Reforming laws and restructuring care strategies for indigenous and nonindigenous women who suffer from violence does not seem to be an issue of interest for the state.

Over the last five years of the implementation process of the Inter-American Court's recommendations, the government has reluctantly taken steps in the right direction, but Inés and Valentina have been forced to wrestle with the negligence of the actors involved. At a meeting in April 2016, Inés, with the courage and authority that she always displays, called authorities "liars and hypocrites," since she had to demand that her rights be protected on various occasions. Interestingly, at each of these events, the government summons a doctor and a psychologist, but Inés and Valentina end up being the ones with the moral authority, presenting themselves as defenders instead of victims. Inés summarized this wisely: "Today, I'm no longer the poor woman who the soldiers had their fun with, I'm not the woman who begged them to believe her and who pleaded for a doctor or psychologist to help her. That was then. Now, I'm the one calling on you to do what you are obligated to do." The court's historic precedent has become the banner under which those who were once victims have undergone a metamorphosis into human rights defenders.

Indigenous Women: Justice Denied

"Human rights defender" refers to someone who spins like a wheel, not knowing what awaits them each day. Their *raison d'être* is to defend what is human; it is not limited to professions or specialties. It expands based on reason and on what is just. Being a defender is an extraordinary calling that nourishes the very being and faith of those of us who decide to become one. However, some people are obligated to become defenders as a result of the cruelty and malice of other human beings.

Achieving an in-depth understanding of the social context of the Montaña region, its cultural diversity, and its current dynamics is fundamental, as this is a place where human rights theory and discourse are still a distant dream. But things are changing. In

our journey as human rights defenders at Centro Tlachinollan, we have heard diverse testimonies from indigenous, rural, artisan, and day-laborer women. They have shared their ways of life and survival; some of their struggles have ended in legal victories. But even so, the judicial system fails to resolve their problems, which is why our organization must fight on their behalf.

We have also learned about who the women of the Montaña region are and what they are like. They are Me'phaa, Nahua, and Na'savi women who live in communities and are responsible for a range of tasks, such as caring for the home, working in the fields, performing community work, and traveling throughout—and even outside of—the country. They are women with ancestral identities, whose roles within their families are highly defined. Among these roles are being a mother, caring for and educating children, and performing other jobs in the household, such as preparing food and raising animals. Their difficult responsibilities also extend to religious rituals and celebrations.

Many of these women work tirelessly, earning income for their families through farming. They grow corn, beans, squash, coffee, onion, rice, hibiscus, and sorghum, and they have small backyard gardens. Some of them weave palm leaves to make hats and use waist looms to make *huipiles*, bags, and ponchos. Some of them move around the country as day laborers or even travel to the United States as domestic help; the professionals among them are largely trained as teachers.

At Centro Tlachinollan, we have identified certain patterns of behavior among the women of this region that are different from those of other regions. They are women of few words, quiet within their homes, serious during community assemblies, timid and fearful in settings with government entities. However, in their own collective spaces, they are very social: any kind of meeting or gathering among women becomes an opportunity for dialogue and prayer.

Women and girls have historically been taught and obligated to fulfill certain roles. Nonetheless, this is an issue that has slowly been under debate in various discussions on human rights that are taking place in the region. Some of these discussions talk about the symbolic and cosmogonic value represented by women and their resemblance to many of the female goddesses, while others

focus on the ideas of obligations and duties. In reality, we women are human beings and a fundamental part of any society. Using our communities' discussions on the reclaiming of ancestral visions of women's roles is the best way to reintegrate the principles of equality and reciprocity into our collective memory.

In any case, the women have indicated to us that their principal motivations are raising their children and purchasing land or a house. They achieve this objective through their households, which they chose to or were forced to establish, often at an early age, due to their limited opportunities for education and employment in the midst of extreme poverty.

In our years of work, we at Centro Tlachinollan continue to learn about the range of human rights violations faced by these women. Among such violations are physical and emotional harm, as well as the deprivation of liberty and life. Whenever a woman is in the process of separating from her husband, she faces the possibility of losing custody of her children (or being denied access to child support) and of being dispossessed of her properties, such as land and her house. Even a woman's infertility has been used as a grounds to justify stripping her of her assets.

Against this backdrop, an indigenous woman who speaks or understands little Spanish and has little economic means has a difficult time accessing justice. Some have told us that they had to bribe public servants in order to be able to access a right, which leaves them even more vulnerable.

In this way, every case that we support is a reflection of the systematic violence against women. To make matters worse, almost none of these cases enjoy the support of a public defender. This reminds me of the words of a Me'phaa grandfather who sought our assistance in defending his granddaughter, a young day laborer who was being abused by her husband's family. He told us, "I have to fight on behalf of my granddaughter, because she is the womb that brings life, she is the mother who protects, she is the light of day, she is the one who gives sustenance."²

The best defense strategy in a region with so much cultural diversity, and where family life is governed by community

2 Statement by a member of the indigenous Me'phaa Bathàà community, Tlapa, January 2016.

principles and rules, is to search for alternatives that generate better security conditions for these women. Going before a court or an agrarian entity that is marred by corruption and discrimination is not always sufficient for resolving women's problems or ensuring the protection of their rights as indigenous women or as farm laborers.

I witnessed this one day while I was at the office recording information on Delfina, a young Me'phaa woman farm worker from Azul River in the municipality of Tlapa. I will never forget her name because we happen to share the same birthday. She told me about how she had married at the age of fifteen. Throughout her entire life as a married woman, she spent her time working as a day laborer from one job to another in the farms in the north; depending on the season, she would harvest tomatoes, chilies, cucumbers, or melon. During that time, she carried four pregnancies, and her only chance to rest would be for a few days after each birth. The entire time, her husband abused her. All of the money that she earned as a day laborer—which involved working from 6 a.m. to 5 or 6 p.m.—was managed by her husband or parents-in-law. She never saw a penny of what she earned. At the end of 2015, they decided to return to her husband's village, San Pedro Acatlán. From that moment forward, he became increasingly violent with her. One day, Delfina couldn't take it anymore and fled with her daughters. She did this so quickly that she didn't have time to take any clothes or documents. That day in my office, her greatest concern—as well as that of her father, who accompanied her—was a subpoena issued by the State Public Ministry of Tlapa, which expressly requested her appearance.

Given that Delfina was a victim, she should not have had to make this appearance, and the entity did not have the authority to subpoena her. However, Delfina and her father insisted on her attendance. Several times, they told me, "We have to go. Our words must be heard, because they asked me for my word as a wife . . . We are not alone but we need one of you to accompany us."³

A lawyer colleague and myself, as interpreter, accompanied Delfina and her father to the meeting. The Public Ministry's office

3 Statement by a member of the indigenous Me'phaa Bathàà community, Tlapa, January 2016.

is a two-story rented house, with cement-colored walls. It attempts to resemble an office, with a few desks situated inside and hundreds of case files scattered over the floor. When we entered the building, Delfina, speaking quietly in Me'phaa, indicated that the father of her daughters, her in-laws, and a woman she didn't know were already there. We entered and introduced ourselves to the ministry's attorney. Speaking gruffly, the lawyer summoned the other party.

The lawyer addressed Delfina. "You're Delfina? I called you here today because he [pointing to the father of her children] wants to talk with you because you left the house and took your daughters with you without telling him." He looked at the father of Delfina's children and told him, "Go ahead, talk." The father listened to instructions from the unknown woman, who advised him in Me'phaa: "Tell him that she left and abandoned your home, that she should give back all the money you've spent on her, that her father should pay you what you paid for her." The young father, with a strong voice and without clear ideas, relayed in Spanish what the woman had just told him in Me'phaa, while the ministry's attorney stood there, paying little attention while he played with the sheets of a case file. He simply said, "Uh-huh, uh-huh." Meanwhile, Delfina responded, "You hit me, you have always abused me, you made me work and I never saw any of the money I earned. You are the one who owes me. All I want is for you to give me my things and my daughters' papers so I can enroll them in school." After Delfina finished, the lawyer simply said, "You two need to come to an agreement. If not, then we'll have to take the necessary actions." At that moment, the unknown woman told the father, "Let's go. We won't be able to fix anything this way," motioning toward us, and in Spanish said, "Then let the proceedings begin." They stood up and left. The entire meeting lasted barely ten minutes. Delfina's father, upset and with a knot in his throat, told his daughter, "It's my fault because I let him hurt you," while Delfina kept her gaze down.

The reality of this case, like so many others that we have supported, is that one of the parties bribes the Public Ministry to generate fear among the other party so that the second party is compelled to grant whatever is in the first party's interest. In Mexico,

there are no public policies or legal mechanisms aimed at helping indigenous women; the violence they face is not addressed as a matter of the public interest. In situations such as this one, we human rights defenders have to use all of the tools at our disposal to help women like Delfina obtain access to basic documents or needs that can be addressed through short-term administrative measures—for example, the decision to report domestic violence or to demand alimony.

In the meantime, Delfina must provide for her daughters by laboring in the fields, where she has perfected her techniques for picking fruits and vegetables. Depending on the season, she will have to journey toward the northern, central, or southern parts of the country. Like other women in her situation, she will not have the spare time to follow up on legal proceedings. Her aims are centered on earning enough money to support her children, regardless of the long workdays, less-than-minimum wage, occupational risks, negative health consequences, and precarious living conditions.

Day Laborers: Modern Slavery

For more than ten years, Centro Tlachinollan has supported and documented the difficult lives led by women day laborers, who are an increasingly vulnerable population. As has been described on many occasions (Rodríguez 2016), it is a model of modern slavery that is leaving human dignity in tatters. Agricultural day labor is a kind of employment that allows families only to cover their basic necessities. Women day laborers have high rates of illiteracy and malnutrition, live in communities with extremely low levels of human development, and are subject to a range of abuses (Centro Tlachinollan 2013).

This is what Francisca, an elderly woman from Ayotzinapa, an indigenous Nahuatl village near Tlapa, described to us when she visited our office with her four-year-old grandson, Panchito. She explained, “This boy is very mischievous, he wants to eat everything and then he falls asleep. I am no longer strong enough to carry him; before, when I was strong, I carried my children when we would go to Sinaloa. His mother, before she was killed, also carried him while she worked, cutting chilies, tomatoes, with her son on her back while she finished her harvesting

tasks for the day or sometimes while she was pregnant, she kept on working because she had to. It's hard."⁴

According to a report published by Centro Tlachinollan, entitled *The Mountains of Guerrero: Land of Migrant Women* (2013), of the approximately 600,000 indigenous people living in the state of Guerrero, 80% are concentrated in the Montaña region. In addition, more than 49,000 day laborers from 362 communities migrated to the country's interior regions between 2006 and 2012. These indigenous people have created migration pathways in at least seventeen different states in Mexico. Among them, Guerrero is one of the states with the highest numbers of migrant day laborer working in the fields of northern Mexico.

This phenomenon was affirmed to us by Juana Ramírez, or Juanita, as we call her at Centro Tlachinollan. Juanita was born in the town of Ayotzinapa, in the municipality of Tlapa. It is not the Ayotzinapa of the disappeared boys; it is a different one, but similar. It is a Nahuatl town located an hour from the city of Tlapa that is well known among this indigenous population because it is one of the first places whose residents began to migrate to Sinaloa to work as farm laborers. This is what Juanita did when she married at the age of fourteen. As is customary, she would travel to other parts to harvest tomatoes for long seasons and then return to Ayotzinapa for the town's festival or Day of the Dead.

All of her income went toward the construction of a house and purchasing whatever was needed by the family, food or otherwise. Living close to one's in-laws is a rule among the Nahuas, especially for the women. As the years went by, Juanita never got pregnant, which became a problem for her husband and her in-laws. Eventually, the couple decided to take in and raise two little children, a girl and a boy, thinking that this would alleviate the situation. Unfortunately, it did not prevent her husband's constant rebukes. He eventually brought a new partner to the house, which was an unacceptable alternative for Juanita, who, in the meantime, resigned herself to her supposed infertility. Living in the same space as another woman was the same thing as accepting the words and conditions of others. Juanita's problems, and

4 Statement by Francisca de la Cruz Modesto, member of the indigenous Nahuatl people, January 2016.

the abuse she suffered, grew worse until one day in 2009, when she decided to leave her husband.

She went to work for several months in the fields in order to provide for her children, and each time she returned to Ayotzi-*napa* she would go back to her house. One day, she came across her ex-husband there, and they began to fight over the house. According to her ex-husband, Juanita had to leave the house because she was no longer his wife. The fight ended in aggressions between Juanita, her ex-husband, his new partner, and Juanita's ex-mother-in-law, which led her ex-husband to sue her for injuries against his family.

The legal proceedings became a tool for him to pressure Juanita to leave the house. During that time, Juanita continued to work as an agricultural day laborer in order to pay for the costs of the lawsuit and to support her children.

Meanwhile, Juanita found a new partner and became pregnant with little Guadalupe, "la Lope," as she endearingly called her. The problem of her infertility—of the "worthless woman," as her ex-husband would accuse her of being—had been solved. Her life with these three little children began anew, and her pregnancy became a huge motivation. Now her goal was to prove her innocence in the lawsuit.

What Juanita did not expect was that her biological maternity would bring more complications from the community and her ex-husband's family. In 2013, she faced two separate sets of legal proceedings: one for the offense of bodily injuries, in which she was able to maintain her liberty by paying bail, and another linked to an arrest warrant. The pressure and aggression from her ex-husband's family culminated one day in their throwing her things outside and locking her out. This forced Juanita to seek refuge with her parents.

Nonetheless, she refused to abandon her home completely. Even though she didn't live there anymore, it was her only asset, built from years of sweat in the fields, and so at the end of that year she went back to her house to retrieve some personal documents. When she arrived, her ex-husband hit her so hard that she lost a tooth, and he raped her. Juanita filed a criminal complaint and, following a long process, in 2015, her ex-husband was arrested and then freed some time later.

Her story does not end there: Juanita now faces pressure from her ex-husband's lawyers and family to drop her charges in exchange for him dropping the initial complaint against her. Juanita's struggle has kept her standing despite the economic difficulties of needing to travel from Tlapa to Ayotzinapa to sign her parole papers, comply with court injunctions or other instructions, or request information.

During these last two years, she has been unable to travel to the fields to work, as the legal proceedings have demanded all of her time and energy. She explained to us in a friendly and pleasant tone:

I figure it out. Sometimes, I don't have the money to come to Tlapa, so I ask to borrow money or I come to work for a couple days to earn transportation money, sometimes there's work and sometimes there isn't. When I can't find enough for the fare to Ayotzinapa, I stay here to work in day labor. My daughters want me to bring them here to see Tlapa; even Lope says, "Mom, you always go to Tlapa, I want you to take me." I would like to bring them, but you need money for that since, you know, children ask for a lot, they want this and the other thing, and as an adult we can bear the hunger, but how do you do that with little kids. I told them that one day when I have the money, I'm going to take them.⁵

During the time in which Centro Tlachinollan has been supporting Juanita's case, Maribel, my lawyer colleague, the public defender, and Juanita have managed to comply with all of the court requirements. However, bad news arrived for Juanita in November 2016, when she told me sadly, "The lawyer says that the ruling was handed down for a year and three months." In effect, the proceedings for the offense of injuries to her ex-husband's partner led a judge to sentence Juanita to prison.

Another issue that Juanita has had to struggle with before the trial attorneys is that, on many occasions, they stigmatized her when she would appear before court. They insisted that she had the ability to defend herself against rape due to her being so large and her husband being so thin. This situation often unleashes misogynistic attitudes among lawyers.

5 Statement by Juana Ramírez Marcos, member of the indigenous Nahua people, April 2016.

The judge's ruling is infuriating for those of us who know and support victims and their families, particularly when, in the course of dispensing justice, there is not even the slightest notion or sensitivity of the situation faced by indigenous women in the region. Juanita's case leaves us with many lingering questions: What mechanisms might have been used by a judge who reads, on a daily basis, cases about indigenous people living in one of the most vulnerable regions of Mexico and Latin America? What social conditions were taken into consideration when the judge ruled against Juanita? How can a judge sentence a woman who has fought her entire life to survive and has had to bear the weight of hunger, poverty, and violence? In theory, a judge should have the answers to these questions and should have the appropriate legal knowledge to determine what is fair. Despite the denigrating conditions she has experienced, Juanita has faith that she will find a reason that tells her that she is not at fault for her existence or misfortune.

Fear of What?

The accounts provided in local newspapers from the state of Guerrero talk about the dire situation of violence against women and femicide. When we look at the numbers, this reality passes by unnoticed. We often do not connect the numbers that we see in the newspapers with our daily lives and with our friends, family, acquaintances, and coworkers. We do not distinguish the victims or their oppressors in those numbers. In Guerrero, we have learned to survive and carry the cross of violence, of an endless war.

There is a newspaper in Guerrero called *El Sur de Guerrero Acapulco*, to which Centro Tlachinollan contributes opinion pieces expressing its concerns. This daily newspaper publishes in-depth stories about the reprehensible conditions in which thousands of women live, as well as the impunity in hundreds of cases. It shows how violence has become a daily way of life for the new generations.

The statistics on women published by *El Sur* are terrifying (Navarrete Romero 2016a). The newspaper undertook the exercise of counting all of the news stories on the deaths of women and the conditions in which they occurred during 2015. The results were horrifying: 162 murders, 19 of which occurred with firearms; the

remainder of the victims were stoned to death, choked, had their throats slashed, dismembered, or beaten to death. In at least six cases, the women were presumed to have been raped, due to the conditions in which they were found—without underwear or half-naked. Of the 162 murders of women, 75 occurred in Acapulco, 16 in Iguala, and 12 in Chilapa. The remainder occurred in Pungarabato, Huitzucó, Tlapa, Tlacoachixtlahuaca, Tepecuacuilco, Chilpancingo, Taxco, Tixtla, Ajuchitan del Progreso, Zumpango, and Ahuacotzingo.

In Tlapa specifically, each morning the tabloids print at least one story of some kind of violence against women, with inappropriate and stigmatizing language. There are cases of domestic violence in all its dimensions, together with cases of the deprivation of liberty, dispossession, suicide, and femicide. The question is when such cases will come to an end in a region where there is just one public prosecutor for cases involving domestic and sexual violence. On top of this, the vast majority of these cases are not included in the government's official statistics on violence against women.

In one case that we supported at Centro Tlachinollan, I wrote the following notes:

One morning, Berta arrived [at the Public Prosecutor's Office] with her husband Pedro, after a four-hour journey from Iliatenco to Tlapa. They wanted to report the rape of their little granddaughter María, who was 11 years old. Their explanation in Me'phaa described the acts that had taken place that day. It was their first visit to this place, a two-story house on Guerrero Street, without any distinguishing color. Sheets of plywood separated one space from the next, where surely everyone could hear the atrocious account being narrated, including a few women who were in the waiting area. We began to translate the girl's testimony as the lawyer took notes on an old computer. Showing a mixture of anger and impatience, she interrogated María and her grandparents. Our support consisted of helping her feel a little less worse than she was already feeling. It took the whole day, and not even a medical examiner, psychologist, or translator came by—who would it be? There weren't any.⁶

This is the reality of indigenous areas such as the Montaña region. In places such as the Public Prosecutor's Office, we women

6 Author's personal notes.

face humiliation, when what we want is to be able access professionals in the criminal justice system who speak and understand our language and way of life, who believe us. When entering these settings, we also want to not feel scared; we wish these places would not feed our sensations of despair, anger, and hate. We wish they would instead be places where being indigenous and being a woman is not something shameful or disgraceful, as they would have us believe.

The Problem in Numbers

Violence against women is on the rise at both the local and the national level, despite the discrepancies between official and non-official figures. Some examples are the following records:

- In its 2016 report on the human rights situation in Mexico, the Inter-American Court of Human Rights notes that seven women were murdered each day in Mexico between 2013 and 2014. During 2011–2013, the states with the highest numbers of women murder victims were Guerrero, Chihuahua, Tamaulipas, Coahuila, Durango, Nuevo León, Morelos, Zacatecas, Sinaloa, Baja California, and Mexico (Inter-American Court of Human Rights 2017).
- According to the National Institute of Statistics and Geography, in 2011, Guerrero had the highest number of femicides, ranging from six to thirteen murders for every one hundred women (Instituto Nacional de Estadística y Geografía 2011).
- A study by the National Institute for Women, UN Women, and the Secretariat of the Interior revealed that in 2014 alone, there were 2,289 gender-related killings of women (Instituto Nacional de las Mujeres 2015).
- Local reports published by Centro Tlachinollan on indigenous and *mestiza* women supported in the Montaña and Costa Chica regions during 2014–2016 reveal 692 cases concerning violence against women, including femicide (Centro Tlachinollan 2014, 2015, 2016).

With regard to this last point, we were able to conclude that most of these murders were committed by the women's partners (husbands or boyfriends) under extremely denigrating

circumstances. Moreover, many of the victims were found in a state of defenselessness, particularly when they were in the process of separating from their spouses. Currently, most of the perpetrators who have been captured are being prosecuted for crimes of passion and not for aggravated homicide.

In the face of Guerrero's governance crisis after the tragedy of September 26–27, 2014, in Iguala (Hernández Navarro 2014),⁷ the increase in violence against women continues to be a worrying topic. This led civil society to call on the government to issue a gender alert—a mechanism aimed at protecting the lives, liberty, integrity, and safety of women and girls—in Guerrero. Once such an alert is issued, governmental agencies are obligated to take urgent steps to eradicate and punish anyone who commits any type of violence against a woman.

However, for the state and its institutions, carrying this out is impossible. We can thus see the government's inability to address this phenomenon. In June 2016, the government's own secretary of the interior, Miguel Ángel Osorio Chong, said in the capital of Chilpancingo, "[State entities] shouldn't be afraid of the gender violence alert" (Navarrete Romero 2016b). Thus, the Guerrero Public Prosecutor's Office has not published statistics on murders of women, nor on the state's rates of violence. Once again, the numbers cloud reason and the reality that requires the state to prevent and repair harm for which it is partly to blame.

Flor

Another testimony that captures this reality is that of Flor, whose name I have changed out of respect for her memory, the pain of her family, and the slow legal process that has already taken three years. It was the end of August 2014 when Flor was deprived of her life in front of her daughter Luz, who at a mere four years old was witness to the violence that killed her twenty-four-year-old mother. Flor's mother, Lidia, told us that it happened on a Sunday afternoon. Flor had decided to come down from the hills where she had been living for a few months since separating from her husband. She needed to go to the town's health center to claim her

7 On this date, forty-three students from a rural teachers' college were forcibly disappeared.

daughter's food supplements, which the government provides to small children or those with nutritional problems. Concerned about the long distance and the rugged terrain left by recent rains that season, Lidia accompanied her daughter to the point where she had to cross a stream that emerges from the mountain, making the journey even more difficult. Lidia never imagined that it would be the last time she would see her daughter alive.

The other women who went to the health center that day to claim their children's food supplements told us that Flor had waited with little Luz for her turn, along with the others. Since that afternoon the mountains became cloudy and the rain returned with greater force, Lidia grew concerned and walked once again to the creek to see if Flor had gotten to that point, but she didn't see her there. She became even more worried, given that her daughter was alone with her little daughter; and in light of previous threats, she thought that her daughter would have sought refuge with a family member in town. That night was the longest of her life; she was awake all night with worry, and rose before dawn to crush corn to make tortillas that she could take to them. She thought that at that hour, before the sun came up, the creek's water level would have gone down and it would be easier to cross in order to continue her search. She asked Rosa, Flor's only sister, to go with her.

They left early, before sunrise. Crossing the river, they made their way toward the first place they thought Flor might be: the house she and her daughters had lived in until three months ago. They walked along a trail enveloped in pine trees, which made the morning darker. In the moonlight, as they got closer to the house, they came upon the first strange sign: recently used cigarette butts strewn across the damp earth, an indication that people had been there. They continued walking, and as they neared the house, they could see the silhouettes of a few individuals they recognized. Their minds were racing with worry, but they decided to wait a few seconds.

When the two women got to the house, they realized that the front door was ajar. It seemed that it had not been properly shut. Lidia pushed it open and began to call for her daughter in Me'phaa: "Where are you, Flor? What are you doing?" It was dark inside, and nobody answered. Lidia went out to the yard. Next to

the adobe house was a little kitchen area made of sugarcane stalks and cardboard. She stepped outside but didn't see anybody. Rosa approached and joined Lidia in searching behind the house. Lidia tried to turn the lightbulb on, and when it didn't illuminate, she went back inside to look for the switch. In one of the two rooms there was a bed, and she saw someone lying down. She figured that it was her daughter and said, "Get up, it's morning already." When Flor didn't respond, she lifted up the blanket. She found her daughter bloody and dead. That moment, Luz, her granddaughter, appeared from under the blankets making gestures and trying to cry. Lidia, with deep sorrow, hugged her granddaughter. Lidia felt a sensation of anger and helplessness wash through her thin body because everything, including nature, seemed to be against them. Her fears and hunches from that morning had ended in this horrific and painful scene.

What else could be done that morning? Whatever they tried to do would be fruitless in bringing back Flor. But even so, they sought help from the community authorities, who paid little attention to them and took a long time to alert municipal authorities about what had happened and to pick up the body. It took an entire day for these authorities to arrive; meanwhile, Flor's body remained there, radiating pain and suffering.

Once the authorities came to the house and inspected the scene, they told Lidia and Rosa that Flor's body had to be taken to Chilpancingo in order to undergo the autopsy. Neither of the women understood what this was or why it was needed; no one explained it to them in Me'phaa. As they recounted to us at Centro Tlachinollan, local authorities and other individuals who were present that day convinced them that the autopsy wasn't necessary since Flor was already dead and they didn't have the money to pay for it. In the face of this pressure, afraid of being unable to afford the autopsy, they decided to bury Flor quickly, against Me'phaa tradition.

As if this were not enough, Luz had to be hospitalized in Tlapa because she had several injuries. That is where we met the family, when a social worker colleague requested Centro Tlachinollan's help in light of the seriousness of the case. That day, despite my role as an interpreter, it was not easy for me to translate Lidia's words. She was in so much pain, and her words were clustered

together with tears and grief. In the meantime, little Luz appeared disturbed and uncomfortable, suggesting that there was something more to her injuries. Something was clearly wrong. Neil, a colleague of mine with many years of experience at Centro Tlachinollan, managed to get her an appointment with a specialist, as well as a tomography. We never imagined that Luz's diagnosis would give us clues to decipher the cause of her mother's death. Luz had suffered a head injury that was causing bleeding near her brain. Luckily, surgery and the attentive care of her grandmother facilitated her recovery.

Lidia had no other option than to agree to have Flor's body exhumed so that we could be certain about what had caused her death. We suggested this option knowing that it was an extremely delicate issue culturally and religiously for indigenous families in the region, as death is deeply respected.

Following a legal process, the day of exhumation finally arrived. In my brief career as a human rights defender, this was my first experience of such a procedure. Interpreting was not an issue; my concern was figuring out how to get through the event without falling apart. And if it was difficult for me, who has no relation to Flor, for her family it was exponentially more so. The whole ride there, I thought about the thousand different ways to respond in any given scenario. I arrived to the site in the company of forensic scientists, Public Ministry staff, ministerial police officers, and colleagues from Centro Tlachinollan.

When we arrived, Lidia was already in the cemetery, accompanied by members of her community, who provided her with encouragement and support. Her presence was required to show them where Flor's grave was; once she did that, she left. In spite of her pain, her face showed strength. Meanwhile, a few trusted young men helped carefully excavate the grave and remove the casket, as instructed by the exhumers.

Inside the coffin, Flor wore the clothing that Lidia and her family had carefully arranged for her. But this was of no interest to the exhumers. Haphazardly, they began to remove the body and the other contents of the coffin. While one of them inventoried the contents, the other carried out the instructions of the forensic doctor, who slowly inspected the body. His revision was a careful one that revealed the victim's suffering. It was a very tense

and lonely moment. The odor of Flor's decomposing body permeated the air, our clothing, skin, and face masks; my lips were dry and bitter from a smell that overcame the *copal* (a sacred incense) that was burning over a small flame.

My colleagues and I exchanged few words beyond our gazes of indignation and injustice. The time that the procedure took allowed me to recall my anatomy lessons from grade school, as I stood and watched the process from a respectable distance. It was an extremely tense experience that tested all of my feelings as a woman. Just a few minutes before the forensic doctor finished his exam, I decided to leave, returning only to interpret for the young men who put the coffin back in its place. In the distance, I could see Lidia trying to maintain a conversation with her women friends, perhaps to distract herself.

The forensic doctor's final diagnosis was different from the one initially provided by the Public Ministry. Flor's cause of death was a blow to her skull that caused brain hemorrhage and instant death. This confirmed Lidia's account of the crime scene, as she had stated that when she found Flor there was a hammer to one side of the bed.

Many questions arose during the investigation. Lidia's testimony was key, as she pointed out that a few days prior, she had accompanied Flor to the Municipal Ombudsman's Office to claim child support from Flor's ex-husband. At the office, the ex-husband demanded custody of one of their daughters in order to avoid paying support, as well as some household appliances. When he failed to get what he wanted, as they stood in the hallway of the office, he threatened to hurt her. Coincidentally, the night of Flor's death, the appliances that he had asked for went missing.

Flor's death was a case of femicide that was not of any particular importance for prosecutors. After many months of pressure, they reluctantly continued their investigation, eventually issuing an arrest warrant for the alleged perpetrators and capturing the husband.

Conclusion

In regions characterized by social inequality, discrimination, and gender exclusion, dignity is not valued and injustice is weaved among hunger and pain. However, it is this pain that has allowed

these women to transcend their difficulties. Hundreds of women like Inés and Valentina who have been victims of violence and impunity encounter barriers in defending their rights and those of others. We women of the mountains must stay standing and struggle each day as we have been doing, with the decorum and dignity of being women. Many of us are part of a new generation that seeks a fresh start to our history, our identity, our role in the world. As we say at Centro Tlachinollan, we want to break the wall of impunity.⁸

One of the challenges facing civil society organizations is being able to offer leadership to victims and their families that allows them to rebuild their social and community identity. We have perhaps forgotten that our daily labor transcends international human rights mechanisms and agendas. We are a space for a progressive philosophy based on the knowledge and experiences of thousands of people, whose stories offer reflections on how to build a world that includes respect between men and women.

Women's struggle is like the earth from which corn sprouts to give us food. Within each woman is that strength, that boundless desire for life—as shown by Inés, Valentina, Juanita, Lidia, Flor, and hundreds of women who have found the secrets of life through their resistance, in order to bring truth and justice to more women in the world. They are the ones who discovered their secret gifts in the face of pain; as narrators of the world, their words have become truth and wisdom. For Inés and Valentina, the teachers and defenders of human rights, today—after years of struggle—they face new challenges: ensuring conditions of equality and respect for thousands of women, and pursuing the implementation of sentences that are not just for them. Valentina is doing this through an emblematic 2018 sentence condemning her aggressors, in which, for the first time in Mexico, officers were tried in a civilian court. She was born to bring truth and justice to the world, a secret that life gave to her at an early age. Whether in times of *rùjua* (rain) or *rú'phuu* (drought), justice will come to the mountains and the world will flourish.

8 See the blog with this same name (*Rompe el muro de la impunidad*): <https://justiciaporinesyvalentina.wordpress.com>

References

- Centro Tlachinollan. 2013. *La montaña de Guerrero: Tierra de mujeres migrantes*. Tlapa: Centro Tlachinollan. <http://www.tlachinollan.org/informe-la-montana-de-guerrero-tierra-de-mujeres-migrantes>
- . 2014. *XX informe de actividades: La montaña de Guerrero: Destellos de justicia y esperanza*. Tlapa: Centro Tlachinollan.
- . 2015. *XXI Informe de actividades: Desde las trincheras de Ayotzinapa; La defensa por la educación y la vida de los hijos del pueblo*. Tlapa: Centro Tlachinollan.
- . 2016. *XXII informe de actividades: ¡Pueblo indignado! Resistir con el corazón por delante*. Tlapa: Centro Tlachinollan.
- Inter-American Court of Human Rights. 2017. *Annual Report 2016*. San José, Costa Rica: Inter-American Court of Human Rights.
- Instituto Nacional de Estadística y Geografía. 2011. *Informe 2011 actividades y resultados*. Mexico City: Instituto Nacional de Estadística y Geografía.
- Instituto Nacional de las Mujeres. 2015. *Informe de labores del Instituto Nacional de las Mujeres 2014*. Mexico City: Instituto Nacional de las Mujeres.
- Hernández Navarro, Luis. 2014. "Ayotzinapa y la matanza de Iguala." *La Jornada*, September 30. www.jornada.com.mx/2014/09/30/opinion/021a2pol
- Navarrete Romero, Carlos. 2016a. "En Guerrero 162 mujeres fueron asesinadas en 2015, pero el gobierno se niega a declarar alerta de género." *El Sur de Guerrero Acapulco*, March 7. <https://suracapulco.mx/impreso/2/en-guerrero-162-mujeres-fueron-asesinadas-en-2015-pero-el-gobierno-se-niega-a-declarar-alerta-de-genero>
- . 2016b. "No se debe tener temor a la alerta por violencia de género, dice Osorio Chong en Chilpancingo." *El Sur de Guerrero Acapulco*, October 29. <https://suracapulco.mx/impreso/1/no-se-debe-tener-temor-a-la-alerta-por-violencia-de-genero-dice-osorio-chong-en-chilpancingo>
- Rodríguez, Luis Carlos. 2016. "Morir en el Surco: Jornaleros agrícolas y la esclavitud moderna." *México Nueva Era*, September 5. <http://mexiconuevaera.com/nacional/estados/2016/09/5/morir-en-el-surco-jornaleros-agricolas-y-la-esclavitud-moderna>
- Rodríguez García, Arturo. 2011. "Promulga Calderón reforma a derechos humanos." *Proceso*, June 9. <https://www.proceso.com.mx/272175/promulga-calderon-reforma-a-derechos-humanos>

CHAPTER 3

Surviving in the City: Indigenous Migration in Northern Brazil

Isabela do Amaral Sales
(Brazil)

*We Indians are also urban
We build homes, stereotypes
We produce books, LEDs, stereotypes.¹*

In the picture, the woman is holding a little girl in her arms. As she hugs the child, she stands with her back to a barricade of police officers in combat position. They are armed and holding shields. Behind the officers are tractors and machines ready to comply with the judicial order to tear down the indigenous community's makeshift houses. The photograph became world famous and won an international prize.² Valda, the woman in the picture, lost her house, her belongings, and a bit of hope.

Like her, many indigenous people have left their traditional territories to settle in the city in the hopes of rebuilding their lives in a free and fair society founded on social harmony, as stated in the Brazilian Constitution, but without losing track of their traditions and their special relationship with land. Or at least they do this until court-ordered displacement is handed down and they are forced out of their homes without prior notice.

This chapter explores these transitional lives, built on top of lands that—while perhaps not agriculturally productive—have their caretakers and where there is no room for anything different. The stories that follow demonstrate indigenous resistance against a cycle of poverty and misery found on the outskirts of

1 Excerpt from the song “Índios urbanos,” by Gil Valente, a Brazilian composer from Amazonas.

2 See <http://www.overmundo.com.br/overblog/expulsos-da-terra-a-foto-premiada>.

one of the Amazon's most enchanting cities: Manaus, the capital of the state of Amazonas, in northern Brazil.

Indigenous people? In the city?

The first time I saw them in my neighborhood was in 2008. They were on their way to some kind of activist meeting. Some had paintings on their arms and wore headdresses made of blue feathers. Others simply wore necklaces made of seeds.

I had just entered law school at Amazonas State University and was impressed by the possibilities offered by this new universe that was my university. Four students in my class were from a region of the country that had always piqued my curiosity: the mysterious upper Negro River, which cuts into northern Brazil from Colombia. Perhaps that is why I always viewed these classmates with a certain level of admiration and intrigue. Some were often part of the small group of students, myself included, who would take the bus after class, chatting about our future, uncertain job prospects, life plans. Some of them also wore seed necklaces, but if they hadn't spoken of their ethnic identity, they would have seemed—like myself—just like any other student with dreams and hopes for better days.

The paths of the indigenous people in the city that I was able to witness always reminded me of that: dreams, hope, and good living.³ Before the formalism and bureaucracy of the law could take hold of my reasoning, I saw the city as a space for ethnic affirmation and democratic coexistence among different groups.

But not all Brazilians have had the privilege of living with and learning from “relatives.”⁴ In March 2008, the same indigenous

3 For the indigenous people of the upper Negro River, “good living” is the state of plenitude that allows them to live in physical and spiritual equilibrium with nature and the environment (Herrero and Fernandes 2015).

4 In northern Brazil, indigenous people commonly refer to other indigenous people as “relatives” (*parentes*)—that is, someone who is part of the same family. As Gersem Baniwa explains, “The term *parente* does not mean that all indigenous people are the same or similar; rather, it means that they share certain common interests, such as collective rights, a history of colonization, and the struggle for their community’s sociocultural autonomy in the face of global society” (Luciano 2006, 31).

people who lived in my neighborhood and who were trying to organize a housing movement were victims of the first eviction operation against indigenous people in the city of Manaus.

The site, known as Blue Lake, consisted of more than 180,000 square meters near the highway, along which poor families had built huts and shacks. At least 200 of these families were indigenous people from different parts of Amazonas (Almeida and Santos 2009). The occupants had arrived about two weeks earlier and were still trying to work with relevant government agencies to get the required property titles and other authorizations needed to settle there.

In a large and diverse state like Amazonas, there are many reasons behind indigenous communities' migration to the city of Manaus. Among them is the lack of protection of indigenous territories, which results in frequent encroachments on their land and unbridled exploitation of their natural resources, in turn making it hard for these communities to sustain a livelihood: fish become scarce, hunting and gathering sites grow threatened, and illegal logging is pervasive.

Furthermore, Amazonas is one of Brazil's most problematic states in terms of property titles, which means that land-related conflicts are frequent and usually violent. Many indigenous communities—if they haven't been displaced by violence—have been forced to live alongside serious threats and restrictions emanating from territorial disputes.

Moreover, many communities have experienced systematic changes to their customs and traditions due to the lack of effective incentives and policies on ethnic recognition. This has come hand in hand with the rollout of financial assistance programs that lack appropriate cultural considerations. With increasing direct contact with society in general, as well as direct access to money and goods, indigenous communities' traditional activities become less interesting, inducing community members to enter the labor market, especially through informal and poorly paid work.

That said, since the labor market seeks professionals with formal education, indigenous people move to the city in search of access to schooling, as well as new employment opportunities. In this sense, securing professional training is a way of showing that indigenous people are also capable of being good employees and

occupying important career paths. Quotas and affirmative action policies allow indigenous individuals to enroll in universities, but many times they do so without any financial assistance.

Like many indigenous settlements in Manaus, Blue Lake brought together this universe of complex relations as a result of land-related conflicts and nonexistent or poorly applied public policies. But this welcome diversity was not enough to prevent, in March 2008, the site from being invaded by the police as part of a large-scale and violent operation. Tractors and other heavy machinery toppled occupants' shacks. Police officers snapped indigenous people's arrows in half, an action considered humiliating by indigenous people. Families were displaced, most of them with nowhere to go. Those who resisted were met with tear gas and other types of force. Within the span of a few hours, Blue Lake was reduced to a mountain of rubble, tears, blood, and blighted dreams.

Most of Blue Lake's inhabitants sought refuge in the homes of relatives or moved to other informal settlements. Some families received financial assistance from the government in order to pay for a few months' rent. Nonetheless, two weeks later, some families were still piled into makeshift huts on a narrow stretch of land on the edge of the street, waiting for who knows what (Almeida and Santos 2009). They were never promised anything by the government, even after their eviction.

Irاندوبا and the Diaspora

Years later, in 2013, I started a master's in environmental law, where I got to know the New Social Cartography of the Amazon Project, for which I would later become a researcher. The project began with a course on the rights of urban-dwelling indigenous people. Many of the indigenous in the city were among those displaced from Blue Lake. They were still in Manaus, in other indigenous settlements.

At the time, I had just become legal counsel for the Public Prosecutor's Office (Ministério Público Federal, or MPF) in Amazonas. Even though it isn't part of the judiciary system, the MPF is a public organization that can prosecute, act in the public interest, and operate as a defender of democracy and collective rights.

My first visit was to an abandoned garage where some indigenous families lived. In total, there were about forty people. The

garage was in the city's oldest neighborhood, located downtown, behind Manaus's biggest hospital. There, the residents—including children—lived in crowded conditions among broken-down cars and an abandoned hardware store. There, amidst garbage and stagnant puddles brimming with bugs, they tried to survive.

During the visit, the local leader told us that all the families had come from Blue Lake, and, without any other housing options, the National Indian Foundation put them in the garage site temporarily. The foundation is a federal government body that is responsible for official indigenous policy. This improvised housing solution, which should have lasted only a few days or weeks, had lasted years. However, the Public Defender's Office filed a lawsuit in order to find alternatives for the families living in the garage. In the process, a court decision awarded temporary financial support to the families so they could rent homes, where they live today. Additionally, the visit to the garage proved that Blue Lake was the first episode involving the diaspora of indigenous people in the city of Manaus. I confirmed this in meetings with indigenous leaders that I attended while working on this case.

In fact, since March 2008, the spatial trajectory of indigenous people in the city has alternated between times of scattering and times of gathering. One of the most relevant times of gathering after the Blue Lake episode was the informal settlement named "God is with us." There, already displaced indigenous families, together with those who had recently arrived from their traditional rural territories, settled in shacks in a large area located on the edge of the highway connecting the municipality of Iranduba with the capital of Manaus. Even though it was an unoccupied area, one part was supposedly privately owned and another belonged to a religious group. After construction of the bridge over Negro River, which connects Iranduba to Manaus, the area—surrounded by federally owned alluvial plains and riverbanks—became an object of great interest for development.

To gain strength, the "God is with us" settlement was organized by both indigenous and nonindigenous people. As a result, in just a few weeks, the number of occupants tripled, to almost 4,000 people. Due to the large number of people settling simultaneously, each one looking for a piece of land, the demand for a place to live quickly grew out of control, with the illegal sale

of lots, extortion among squatters, and, even worse, intense deforestation.

While this took place, the media portrayed indigenous people as the main culprits of criminal activity, frequently accusing them of being thieves and invaders. One local radio station, whose biggest shareholder owns land in the same city, dedicated at least half an hour every morning to the topic, painting the indigenous people as lazy freeriders and accusing them of promoting the “invasion industry” (Tiradentes 2013). Ignoring indigenous peoples’ right to self-determination as recognized by international human rights law, the media propagated the idea that the occupants weren’t truly indigenous people, specifically because they lived in the city and used cell phones and vehicles.

As argued by Fredrik Barth, ethnic boundaries are what defines a particular group’s identity (cited in Poutignat and Streiff-Fenart 2011). In this case, the press, which represents the interests of landowners, was used as a tool to stigmatize the indigenous people. At the same time, it came to light that ethnic borders can become unsurmountable barriers between groups, especially when there is a dispute between unequal forces. Meanwhile, the private landowners of the occupied zone filed a lawsuit with the objective of evicting the occupants and recuperating the land.⁵ As a result, on July 31, 2013, the court ordered the occupants’ removal. However, before the ruling was enforced, the indigenous occupants requested help from the MPF—where I was working as legal counsel—to avoid being evicted.

Regardless, in the face of the landowners’ claim, there was no existing legal standard that would have allowed the occupants to remain in the area under such circumstances. As a result, our only possible legal strategy was to try to buy time until an out-of-court solution could be reached with governmental land agencies. Therefore, one of our strategies was to try to have the suit moved to federal court on the grounds that, under the Brazilian Constitution, when a case involves collective indigenous rights, it needs to be processed by federal court authorities.⁶ Furthermore,

5 Process number 0000745-12.2013.8.04.4601 is available to the public at www.tjam.jus.br.

6 In Brazil, judicial power is expressed through federal, electoral,

we discovered that a small part of the area in question belonged to the National Institute of Colonization and Agrarian Reform, the federal government's main land agency, which reiterated the need to send the case to federal court since the case dealt with lands belonging to the nation.

Accordingly, we needed to request the case's transfer to federal court and obtain a suspension of the decision. We had to act quickly so that our request to transfer the case would arrive before the eviction order was carried out. As if the urgency of the situation wasn't enough, we found ourselves with a problem: since the government's federal-level judicial processes are conducted via an electronic processing system, we also needed to send the request to the local judge via this system, but no one in our office had access to it (since, up until that point, our office worked only on hard-copy proceedings). Unfortunately, it was not the first time that this electronic system worked against the defendants. Presented as an eco-friendly and efficiency-oriented alternative, the electronic system turned out to be a genuine obstacle to accessing justice.

After insistent pleading to have officials accept the petition via email, two days later the eviction order was suspended and the case was submitted to a federal judge. However, without anyone being informed, another claim was being processed by the state court in the city of Iranduba. A lawsuit had been submitted by the religious entity that owned part of the land with the objective of evicting the occupants.⁷ In response to this lawsuit, the presiding judge determined that the owners could recuperate the land, and the police had already been summoned to comply with the order. This set off a new race against time that encountered yet another challenge: my boss was on vacation, so a delegate with sufficient authority was needed to sign our appeal to suspend the eviction and authorize its delivery to the federal court so this claim could be decided on in conjunction with the first. At the end of the day,

labor, and the common justice systems. The Constitution reserves some cases, such as those dealing with the collective rights of indigenous peoples, for federal courts. Other cases are processed in the common state justice system.

7 Process number 0000774-62.2013.8.04.4601 is available to the public at www.tjam.jus.br.

I found another lawyer to sign the petition who appreciated the complexity of the matter. In that moment, I wished I had enough professional autonomy to sign all the necessary claims according to my professional criteria—a level of authority that I didn't possess in the position of legal counsel.

Having overcome that challenge, it was once again necessary to ensure that our petition reached the judge. This time, however, we weren't fortunate enough to benefit from the good will of the court officials. I didn't hesitate: I requested help from the MPF's transportation department and we traveled personally to the city of Iranduba to deliver our request to the judge. The city is located about an hour from Manaus, but, as we anticipated, the judge was not in the city. I waited for forty minutes until a staff member allowed me to speak with the judge over the phone, and he promised to review our petition the next morning.

The rest of that day and the following were filled with intense anxiety and many calls from the indigenous residents, who were worried about being evicted at any moment. That night I hardly slept, and my anxiety was shared by my boss, who, despite being on vacation, was following the case remotely and remained on top of things.

The wait seemed endless. The next morning, we discovered that the judge had overturned the eviction order and referred the case to the federal court, just as we had requested. Our efforts, however, weren't enough to persuade the federal judge. On September 17, 2013, this judge ruled that there was no legal basis to keep the case in federal court and decided that the site should be vacated until the true landowners could be identified. According to the ruling, the military police should occupy the area to prevent the entry of any persons or vehicles. The objective was to cause a shortage of supplies and weaken the occupants' resolve so that they would leave the area voluntarily, which is eventually what happened. In less than a week, it came to light that the case did not involve formally demarcated indigenous lands, meaning that the land was not considered federal government property, for, according to the Brazilian Constitution, indigenous lands are assets of the nation. Furthermore, it was found that the property had been transferred to the state of Amazonas, which would determine the competent state authority. With these arguments, there

was no longer a basis for keeping the case in federal court. Unfortunately, both lawsuits were returned to the lower court, which, several days later, definitively declared that the occupants would be removed. That same day, the last families and indigenous who had remained on the site were driven out. From the time that the area was besieged, the indigenous suffered constant intimidation and acts of violence by the police. On September 25, 2013, in the face of the armed forces' final attack, another violent chapter in the lives of indigenous peoples in Manaus was written.

The media reported the event as a peaceful operation and an example of best practices by the military police (Medeiros 2013; "Reintegração de posse de áreas invadidas em Iranduba" 2013). The "invasion industry" (Lux 2013) had been defeated. The only version that contrasts with this account was from researchers at the New Social Cartography of the Amazon Project, who had been supporting the case. Their photos and videos left no doubt about the violence suffered by the indigenous residents.

At times, I've felt that the ruling (the one resulting in the community's eviction) was unfair and that the inexperience of the young federal judge was a determining factor. Today, after many years of interacting with colleagues who are judges, even though I still consider the decision a misstep, I understand that judges carry a huge weight on their shoulders consisting of the trust that society places in the judiciary. They are obligated to provide a workable solution to society, which makes their job one of the most difficult functions of justice. The decision taught me another important lesson: the autonomy that I desperately wanted would come only with professional and personal maturity. In the rush to gain more responsibility, I needed to understand that there is a time for everything. As is the case with social movements, those who live on this side of the service desk (and who must deal with the daily injustices that come their way) also experience intensity and burnout, making it necessary to take a break to regain strength. The following month, the frenzy and accumulated stress I had experienced detonated inside me: I was diagnosed with a tumor. Luckily, it was benign, but my body was telling me it also needed a distraction.

The Park of Tribes: The Power to Name the Right and Its Subject

While attention was focused on the occupation in Iranduba, other situations were emerging in Manaus. Just like the previous case, the Park of Tribes was a case that required energy, patience, and, above all else, empathy to be able to understand such a volatile situation.

I met Mesias one rainy afternoon toward the end of 2013, amid my usual rush of deadlines. He introduced himself as the leader of a community consisting of approximately fifteen families from different indigenous groups. The community had settled on a small parcel of land belonging to the state of Amazonas, and they wanted to formalize their settlement. Since they had made no progress after years of requests before the governmental land agency, the leader sought MPF's assistance in moving the process forward. Up until that point, this case had been very similar to the other urban occupation cases we dealt with. Months later, in March 2014, the leaders provided a letter stating that the community had grown, as some of the displaced families from Iranduba and other indigenous families had joined the settlement. As a result, the original site was becoming too small for the community, and the families decided to occupy an adjacent area, which, according to the land agency, was property of the government.

The letter caught our attention because it presented an urban planning scheme for the area, including certain lots reserved for the construction of schools, clinics, and other public services. In addition, the community promised to cut down only the number of trees necessary, so as to maintain forest cover and other preserved areas. Even though the land had no private owners—because the area belonged to the nation—something happened that is typical in northern Brazil, where fraudulent land registrations are commonplace⁸: a private citizen claimed to be the owner of the supposedly abandoned land, based on a title whose validity

8 Fraudulent land records are so common in Amazonas that the National Council of Justice ordered the annulment of all records suspected of fraud in one city where land records accounted for triple its actual total area. The case became known as that of the “three-story city.”

wasn't even recognized by the state. In many cases, such individuals claim that they obtained the title through inheritance, exchanges, or other transactions, giving an air of legitimacy to fraudulent land transactions. They then file lawsuits based on these fraudulent documents, which lead to interim judicial measures that result in the eviction of settlers—always carried out with injustice and violence—even when the documents are insufficient to prove property ownership. In this way, the social function of property becomes merely empty words in the Constitution.

This case was no different. A little more than a month after the lawsuit was filed, a state court issued an interim decision, without first notifying the occupants, ordering the restitution of the land to the supposed owner. In this moment of uncertainty, we decided to visit the site. We also wanted to visit in order to clarify rumors that leaders had been illegally selling lots and threatening and coercing some families. Our visit was thus very necessary. It was important to see the new reality of the community, its organization, and its relationships and conflicts, as well as enter its circle of trust.

On September 4, we went to the site without official vehicles or identification, accompanied by an anthropologist from MPF, a researcher from the New Social Cartography of the Amazon Project, and a representative from La Pastoral Indígena.⁹ During the visit, I had to function professionally only as legal counsel of the MPF; at the time, I was also a researcher at the New Social Cartography of the Amazon Project, through which I knew some of the families that lived in the area. At the site, we talked to community leaders and took a tour of the area in order to understand how the space was being used, as well as the threats to the most vulnerable areas. The growth of the settlement in such little time was truly remarkable. However, the edge of this large area was being occupied by a separate group of nonindigenous families. According to the indigenous community, this smaller area had become the site of illegal land transactions and was transforming into a drug-trafficking center. It had become dangerous, and because these illegal activities were already being investigated by police,

9 La Pastoral Indígena is a sector of the Catholic Church in Brazil that works in support of indigenous communities.

the indigenous community had to take action in order to avoid being harmed. After our visit, we asked the relevant agencies to provide us with information concerning the area's land situation and other useful information so that we could, once again, send the case to federal court.

One of the arguments used by the landowner was that the land was under negotiation with the federal government to build public housing. That statement, however, only reinforced the dire housing shortage already evident in the Amazonas: the confinement of low-income people to public housing units would be used to justify the violent eviction of equally poor families. However, after we filed our claim, which reported that the area belonged to the government and emphasized the risk of irreparable damage to the indigenous community, the presiding judge issued a temporary injunction so that the landowner could present evidence proving the boundaries of his property. But the landowner, in his declaration, instead of presenting maps and geographic references, simply accused the occupants of not being real indigenous people but mere land invaders who claimed to be indigenous in order to access benefits. Once again, the court was quick. In less than a week, it reviewed the claim. Uncertainty over the extension of the landowner's property—the essential point for the case's resolution—was replaced by doubts about the indigenous identity of the community. That is how the seed of another odyssey was planted.

In September 2014, in a concise ruling, the court reinstated the eviction order. However, it provided one caveat: the order would not be fulfilled if the chief constable confirmed the "existence of traditional indigenous tribes, considered those who have not had contact with civilization." As I read the ruling, I was incredulous—it was impossible that indigenous people living in the middle of the city would not be in contact with Western civilization. In any case, it should be an anthropologist, not a constable, who should determine that condition. It was an enigma worthy of Rumpelstiltskin.¹⁰

10 In this story by the Brothers Grimm, a king can rescue his daughter, who is locked away in a tower because of a debt, only if he guesses the name of a cunning elf. On the last day of attempts, the queen discovers the strange name of the elf, Rumpelstiltskin, and rescues her daughter.

More than ignorance of the facts, the decision represented the denial of not only social rights but also a fundamental element of indigenous existence: identity. However, one of many admirable qualities among indigenous communities is their good humor. Wearing traditional clothing, a small commission representing the families went to the court to speak to the judge and demonstrate that there were “real indigenous people” living in the settlement. As happens with all things exotic, the group’s body paint, headdresses, and necklaces made of seeds and animal teeth were soon in the newspapers and even on the official website of the Amazonas Court of Justice. Once again, the main issue was cast aside in order to make way for contradictions, prejudices, and the ignorance of the judiciary, as generally happens whenever a case involves groups that are socially vulnerable and excluded. In general, that is how judges evaluate the problems facing indigenous people, *quilombolas*, *campesinos*, the poor, and the landless, which makes it hard for these groups to achieve the credibility they deserve. As a result, it is critical to establish a relationship of trust and dialogue, something that the judiciary generally does not want. As we expected, none of the arguments, documents, or efforts of the indigenous community were enough. On November 5, based on a court-led field visit that never took place, the court issued a ruling ordering the community’s immediate eviction, including through the use of police force. Afterward, multiple methods and resources were mobilized to challenge the decision, including an appeal filed by the MPF in coordination with the Public Defender’s Office, which the court did not even review.

The fateful day of November 28, 2014—the date that had been set for the execution of the court’s order—finally arrived. The government organized the entire operation. The apprehension of the those who had worked the case coincided with the despair of so many families who would have nowhere to go. In the days leading up to the operation, I only listened to the car radio; I avoided reading the newspapers and didn’t watch TV. It was like a chronicle of a death foretold, like that of Gabo.¹¹ At 5 a.m. on d-day, the military police had already positioned themselves close to the settlement, blocking access to the area. In our office, the phones were

11 Gabriel García Márquez.

ringing off the hook. A little after 9 a.m., as some families were leaving the area to avoid the possibility of violence, the public defender leading the case announced that the decision had just been suspended. In the final judicial recourse, which still hadn't been evaluated by the court, a ruling was issued for the immediate suspension of the eviction order and the case was sent to the federal courts, as we had requested. I often recall this episode as a day of near defeat, like a bullet that had simply brushed past us. The community didn't suffer any grave harm—only a scrape—but they had still felt the destructive potential of a court decision over their lives and, above all, their dignity.

Even though complex and unique in its own way, this case is representative of how the collective rights of stigmatized groups are not well understood by Brazilian authorities. Consequentially, other cases like the Park of Tribes and Blue Lake are repeated throughout the country. With the adoption of the 1988 Constitution, Brazil made remarkable advances in human rights, particularly those of the historically marginalized. That said, what is enshrined in law is not always reflected in practice, and the gap between paper and reality can often seem insurmountable. To reduce this wedge, it is critical that lawyers see themselves as more than mere reciters of concepts and instead as agents who question and provoke reflection.

It is an undeniable fact that many indigenous communities today have access to electricity, use cell phones, attend college, have Facebook accounts, and, of course, fight for their rights just like any other citizen. One will never find “tribes not in contact with civilization,” as mentioned by the judge in the aforementioned ruling, in urban areas. Life in the city requires interaction, coexistence, and movement, not isolation. Furthermore, it is unbelievable that at this point in the history of humanity, we still bow our heads to the power of state-suggested classifications. Just like colonial rulers, the judiciary assumes the position of labeler and creates its own criteria to define who is indigenous and who isn't. More than defining the law, the judiciary has taken on the function of defining the subject, their rights, and their duties.

Personally, seeing self-definition as an essential component of the reason for being of the indigenous, *quilombolas*, hunter-gatherers, and other groups with whom I had contact made me realize

the depth of the violations they have suffered. They do not even enjoy the right to choose who they want to be; they cannot say “I am.” They are denied their existence as persons, the most basic of human rights. As a result, their autonomy is a sham. As a person who loves life more for its ups and downs than for the cold letter of the law, I believe that the judiciary needs to pay more attention to the trust that society places in it. We must remember that the law exists only because life—dynamic and volatile as it is—beats on.

And so, with the hope of living in times with less social injustice, whenever possible, I urge my colleagues and students to reflect. In the end, when provocations put the legal system in motion, they become a true act of devotion to the democratic state of law.

Blackout in the City of Lights

The story of the Park of Tribes didn’t end there. Even though the decision had been suspended, we still had to convince the court that was now reviewing the case. When one requests asks that a case be transferred to another court, one hopes that this court, because it is specialized in a certain matter, will be more attentive to the issues raised by the case and have the appropriate expert knowledge. However, in Brazil, the numbers make this impossible. There are too few judges to attend to the growing volume of cases whose complexity levels range from very simple to extraordinarily complicated. The case of the Park of Tribes was sent to one of these few judges within the federal justice system.

The hearing took place in April 2015, during which, for the first time, the indigenous representatives and the landowner sat together in front of a judge. However, at that point it had already become clear that the court lacked the sensibility that the case required. And in effect, at the end of July, a decision was handed down ordering the recovery of the land and, as a result, the removal of all of the families living there, including the indigenous ones who were concentrated in one part of the land.

As we worked to exhaust all possible legal remedies, more indigenous and nonindigenous families continued to settle in the Park of Tribes. Thus, as in other similar cases, the occupation grew unabated. As a result, there was intense and rapid deforestation in the area, and century-old trees were cut down. The devastation turned the forest into a desolate site consisting of simple shacks

and countless small construction sites. At night, these shacks, fed by illegal electrical connections, were illuminated by the fluorescent lamps common in low-income housing. The clustering of thousands of bright dots in the dark led people to call the site the “City of Lights.” However, unlike in Paris, the City of Lights in Europe, in this Amazonian City of Lights there was no security. In a way, the families living in the Park of Tribes were used to living in fear and with the uncertainty that at any moment they could be removed.

The two movements that gave rise to the Park of Tribes and the City of Lights (the part of the area occupied by nonindigenous people) developed almost simultaneously. Despite different ideologies, and lacking support from other more organized social movements, it was just a matter of time before the groups would communicate with each other in some way. Thus, rumors that leaders from the Park of Tribes joined those from the City of Lights were persuasive enough to further stigmatize the indigenous community. To make matters worse, one of the drug traffickers from the City of Lights had the same name as one of the indigenous leaders from the Park of Tribes. This caused the police to eventually suspect the indigenous community of drug trafficking.

On October 7, 2015, as the sun rose, the area was surrounded by a large group of officials, including police, investigators, and governmental delegates. The operation, ironically called “Operation Blackout,” sought to detain those involved in drug trafficking. During the operation, an indigenous man was shot and killed; to this day, the shooter has not been identified. Despite being afraid, the indigenous families seemed to breathe easier, as the federal court had temporarily suspended the eviction order on account of procedural issues. However, since the entire settlement was located in an environmentally protected zone, government authorities filed a new claim, which quickly led to a new court order to order the clearing of the entire area, including the portion occupied by the indigenous families. For these new legal proceedings, the MPF didn’t have the authority to act due to the way competencies are divided among entities. Nevertheless, the public defender who was defending the occupants in the case—the same lawyer who communicated the suspension of the first eviction—went as far as to appeal to the city’s mayor

to try to halt the eviction. In addition, civil society housing movements also protested, blocking off streets and advocating before authorities. But none of these efforts were enough to rein in the court's order.

The families were removed on December 11, 2015,¹² many with nowhere else to go. A large group of police officers and a fleet of machines and tractors were mobilized for the demolition. In addition, social services were made available for the most vulnerable families. Strategically, in order to inhibit possible support from other movements, the police simultaneously enforced eviction measures in other places where indigenous families also lived. It was a double violation; residents weren't even permitted the right to resist. The entire area of the City of Lights was surrounded, and the press were not allowed in to document the events. This went against the recommendation of having a transparent, peaceful operation as a means of protecting the rights of the families. The occupants claim that they were evicted violently and were not allowed to take their belongings with them, many leaving with nothing more than the clothes on their back. There were also clashes with the police, who used lethal and nonlethal weapons on residents. According to information published by the press, ten people were injured and eight were detained for disorderly conduct, a disproportionate measure given the circumstances they were forced to endure.

That morning, every local radio station was talking about the operation. I remember driving near an emergency hospital in heavy traffic, when, 200 meters ahead of me, the police interrupted the flow of traffic in order to allow a helicopter to land in the middle of the busy avenue. Immediately, I suspected that this had something to do with the eviction that was taking place. And indeed, it turns out that the helicopter was carrying a police officer who had suffered burns while attempting the rescue one of the residents of the area. Unhappy with the eviction, André—the resident in question—had chained himself to his hut and lit it on fire. Shocked witnesses described his screams and the sight

12 The numbers differ: according to the government, at least 300 families were victims of the eviction, but the records of the Catholic Church show more than 1,900 families totaling 8,000 individuals.

of André suffering in the flames. However, according to residents, André was taken to the hospital in a run-down ambulance with a punctured tire, not in a helicopter. Days later, he died. He had burns covering 90% of his body.

And so, amid screams, tears, and blood, the lights of the city were put out. The displaced families became refugees in other settlements, in the homes of relatives, and on the streets. Some of those with nowhere else to go settled in an abandoned federal building and are once again at risk of eviction. After the eviction operation, the mayor's office announced that it would reforest the area, but up until now, the few tree saplings that are there were planted by families of the Park of Tribes. The supposed land-owner has not even cleared away the rubble. In practice, the state is still absent. In terms of property titles, based on evidence of fraudulent land transactions, the Amazonas government filed a lawsuit to cancel the title. This would have the effect of annulling the previous legal proceedings to repossess the property; however, this time the judiciary was not as efficient. The court still has not reviewed the case.¹³

Looking at these events, it is interesting to note how and to whom judicial services are provided. The property repossession order—the judicial measure that resulted in eviction— became a mechanism not for resolving a claim of possession but for combatting drug trafficking and crimes against the environment, which have their own specific procedures and sanctions. In practice, the objective was to clear out of the area, regardless of the legal justification. For me, seeing how the rules can be twisted to satisfy corporate interests has made me change opinions, which has sometimes caused others to brand me as incoherent. It is not easy to see colleagues insult indigenous people on social media or to see authorities in important sectors hold such antiquated and conservative views. In any case, I have always been cautious in my conduct, careful not to mix my roles as a researcher for the New Social Cartography of the Amazon Project and as lawyer for the MPF.

In the Park of Tribes case, my beliefs and positions were well known, and many of them were vastly divergent from those of

13 Process number 0017159-32.2016.4.01.3200 can be reviewed at www.jfam.jus.br.

my superiors at the MPF. Therefore, I was advised to further separate my two roles; I then decided to provide only basic support to my colleagues' research at the Amazon project, certain that my support would be more useful at the MPF.

However, dealing with the frustration and suffering of others proved to be very difficult in terms of organizing the numerous deadlines, reports, corrections, and tasks required by the state bureaucracy. The idea of bearing some level of responsibility over a situation of insecurity and social injustice experienced by those families motivated me on a daily basis to look for similar experiences and ideas to help resolve the conflict. Many of my suggestions, however, were rejected. There were so many disagreements that on some occasions I was accused of acting "too passionately" or being unable to separate my role as a researcher.

All of these clashes made the fight exhausting. After experiencing many conflicts over my stances, the feeling of helplessness made me decide to withdraw my involvement in the case. I no longer answered the phones, read letters from the indigenous community, followed the work of my fellow researchers, or even commented on the subject. My personal research and interest in the subject, of course, languished.

Meanwhile, it is no secret that the state of Amazonas, the city of Manaus, and especially the area where the settlement is located, to this day, are awash with issues concerning fraudulent land records. What is hard to believe is that poor and stigmatized people, such as the indigenous and riparian communities, must suffer as a result of the state's failure to properly organize its own services.

In the Park of Tribes, the state lost an opportunity to create an unprecedented housing project and recuperate the environment through social inclusion and the recognition of ethnicity and indigenous culture. The case remains unresolved, as not only indigenous people but also a growing number of non-indigenous families have recently returned to the area. Looking at the case through the eyes of philosopher Nancy Fraser (2001), the modern intellectual who inspires me the most, I would say that there has been no recognition, or redistribution, or even participation. Consequently, there has been no social justice.

A great friend of mine, who has supported the movements of landless people in northeastern Brazil, often repeats the words

of my aunt (who works with low-income housing movements): he who suffers an eviction never forgets it. In fact, even while acknowledging the difficulty of fighting for social justice, André's death, tragic as it was, was also a symbol of failure. This type of injustice not only hurts the soul and leaves a permanent mark but is also dehumanizing.

Rising Sun and Hope

During the events of the Park of Tribes case, other equally complex cases of urban occupation were emerging. Many were repeats of the Blue Lake episode. However, one of them is worth highlighting because it illustrates an alternative for hope in these cases: the case of the Rising Sun community.

The central figure of the occupation was Eledilson Kaixana, the leader of the community at the time. When he came to the MPF, "Kauíxi," as he is called in his mother tongue, surprised me with his mastery of language. In just a few minutes of conversation, he revealed his knowledge of the Brazilian Constitution, laws related to indigenous rights, and other legal instruments. He didn't seem like a lawyer in the way my classmates did; more than that, he seemed to me to be a great leader.

His community, Rising Sun, is situated in an area that belongs to the Amazonas State Housing Agency, the body responsible for implementing governmental housing policy. In the community, most of the families belong to the Kaixana ethnic group of the upper Solimões River, one of the tributaries of the Amazon River. The community was formed by the gradual migration of families from the Solimões River, particularly after 2009. That year, the Indigenous Community Conference of the Kaixana People was violently interrupted by ranchers and farmers who claimed to own the territory being occupied by the Kaixana community. Several indigenous people were attacked, and the building being used for the event was set on fire.

This traumatic event caused several Kaixana families to seek refuge with family members in other communities. Others decided to come to Manaus, where they had the support of the Kokama people, historical allies of the Kaixana and who already lived in the city. Eledilson told me all of this on the day I met

him.¹⁴ In the city, they were free of the ranchers. However, there would be other conflicts. The fact that the site where the Rising Sun community is living belongs to a state entity offers little sense of security to the indigenous people.

One day, I was asked to attend a small meeting with an official from the MPF. I didn't know exactly what would be discussed, but they told me it was about an indigenous occupation in the city. As could be expected, participants began discussing the possible criminal prosecution against an indigenous community for environmental crimes since they were settled in an environmentally protected area. To my surprise, they needed my help in identifying the community and its leaders. In this case, the alleged environmental devastation of the site was actually initiated by a group of nonindigenous people. Even so, once again, the "invading Indians" were being criminalized for their strategies of survival in the city.

Luckily, the map I was given didn't allow me to positively identify the site, so my participation in the meeting was useless. Even today, I don't know what settlement that map was referring to. However, I left the meeting thinking that one of the measures suggested in Park of Tribes case—a measure that hadn't been considered by my superiors—could be useful for Rising Sun. Right away, I contacted the researchers who were supporting the indigenous community and suggested they talk to the community leaders about the possibility of the indigenous residents themselves presenting a proposal for the environmental restoration of the area. Thus, even if they were criminally prosecuted using the argument of environmental damage—which is often used to justify an eviction order—they would have a good counterargument: the community would have already taken proactive steps to recover the area through an environmental damage lawsuit. I presented the idea, thinking that my colleagues would be surprised by such a viable possibility. However, they told me that the community had actually already started planting trees and was seeking technical help to build a more robust project. In reality, I

14 A report is also available at <http://oykosmiguel.blogspot.com.br/2009/08/questao-do-povo-kaixana-no-amazonas.html>.

was delusional to think I was saying something new. An informed and curious leader, Eledilson was always one step ahead.

Naturally, this type of defiant leadership can create animosity. In Manaus, Eledilson faced many internal conflicts. The greatest conflict of all, not only for him, but for the entire community, was with drug traffickers who had long established themselves in the area. The situation is so bad that even the police often refuse to enter. Countless times, Eledilson tried to protect himself from threats to which he was subjected. On several occasions he was verbally and physically attacked. Faced with so much adversity, in 2016 he tried to commit suicide. He was found with his wrists cut, but family members managed to save him. Death almost stole his strong spirit.

When I last saw him a few months ago, Eledilson was no longer the leader of the community. He wasn't the same person, either. He spoke little and coolly. He made no mention of any rule or article of the law. During our conversation, his gaze seemed to wander. In a way, the struggle for land had become too a heavy burden for a fighting leader like Kauixi to carry alone.

Like him, the community resists and tries to pick itself up. Amid so many challenges, Eledilson's efforts began to bear fruit: Rising Sun received a report demonstrating the feasibility of staying in the environmentally protected area by repairing the environmental damage. After many requests and lobbying, technical experts from the state agrarian institute visited the area. Their report indicated that the implementation of an agroforestry system¹⁵ with regionally native species could allow the recovery of the degraded area, as well as improve the water quality of the small rivers and headwaters located in the site and prevent landslides, since the removal of vegetation had exposed the soil to erosion. The results of the report, which were presented to the General Assembly of the Kaixana People in November 2016, could mean that the settlement is formalized and the community earns the right to collectively occupy the area.

15 Agroforestry systems are consortiums of diverse agricultural species in the same area that allow the recovery of organic soil matter and prevent erosion. Thus, in a single site, large trees, fruit trees, and small species with economic value can be grown.

Strange as it may seem, a key figure necessary for the implementation of the environmental recovery project was a state lawyer. The prosecutor—a dedicated lawyer sensitive to the issues faced in land conflicts, particularly by affected communities—faces daily resistance from various levels of the government. However, his stance is legitimized by his very actions, which are always at the service of his role as a public servant. In fact, it is this unique reality that has justified his behavior. The performance of this lawyer illustrates an important strategy in human rights defense: it is important to identify not only the appropriate institutions but also the right people within them to deal with specific problems. Furthermore, when there are no representatives inclined to understand the diverse and complex nature of these cases, we need to develop ways to raise their level of awareness, without losing sight of the fact that the demands of these groups are rights recognized in the Constitution, international treaties, and other instruments.

Human rights defenders are not just those who take to the streets in protest or who make donations to the United Nations. Although they might not see themselves as such, they are often scattered around the world and isolated in their work, like the lawyer I mentioned, but at other times their actions are subtle, restrained by government bureaucracy. Strategies to raise awareness, therefore, are almost never in vain.

For me, the good news for the Kaixana people came at a time of fatigue and discouragement. The news was definitely a good omen, and it encouraged the community to continue fighting. And for all the indigenous people living in Manaus, it has been a sign of hope for better days to come, like a Rising Sun appearing on the horizon each day to give new opportunities to those who know how to live.

“We keep walking, here we breathe struggle”¹⁶

On the first day of 2017, Manaus made newspaper headlines around the world. That day, a rebellion took place in a large prison in the city. During the incident, at least fifty-six prisoners were

16 Taken from the song “Latinoamérica,” by Calle 13.

killed. Images published on the internet showed dozens of bodies piled in a garbage dump and mixed with pieces of dismembered remains. Other bodies were completely charred. It took several days for the human puzzle to be put together and to identify some of the prisoners. It was the largest prison massacre in Brazilian history.

The families of indigenous prisoners sought help in locating their loved ones, because they did not know if they had been murdered or were on the run. The government, however, did not even have information on how many of its prisoners were indigenous. Some of these prisoners, unable to adapt to life in the main part of the ward, had been moved to the wings where prisoners who were under threat by criminal organizations or by other prisoners lived. But in prison disturbances, these areas are the first to be affected by the violence.

Like anyone who enters prison, these prisoners, dehumanized, had become invisible to society. Uncertain over their loved ones' whereabouts, many families—not just those of the indigenous prisoners—suffered weeks of anxiety. Curiously, the powerful state apparatus capable of carrying out large-scale evictions was unable to contain the massacre of January 1.

The government often surprises us with its incoherency: the entity created to provide security to the people sometimes surrenders this obligation, particularly with regard to the protection of people's human rights, due to financial considerations. However, this tragedy succeeded in roping in the vast majority of the police force, which was sent to the prison and its surrounding area. No evictions were carried out elsewhere due to a lack of officers.

But the movement has not given up. The survival of indigenous people in urban areas depends on it. Walking and breathing struggle becomes necessary every day. That is why new and extraordinary situations are always emerging. While the indigenous people in Manaus search tirelessly for alternatives to ensure their place in the city through the affirmation of their identity, other indigenous groups, such as the Warao, have come to the city from Venezuela. They seek food, money, and work, fleeing from the crisis scourging their country. Curiously, in a city where almost every traffic light features children, the sick, and the elderly pleading for help, only this indigenous community has been accused

of begging. The only public entities that took action did so with the aim of removing them from the country. Public authorities even called them “human trash.” As if this weren’t enough, the children’s welfare agency tried to separate children from their parents in light of their precarious living conditions. The few effective actions come from churches, associations, and volunteer organizations that are sympathetic to the Warao community’s situation. They have donated clothing, shoes, mattresses, and food. But these indigenous individuals have not been recognized as refugees, nor did have they received humanitarian visas.

While governments hold abstract discussions on immigration policy, the Warao continue to live without a roof, scattered in makeshift huts throughout the city, and camping out in the bus terminal. Dispossessed of their lands—not just because of the country’s crisis but also because of environmental harm—these individuals have embarked on a migration path for fifty years. They migrate throughout the Venezuelan territory, but they never abandon their lands. In fact, they do not wish to be seen as immigrants and do not want to stay in Brazil forever. They just want to be able to enjoy the right to come and go, regardless of geopolitical borders. In March 2015, the Amazonas government announced that it would facilitate the return of this indigenous community to the state of Roraima, located on the border with Venezuela. With the cheerful disposition that is common among this community, one Warao man said laughingly, “Fine, in two weeks we’ll be back here again.”¹⁷ Since their arrival to Brazil, these indigenous people in the city have become synonymous with problems. In fact, in a country that experiences daily setbacks in human rights, it is hard to believe that a measure such as this one would be welcome by the people. One must laugh to keep from crying. Perhaps creativity and a good attitude—this admirable quality among the indigenous people I know—is precisely the recipe for understanding such special realities.

Here, Valda, Eledilson, the Warao people, and many others continue in their struggle despite the difficulties. We too, despite the ups and downs, continue to fight on a daily basis, sometimes

17 Conversation with indigenous Venezuelan leaders Anibal and Hector, March 2017, Manaus.

fearful and sometimes frustrated, but always smiling and learning with them in search of social justice. Each day, as I walk home from work, the makeshift tents under the bridge and the clothes of the Warao hanging on the walls of the bus station remind me that this was just one day of an entire life of resistance and that tomorrow their life, work, and struggle will continue. It is anyone's guess when indigenous people will stop being mere subjects of provisional lives and will be able to enjoy autonomy and security, acting as leaders of their lives, whether they be in the city or anywhere else.

*I fell into the network, so I connected to wifi
Greengrocer sweeper, HD cleanup of the chaos
I am not going to paint my face
I am not going to paint my back
My torso, my limbs, my body!
We Indians are also urban
We Indians are also urban
We graffiti new and earnest dreams
We broadcast our multicultural zone.*¹⁸

References

- Almeida, Alfredo Wagner Berno de, and Glademir Sales de Santos (orgs.). 2009. *Estigmatização e território: Mapeamento situacional dos indígenas em Manaus*. Manaus: Projeto Nova Cartografia Social da Amazônia / Editora da Universidade Federal do Amazonas.
- Fraser, Nancy. 2001. "From Redistribution to Recognition? Dilemmas of Justice in a 'Postsocialist' Age." In *The New Social Theory Reader*, edited by Steven Seidman and Jeffrey C. Alexander. London: Routledge.
- Herrero, Marina, and Ulysses Fernandes (orgs.). 2015. *Baré: Povo do rio*. São Paulo: Edições SESC São Paulo.
- Luciano, Gersem dos Santos. 2006. *O índio brasileiro: O que você precisa saber sobre os povos indígenas no Brasil hoje*. Brasília: Ministério da Educação and LACED/Museu Nacional.
- Lux, Edward. 2013. "Vila Nações Indígenas, invasão indígena em Iranduba, revela todo potencial do indigenismo pós-moderno que desafia o estado de direito." September 10.

18 Excerpt from the song "Índios urbanos," by Gil Valente.

<https://edwardluz.wordpress.com/2013/09/10/vila-nacoes-indigenas-invasao-indigena-em-iranduba-revela-todo-potencial-do-indigenismo-pos-moderno-que-desafia-o-estado-de-direito>

Medeiros, Girlene. 2013. "Polícia encerra ocupação de área invadida em Iranduba, no AM." *Globo*, September 25. <http://g1.globo.com/am/amazonas/noticia/2013/09/policia-encerra-ocupacao-de-area-invadida-em-iranduba-no-am.html>

Poutignat, Philippe, and Jocelyne Streiff-Fenart. 2011. *Teorias da etnicidade: Seguindo de grupos étnicos e suas fronteiras de Fredrik Barth*. São Paulo: Editora Unesp.

"Reintegração de posse de áreas invadidas em Iranduba." 2013. *Portal do Holanda*, September 25. <https://www.portaldoholanda.com.br/manaus/reintegra-o-de-posse-de-reas-invadidas-em-iranduba>

Tiradentes, Ronaldo. 2013. "Índios resistem em sair da invasão no Iranduba." *Blog do Ronaldo Tiradentes*, September 25. <http://www.redetiradentes.com.br/ronaldotiradentes/indios-resistem-em-sair-da-invasao-no-iranduba>

CHAPTER 4

A Matter of Plastic: Asylum-Seeker Documents in Brazil

Daniel Bertolucci Torres
(Brazil)

Introduction: A Congolese Man's Journey to Brazil

Let me tell you a story about a man whose journey began on a continent far away from my hometown of São Paulo, Brazil. It is January 2015 in the semi-democratic Democratic Republic of Congo (DRC), and a man we will call Jean¹ is demonstrating against the government on the streets of Kinshasa. Like me, Jean is both a lawyer and a human rights activist. He and other protestors are seeking to block then-president Joseph Kabila's attempts to extend his second presidential term to a third one. While the DRC's Constitution forbids a third term, Kabila's party is trying hard to find a way to remain in the presidency. With this goal in mind, Kabila and his supporters see no limits to their efforts to oppress and repress any kind of opposition activity.

It is against this backdrop that opposition parties, human rights defenders, and other sectors of the population—Jean and his sister, Desirée, among them—demonstrate together for three days, voicing their desire to see President Kabila kept away from power. These three days are filled with violent conflicts between protestors and the presidential guard and national police.

Although Jean stands alongside his sister during the demonstration, the need to dodge bullets and tear-gas bombs eventually causes them to separate. When Jean is unable to locate his sister afterward, he assumes that she was among the dozens who were

1 All individuals' vignettes in this chapter are based on true narratives gathered during my time as a lawyer working with asylum seekers and refugees. However, every vignette is a mixture of two, three, or more personal stories. Individuals' names have been changed to respect their privacy.

killed: however, her body is not recovered in the days following the killings. A few months later, Jean hears that a mass grave has been uncovered in a nearby city. The inhabitants of Maluku Commune detected a strong smell in the air and notified a human rights organization and the media.

The grave contained more than 400 bodies, including those of babies and adults. The human rights organization investigating the mass grave assumes that some of the bodies are those of people murdered in the January demonstrations. As part of its investigation, the organization publishes an ad in local newspapers asking those who knew the killed or missing to help create a list of names that will be used to identify the bodies.

Wanting to give his sister a proper funeral, Jean visits the organization to add her name. On the way out, Jean realizes he is being followed by public agents. He tries to shake them off his tail, but they grab him right in the middle of a public square. The officers ask to see his documents. Without thinking, Jean shows them his business card, which reveals that he works for a human rights organization. As is often the case, the men do not take kindly to this fact. They brutally beat him in the middle of the street and then take him to jail.

Without any due process of law, Jean is kept in an inhumane and filthy jail cell for several months. After being physically and psychologically tortured, he becomes very sick. Eventually, he is taken to a military hospital, where he is handcuffed to a bed and expected to regain his health and mental sanity. During these rough days, Jean develops a friendship with one of the doctors, and as the trust between them grows, he begins to share his story.

The doctor empathizes with Jean's ordeal and helps arrange his escape. A few nights later, before Jean has fully recovered and regained his strength, the doctor takes off his handcuffs and leads him out of the hospital through a service door. There is a car waiting for him, but he is told it can take him only part of the way. After leaving the hospital's perimeter, Jean is asked to get out of the car. He is instructed not to return to his house because this is the first place where public agents will look for him.

He does not know exactly where he is when he gets out of the car, but after hitchhiking for several days, he arrives to Boma, a port city on the DRC coast. After spending several days

unsuccessfully trying to contact members of his family, he resorts to begging near the port area. There, Jean meets a sailor who helps him board a random ship. While Jean does not know where the ship is going, he hopes it might be headed toward Europe, or maybe even the United States or Canada. Carrying a small supply of bread and water and no other luggage, he hides on the deck for a few days but is eventually discovered by the crew. He has no documents to prove who he is and does not understand what the men are asking him. He begs the captain to let him remain aboard. The captain, who understands a little bit of French, finds a cleaning job for Jean on the ship, allowing him to stay on the vessel.

When the ship arrives at its destination, Jean gets off without knowing where he is, what he will do next, or what day it is. He wanders for several hours without talking to anyone. Weak because he has not yet fully recovered his strength, but with the resilience of a survivor, he keeps walking around. He eventually comes across some other Africans who speak his native language, Lingala. These Africans are also Congolese and tell Jean that he is in the Brazilian city of Santos. He begs them for help. Although the men do not want to add to their own burdens, one of them takes pity on Jean and travels with him to São Paulo by bus. He gives Jean food and shelter for a few days and then leaves him on the doorsteps of a refugee assistance organization.

By this point, Jean is mentally and physically overwhelmed and suffering from trauma. He needs lots of help and lots of rest. Civil society institutions help him settle in a temporary migrant shelter that gives newly arrived migrants a place to stay while they are addressing their immigration status, learning the language, and trying to find work. Jean, a human rights activist in his home country who bravely fought to get political prisoners out of jail, is now a political exile. He has lost everything. He does not have any news of his wife or children. He was unable to find his sister's body. He has no clothes, no money, no documents. He cannot return to his country or count on his countrymen for protection or assistance. He has nowhere else to go. He is no longer a *de facto* citizen of any nation and cannot even prove any of the things that have happened to him in recent months. What to do? Where to go?

Jean's story is a compilation of real-life experiences of the immigrants who come to the organization I used to work for. The

story illustrates the type of journeys and tragedies that refugees often experience before arriving in Brazil and seeking refugee status. While Jean never intended to leave his country or to request asylum in another country, the situations he faced since the death of his sister pushed him out of his home, where he had a job, a family, and a stable life. Even though his job as a human rights activist involved fighting against government abuses, he was still able to return to his house at the end of each day. He was a man who had gone to college and studied law—he had a diploma and other documents that told the story of who he was in society. He had a noteworthy résumé and legitimacy in society. Unfortunately, upon arriving in Brazil, this was no longer his reality. Jean was now a refugee.

Refugee Law and National Citizenship: Perpetuating a System of Exclusion

The events that unfolded in Jean's life before he arrived to Brazil show how forced displacement can develop, even for someone who does not come from an internationally recognized conflict zone, such as Syria, Palestine, or South Sudan, but who still experiences a well-founded fear of persecution. Even though the eastern DRC has been affected by one of the cruelest wars of the century, the country's capital, Kinshasa, is not completely recognized as a conflict zone—perhaps due to the government's great efforts to keep its atrocities away from national and international media. In Jean's case, in terms of being able to secure recognition as a refugee, he would qualify for refugee status due to his persecution as a result of his political opinions and because he is a member of two particular social groups: first, he is a human rights activist, and second, he was a witness to government-sponsored brutality. He saw public forces murder and abuse protestors. In other words, Jean experienced three different criteria that should place him under international refugee protection. It was not a matter of war or armed conflict but a kind of personal and individualized persecution.

Since the end of World War II, international refugee law has been evolving to protect people who find themselves in similar circumstances as Jean. Through two international treaties,² the

2 The 1951 Refugee Geneva Convention and its 1967 protocol

global community has committed to protect people who flee their countries as a result of persecution on any of five specific grounds (political opinion, race, nationality, religion, and social group) or based on a well-founded fear of persecution.

A refugee is a problem born from the global political configuration whereby the fulfillment of human rights depends on states' willingness to allow people to participate in a national sphere of rights. To have rights, people must be recognized by a nation-state. Individuals who cannot enjoy their rights in their home states, whether due to personal persecution or armed conflict, fall into an oblivion between sovereigns (Haddad 2008). Since the entire world is divided into geographical spaces occupied by nation-states, human beings who can no longer count on their home state to protect them need the consent of another state to officially exist on their territory.

Alongside this geopolitical context is another basic legal paradigm: the need to possess documentation. One very good professor of mine once said during class that the civil personality—the legal definition of a person who is the subject, active or passive, of rights and obligations—begins to exist the moment that an individual receives his or her name during the civil registration procedure. The result of this process is that for the rest of their lives, they need to carry identification documents proving that they are *true people* with a legally recognizable personality status. In a global society based on the rule of law, the creation of civil personality is the basis for a person's ability to exercise his or her rights and duties and is what links individuals to their national legal system. It marks the starting point for national citizenship.

But as we saw in Jean's story, individuals can easily have their rights denied by their own countries. When their rights are violated—when they are expelled from their national legal and political systems—the protection of their human rights depends on their acceptance by another nation-state or international entity that can give them some form of political and legal status. In our global system, only other nation-states can really play this role. While international organizations such as the United Nations

are the two main instruments on the protection and definition of refugees' rights.

High Commissioner for Refugees and nongovernmental organizations try to, in their own ways, protect refugees' basic human rights, refugees' true reinsertion into society can be achieved only through state recognition.

In this context, citizenship becomes one of the fundamental causes of inequality in the protection of human rights. The moment an individual faces displacement, regardless of its cause, he or she is placed at the bottom of the social, political, and legal pyramid.

From a sociological point of view, based on what I have seen working in the field, it is clear that being a refugee means carrying the daily stigma of being a deviant, even when these individuals have achieved great success in their homeland. A Congolese refugee in Brazil whom I know once said during a workshop:

It seems that just because a person is not from [Brazil], he or she doesn't have the right to complain or to claim their rights. If you wait too long in line and complain about it, you hear "Go back to your country"; if you pronounce any expression of dissatisfaction, they say "If it is too bad for you here, why don't you go back to your country?" It really seems that we foreigners are not allowed to be humans. We should only and always be grateful that you let us live in your country.³

To make matters worse, refugees from Africa are not only foreigners and refugees but also black. The long history of African slavery and racism in the Americas continues to cast its ugly shadow over black people's lives, no matter where they are from.

In addition, foreigners are marginalized politically: outsiders are seen as lesser beings because they lack certain political rights or a political voice. The same happens from a legal standpoint, for national legal frameworks distinguish how rights are applied based on one's citizenship.

These social, political, and legal exclusions are exacerbated by forced migration. Asylum seekers (people who are waiting for the national governments of destination countries to decide if they are worthy of protection) and refugees (people who have had their refugee status recognized by a competent institution) experience the intersection of many forms of prejudice, discrimination, and inequality. Not only are they pushed outside the domestic social, political, and legal arenas, but they also lack the support of

3 Workshop at the Refugee Referral Center, São Paulo, 2016.

their home countries, which have violated their rights so drastically that they are forced to flee in order to survive.

As Jean's story shows, asylum seekers and refugees normally arrive at their destination with nothing more than a small backpack or suitcase, and sometimes without anything at all; they also usually arrive without any official documentation, such as a birth certificate, passport, or identification card. Forced displacement pushes these individuals into an oblivion in which their only possessions are their bodies and personal experiences.

People in these situations are vulnerable to many kinds of human rights violations, beginning with the events that push them to leave their home countries. To break this chain of misery and suffering, when they arrive, they must first meet their basic needs for food and shelter and start freeing their minds from the shock of being expelled from their homes. To do this, they need to have proper, official documentation. Yet this is perhaps one of the toughest obstacles they face.

I witnessed this firsthand when I worked as a lawyer at the Refugee Referral Center, a project by the Archdiocesan Caritas of São Paulo. On a daily basis, we tried to solve problems for asylum seekers and refugees that would never occur to a Brazilian citizen. For example, for Brazilians, opening a bank account is fairly easy; for these individuals, it is not. The same goes for registering a newborn child, renting a house, passing through customs and immigration at airports, presenting one's identification documents in order to secure employment, proving one's identity, and getting a driver's license. All of these situations are basic for most Brazilians, who can usually handle them without requiring anyone's help. But for migrants, refugees, and asylum seekers, organizations such as ours are essential to promoting access to these rights. In many cases, people would seek our assistance only after the snowball of problems had become unmanageable due to the many layers of violations that they experienced on a regular basis.

Relation between Asylum Seekers and Documentation: Pushing and Keeping People Away from Dignity

Among the cases that I saw on a daily basis, there were many with narratives similar to Jean's. Some individuals were facing

persecution because they were part of a specific ethnic group; others because they were homosexual, or suffered gender-based violence, or were threatened after speaking out against their government. But for these individuals, who felt a well-founded fear of being persecuted or were in need of protection because of an armed conflict or other real-life threat, it turned out that their arrival in Brazil was not a satisfactory solution to their problems. They had escaped death and danger only to confront another major challenge in the form of bureaucracy.

What oddly becomes of utmost concern to these individuals—who have often suffered extensive human rights violations—is having some form of official documentation. They are concerned not with healing physical or psychological wounds, or trying to connect with their family members, or even finding a job or something to do with their lives but rather with obtaining official documentation. In their minds, such documentation is the first step toward normalizing their lives again, although that is not entirely true. Real-life experiences show that even long-term documented immigrants seem to bear the stigma of not being truly autochthonous. Nonetheless, having a permanent document assumes the role of changing one's status, and that can boost people out of the limbo into which they have been pushed.

Seeing people struggling to get out of the nothingness during my time at the Refugee Referral Center, I witnessed a unique yet alarming situation. Those waiting for a decision on their refugee applications were concerned with an object called the “plastic.” “I am here for my plastic,” they would say, or “When I will have my plastic in hand?” The first few times I heard this expression, I figured there must be a deeper meaning behind the concept of *plastic*. But no, it was simple: they meant an actual, official plastic document. I needed to understand why this was such a big concern for them.

Documents are clearly one of the main concerns in the life of migrants and refugees, but a larger phenomenon was taking place in front of me. While they anxiously await a positive response to their applications for refugee status, asylum seekers carry a provisional, unlaminated piece of paper that contains basic personal information. It is commonly known in Brazil as the “protocol,” yet this paper (*not plastic*) is nothing more than an A4-sized piece

of paper carrying a seventeen-digit number; the person's name, country, and city of origin; his or her parents' names; his or her date of entry into Brazil; a one-year validation date; a stamp; and a small glued-on photograph. After several changes to the information required to appear on this document, Brazilian authorities decided to exclude peoples' birth dates, as if this were not an important piece of information. While I could understand why carrying documents is very important, for me the question remained: Why did this piece of paper cause so many problems? And why had the plastic taken on a mythical power in the minds of these asylum seekers?

Brazilian law concerning refugees—and therefore asylum seekers (who are also known as “refugee solicitors” and “asylum petitioners”)—makes it clear that the protocol is a legitimate ID card. However, asylum seekers find that its temporality lies at the root of daily problems and headaches—and because the asylum application process is so long, these migraines can last a considerable amount of time. Many years ago, the refugee process in Brazil took about six months, and the protocol inconveniently expired after three months. Since 2012, as a result of the drastic increase in the number of people requesting refugee status in Brazil, the protocol's validity has been extended: first to six months and more recently to one year.

The prolongation of the protocol's validity is a symptom of one of the initial problems faced by asylum seekers in Brazil: the asylum process now takes longer than it used to. Individuals have to go back to the Federal Police (the main authority for migration documents) several times just to renew this document.

While the purpose of the protocol is to serve as a temporary document, it is being used as a regular proof-of-residence document for asylum seekers, who may wait several years for a final decision on their refugee application. At the Refugee Referral Center, my colleagues and I could not tell anyone with certainty when they would receive a final decision. Our predictions would vary from two to three years. And if the person had to appeal, which is a right guaranteed by Brazilian law, it could take more than five years. While the law guarantees a right to appeal, in reality no appeal decisions have been issued since 2011, besides a few thousand applicants who were offered an alternate solution

of regular permanent visas (without the prerogatives given to recognized refugees, such as the protection against forced return). Today, in 2018, that has yet to change.

This is the context in which the “plastic,” or regular resident card for foreigners, has taken on a mythical status. Carrying a provisional piece of paper for three, four, five, or more years has pushed people to overestimate the worth of the resident card, made with a plastic material, as if the substance with which it is made symbolized a more definitive situation in Brazil. The phenomenon is so pronounced that even inside refugee and immigrant communities, those who carry the plastic consider themselves the “chosen ones,” leaving others on an even lower rung on the social ladder.

As shown by the stories below, this paradigm of the asylum seeker on a quest for documentation is at the root of many hardships faced by immigrants, though it is an issue that is often invisible to governmental and other institutions. Surprisingly, for these immigrants, more than having to adapt to a new language, a new labor market, a new culture, the distance from friends and relatives, and the shock of forced displacement, the pursuit of a permanent document is often their number-one challenge upon arrival.

Real People, Unthinkable Situations: How a Piece of Paper Trips Up Asylum Seekers

This section includes stories of the daily struggles that asylum seekers in Brazil face because of that vicious piece of paper known as the protocol. As their stories show, their lives can often seem as impermanent and fragile as the protocol itself.

The Unregistrable Child

One of the cases I want to talk about is a situation in which an Angolan mother and a Congolese father went to a civil-law notary office to register their baby but were not allowed to register him because the mother’s protocol was not deemed proper documentation. Not only did the baby have his registration denied, but he was also refused access to a hospital because he did not have a birth certificate. While Brazilian law is clear that public hospitals must treat people regardless of their documentation, the hospital

would not see the sick twenty-day-old baby for this very reason. When the parents explained their situation to me, I first tried calling the notary to better understand what the problem was with registering the child. I also explained to the notary the basics of Brazilian refugee law, which clearly states that the protocol is a valid form of ID.

During this call, I spoke with the person in charge. To my surprise, he told me that he needed the mother's passport or any other document that showed the date she legally entered the country. He said that they needed this because the "alleged father" had a passport and they wanted to check the conception date to avoid fraud in the baby's registration. They were concerned that someone who is not the biological father could declare himself a parent and, as a result, be granted access to the desirable *plastic*. In sum, self-declaration, which is enough for Brazilian parents when registering their children, was not enough for these parents. The notary wanted to make sure that the father and mother were together nine months before the baby's birth.

To make matters worse, he told me that they would not accept the protocol as a form of ID because they knew "how foreigners were in Brazil." I kindly asked him to explain "how foreigners were," and he said that they tend to falsify documents and give untrue declarations, as if dishonesty were unique to non-Brazilians. I tried to explain that the baby needed the registration to be able to go to the hospital, but he told me that he had the right to deny the registration and that I was welcome to resort to a judge and argue my case there.

In the end, the mother registered the baby with two witnesses and without the father's name. Because our organization does not have the human or financial resources to file individual lawsuits, we tried to find, together with public defenders, a quick way out so the child could access the necessary health services. But the problem was not really solved. Now, the father had to file a request before the courts asking a judge to grant him the right to register the child as his own. After several more visits to the notary, they finally included the father's name when I gave the father a brief letter explaining the situation and noting that he had the right to start a judicial appeal concerning the office's refusal to include his name in his son's document.

Even in this situation—where a baby was in need of medical care and the notary was aware of the potentially dire health consequences—the relevant public official refused to accept documents considered legitimate under Brazilian law. Therefore, the problem is not a lack of information but layers of prejudice and discrimination that blind people and lead them to stereotype foreigners as criminals. For the notary, foreigners—especially those who seek asylum in Brazil—are looking to bypass regular procedures to obtain permanent documentation.

The stereotypical foreign criminal that the notary so eloquently described to me on the phone shows the dangerous and harmful associations made between criminality and immigration. It also shows how differences created by the law can contaminate a person's view of other people. Indeed, the mere concept of citizenship creates a differentiation between people: those who are citizens and those who are not. Citizens, who are raised as participants in a national society, often react by labeling and creating stereotypes when faced with the "strangeness" of foreigners. For these closed-minded people who think that the unknown represents some sort of threat, it is easy to conclude that foreigners commit crimes because they are foreigners and not because people sometimes commit crimes. It is worse when these foreigners have additional markers of otherness, such as being a speaker of a native African language or having a foreign accent, or maybe when an African mother carrying a Brazilian-born baby has much darker skin than the "usual" Afro-Brazilian. These distinctions that we see, and the prejudices with which people treat one another, often push migrants to the bottom of the social pyramid and prevent them from exercising their rights.

The Undocumented Boys Who Couldn't Go to School

When the labeling and discrimination comes from people who have public power, it can cause immeasurable damage to people's lives. Not only can it keep newborn babies from receiving necessary medical attention, but it can also prevent little boys from going to school. My next story for you is about a father's struggle to give his sons proper documentation so that they could go to school. It offers another example of intersectionality and multiple layers of vulnerabilities affecting a person's life, such as being a

Muslim in a Christian majority society; being forced to leave one's country because of war; or being an Arabic speaker in an occidental country undergoing an intense wave of Islamophobia.

In Brazil, children are not required to present proper documentation in order to attend to public schools. Especially in São Paulo, where this story takes place, there is a very clear directive from the State Secretariat of Education regarding the right to universal access to public schools. So, under the law, even if two ten- and seven-year-old boys do not have a valid protocol, they should be allowed to go to school.

The problem started when their father tried to renew their protocols. The public authority in charge of the process would not revalidate them due to their mother's absence. The father had arrived to Brazil after the boys' migration, but now he was the one in charge of their care because their mother had moved to another country. Since the boys were initially registered under the mother's name, the father was not allowed to sign on their behalf. Thus, for several months, the boys lacked valid documentation and were prevented by the school's director from attending school.

I will sum up their background so this unthinkable scenario is easier to grasp: the two young boys had been forced to leave their country because of war; they had to leave everything they knew behind; they had to abandon all family, friends, and possessions and adapt to a completely different country and language. And just when they were becoming more integrated, they were shut out from the school system and forced to stay home alone while their father went to work. Some may think that this is not such a difficult issue to resolve—and it was not, once my colleagues and I managed to pull some strings and demand that their protocol be renewed. But for the two little boys, these months without schooling were precious days in their lives when they fell further and further behind in their education. They had already faced many limitations and setbacks in their lives and couldn't really afford to lose a semester of educational and developmental milestones in their childhoods. One can only imagine the damage that these lost school days could do to their future, to their ability to advance in their educational goals and later get a job, and to their emotional health and well-being.

This story also shows additional problems faced by migrants. First, it reveals the lack of human decency of educators who intentionally keep children out of school: even after the administrators were informed by our organization that the lack of protocol was not a valid reason to prevent school access, they chose not to respect the children's right. Second, it shows the great degree of discrimination and prejudice against non-nationals that is entrenched among the local population, expressed at an individual level by the front-desk attendants at the government agency responsible for renewing protocols. Even though refugee status is self-declaratory—and the children had passports proving the man was their father, which should have been enough to declare him legally responsible for the boys—these front-desk attendants refused to allow the boys to renew their protocols simply because they arbitrarily decided that the boys did not have rights.

It is quite common in Brazil for people with a limited and narrow public function to make decisions by themselves without the support of any legal analysis or orders from a superior. These front-line government workers often simply choose not to grant access to individuals' rights. There is no legal or political basis for these actions—it is just an overt form of discrimination and prejudice together with a lack of skills to deal with unexpected situations. Obviously, this problem affects other groups besides migrants and refugees, but since we are dealing here with layers of inequalities, migrants seem to face an exponential amount of injustice.

Working in human rights unveils the power of the legal term “discretion”—either it becomes a real means of protecting human rights, when public servants are empathetic, or it becomes another form of rights violations. On the one hand, if a law is too rigid, it may keep competent agents from using their discretion in gray-zone areas and deciding to let people access their rights. On the other, if the law is too broad and allows individual interpretation, there is too much room for the devil to play games. Nonetheless, it is important to differentiate between two kinds of situations: the first is when true actors of public policies make decisions collectively, and the second is when individuals are the final gatekeepers and, *tête-à-tête*, public policies become a reality. This second situation illustrates how one's personal worldview can directly affect the lives of others.

When taking into account the accumulation of components that lead people toward the fulfillment or violation of human rights, discretion and empathy might be very much circumstantial. For instance, for the aforementioned front-desk attendants who prevented the renewal of the two boys' protocols, it was a decision to not complete the requested procedure. There is nothing in any legal instrumental indicating that "in the absence of the principal applicant, a dependent cannot renew his or her protocol"; it was a purely individual decision not to do it. We were able to renew the documents after we spoke to these employees' superiors, but this action should not have been necessary. The same observation can be made in the other story, where the twenty-day-old baby had his civil registration denied because of the mother's documentation. Even after we clarified with the notary the legitimacy of the protocol, he made a personal decision to not proceed with the registration based on the assumption that all foreigners are equal: fraudulent by nature.

The Airport of Tensions

Another place where the power of discretion becomes crucial is the moment when people first try to step on a country's national territory after coming from an international flight. The airport is known as a primary border zone, meaning that although people are physically inside the national territory, legally they are in a border area. This is where foreigners must pass through "immigration" and is where a discretionary decision determines whether they will be allowed inside the country.

Facing xenophobia and discrimination, some individuals have a high chance of being retained for inspection. The reasons they are most likely to be stopped include gender, skin color, spoken language, and nationality. For instance, it is not unusual for Nigerian men to be barred when passing through immigration and customs. Many of the Nigerians I have spoken to were detained for several days. Other nationalities, such as Indians, Sierra Leoneans, and Bengalis, are also commonly barred entry through the usual process. In these cases, it is not only a matter of having proper documentation but also a matter of who, at first glance, is deemed suitable to enter the national territory.

This immigration and customs inspection can take several days or weeks—and in some extreme cases, months. While immigrants are being inspected, they are kept in a room inside the airport's international area. If they are lucky enough not to be deported, they are allowed to access the asylum process (when applicable) and leave the airport carrying their provisional protocol ID. In some cases, asylum seekers who are kept for additional inspection must provide not only the regularly required information but also their fingerprints and two pictures: a front view and a side view with a height chart in the background, just like in a mug shot. All of this information is included in their protocol. Considering that the basic protocol already causes a lot of difficulties, imagine how this airport-issued protocol—overloaded with information, including ten fingerprints and photos resembling mug shots—is received by institutions and other people during everyday life.

The asylum application process can take a considerable amount of time, and during this time people often need to travel abroad, whether to visit family, to work, or for other reasons. If they are still awaiting a decision on their asylum claim, they must weigh some big risks that citizens normally never have to consider. First, even though the protocol is a valid form of identification, it is not a proper visa or passport and therefore cannot be used as a travel document. The individual must get a return visa (in cases where a visa is required for their nationality) and must rely on the discretion of the nearest Brazilian consulate to their destination location. Second, many refugees lack valid passports—whether because they never had one or because their passport expired—and are unable to rely on their home countries' consulate services in Brazil. Therefore, they do not have any competent institution to resort to for requesting a new passport. Asylum seekers do not have the right to request the foreigner's passport that is sometimes granted by the Brazilian government.

Another risk faced by asylum seekers with regard to international travel concerns the final decision on their asylum application. Decision makers usually consider that a person who demands recognition as a refugee yet who is traveling across borders does not need to be protected by refugee status. This is particularly so in cases where individuals go back to their home countries, even if just for a few days to visit a sick relative: if they

took the risk to go back home, for the decision maker, it clearly demonstrates that they are not refugees.

While traveling internationally is a common and simple thing to do for regular citizens, it is not so for asylum seekers and refugees, who are pushed to a subordinate position. They will always be subject to others making decisions on their entrance, departure, arrival, or permanency. One good example of this can be seen in the rules for travelers coming from Syria in the wake of that country's armed conflict.

Under these rules, people affected by the conflict who apply for a regular tourist visa with a declared refugee purpose before entering Brazil normally have to wait for six months before receiving the visa. Meanwhile, if these same individuals apply for a regular tourist visa—but with undisclosed intentions of requesting asylum once in Brazil—they need wait only one month for their visa. The end result is the same: in both cases, the individuals request refugee status in Brazil. However, those who declare from the outset their intention to seek asylum face a long six months of waiting, whereas those who keep their intentions silent are granted an entrance visa much faster.

It is disconcerting how people who need the most care and protection are often the ones who are denied it. When we look at human mobility, which is a fundamental element of human nature, citizens who are rooted in their own countries and who can rely on their governments for protection generally face no major problems when they wish to spend some time abroad. But those who cannot remain in their countries due to war or persecution must beg to be allowed to live in another sovereign territory. The moment that people's dire situation leads them to exercise their right of mobility seems to be when all of their other human rights start being intentionally limited by those who are tasked with protecting them.

When one faces the need for recognition and protection by a foreign country, that person's life becomes much more difficult. Thinking back to Jean's story at the beginning: the moment an individual starts to have his or her rights violated by their home state or can no longer rely on their home state to protect them from severe human rights violations, unprecedented obstacles rise up, exponentially and continually pushing that person down

to the bottom rung of human dignity. Clearly, the current system does not make the lives of those in most need easier. Instead, it complicates and hinders their ability to regain their dignity. The lack of citizenship not only seems to complicate a person's legal existence but also affects how they are perceived in society, and this perception in turn affects their ability to access and exercise their human rights.

The Life of a Syrian Asylum Seeker in Brazil

Elan is a young Syrian woman who came alone to Brazil. She was sick of waking up with bomb alarms and being told of the horrors that took place near her house during the evenings. Her family did not want her to leave, but she was an independent Muslim woman and decided it was time to leave the war zone. She got a tourist visa by declaring her pursuit of refugee protection in Brazil, sold some of her belongings, and bought a ticket to seek asylum on a different continent.

She arrived alone and without knowing anyone. The first place she visited was a local mosque, where she met other people who had also fled the Syrian war. They gave her advice about how to start her asylum application process in Brazil. Two weeks later, she received her protocol and began looking for a place to live. Since she had a bit of money saved, and got a job with some friends she met at the mosque, she was able to rent a small room.

Eventually, she found a larger and nicer place to rent, but she was asked to pay three months' rent in advance because she did not have a co-signer or the required documents. She had her passport and her protocol. Why was not that enough? She did not know anyone who would be willing to be a guarantor. Thus, she kept living in a tiny room in the back of the store where she worked as a cashier. It was not the place she hoped for, but since she could not meet the conditions to rent a more suitable room, she decided that she just needed to wait. Perhaps she could move out once she officially became a refugee. She was told by some that she would not wait more than three months, while others said that it would be six months or even a year. Some of her new acquaintances had been given their permanent refugee card quickly, while others were still waiting after a long time. She did

not understand the criteria or the process. She was understandably confused about the way things worked in this very different country.

Elan's boss paid her in cash because she did not have the proper authorization to work, so she needed a place to keep all of her money safe. She was lucky not to have to worry about sending remittances to her family. Although they needed the money, her father would not accept her support—he told her that her money was hers and that he was taking care of her by not accepting her earnings. Elan began to accumulate too much cash and wanted a bank account to keep it secure. She went to a bank to open an account, but the bank would not accept her protocol. Even though she had an individual taxpayer registration number, the bank had a policy of opening accounts only for foreigners with permanent ID cards.

She was referred by some of her colleagues to a specialized organization that served refugees. A lawyer there gave her a letter to take back to the bank; this letter explained that, under the law, the protocol is sufficient documentation to open a bank account. But even after Elan showed this letter to the bank's tellers, they still would not let her open an account. The bank in this story is a public entity, where Elan should have been eligible for an account with low fees and other benefits. But since she was prevented from opening an account there, she ended up having to find a private bank with higher fees. After visiting four different banks, she finally found one that accepted her protocol. But there was still one condition: she would not be able to have a credit card or a checking account.

After six weeks in Brazil, Elan was still having a hard time finding her way out of suffering. But the worst was yet to come. One day, as she was exiting the subway station, she was targeted by a young group of boys. She was wearing a hijab, and they called her a terrorist. She was a bit stressed and, without thinking, started speaking Arabic to them. She understood some words in Portuguese and she knew that they were being aggressive not only by their gestures but also because of the words. They yelled at her more and threw an opened bottle of water at her. This caused her to get wet from head to toe, leaving her ashamed and embarrassed. To her dismay, she realized that her protocol had

also gotten soaked. Since it was made of paper and could not be laminated, it had gotten heavily damaged. The letters were blurry and unreadable. She had been warned to carry only a copy, but she had not had the time to make one.

The next day, she went to all of the places that she had already spent a lot of time visiting in order to get a second copy of her documents. She quickly learned it would be much harder to get a replacement than she thought. To get a second copy of her documents, she would need to present a police report concerning the loss or robbery of the original document. Elan went back home in order to complete an online police report concerning what had happened in the subway station. She called a friend who spoke Portuguese to help her. While filling out the online form, she reached an item that called for her document number. The good thing is that she had taken note of the seventeen-digit code and had the number handy; however, the online form would not accept the entry. The number was too long, and she needed to have a shorter one. The problem: she did not have one. After several attempts, she wrote just part of the number and continued with the online registration of the subway event.

With this police report in hand, Elan went back to the office to get her replacement protocol; but the system now allowed only a few dozen appointments per day to address problems concerning the refugee protocol, and she did not make the cut. After several more unsuccessful visits, she finally managed to get an appointment by arriving at 5 a.m. to stand in line. Resilient as only a war victim could be, after three months in Brazil, she had already faced more difficulties than she had experienced in a lifetime as a citizen of her country.

She was lucky to have quickly found friends in Brazil whom she could rely on for help and whom she could also support when needed. Once, an African friend she had met at the mosque called her early in the morning from the police station: he had been detained for apparently no reason. He said that he had been walking home at night when a police car suddenly stopped and officers began to be violent with him. Since he did not speak much Portuguese, he understood only that these police officers thought that he was suspicious because he was walking in the same area where a robbery had occurred some time before. Although they

soon realized that he was not the criminal since he did not fit the description, they still took him to the station because the identification that he presented was unfamiliar to the police officers. He had only the protocol with him, and the officers did not know that it was an ID document, so they took him to the station to clarify. After receiving this call from her friend, Elan went back to the organization that had first helped her open a bank account and reported what was happening to her African friend to one of the lawyers. She waited there until later that afternoon, when they finally informed her that they had called the station and resolved the misunderstanding.

Elan was getting stressed and exhausted by these daily occurrences and began to think that it would have been better to stay in Damascus with her family. While she may not be safe there, at least she would have her family to be with and to care for. Here, although she had friends in her same situation, she felt lost and alone, and commonly had only her tears to keep her company late at night. To regain her strength, she decided to keep a low profile: she stayed at the store and in her room much of the time, leaving only to go to the grocery store and meetings. She no longer used the subway and stopped looking for a new place to stay. Her only focus was to improve her Portuguese and save money.

Since Elan had a degree in architecture, she dreamed about the moment when she would once again be able to work in her area. After a few months of keeping that low profile, she decided to venture outside in the world once again. She had two goals: first, to validate her architecture degree in Brazil, and second, to buy a car so she would not have to use public transportation again, since she was traumatized by the subway incident. She had no idea how to proceed in order to be allowed to work as an architect in Brazil, nor how to secure a driver's license and a car. Therefore, she made an appointment at the same organization that she went to every time she needed support.

Unfortunately, at the appointment, the lawyer told her that she would be able to validate her degree only after obtaining refugee status, and that the validation process normally took about two years. He added that since she had already been in Brazil for six months, she would probably be called to attend an interview within the next six to eight months. After being interviewed, it

normally took another three to four months to receive a decision. Since she was a Syrian, she did not have to worry about her acceptance as a refugee, as most of the Syrians he knew received refugee status. With regard to the driver's license, she could try, but it was almost certain that the competent authority, although legally obligated, would not accept her protocol as a valid form of identification.

Discouraged upon hearing this news, Elan lost almost all of the strength that she had been building up for the past three months. Discreetly, she started weeping. The lawyer did not know what else to say, but he was quite used to seeing people crying at his desk, which is why he kept a box of tissues handy. Feeling her sadness, he handed her a tissue and offered her a glass of water. With no public power in his hands, the only thing he could offer was his support in the fight to have access to the driver's license. Also, since he could see that she was in need of someone to talk to, he suggested that she meet with the in-house psychologist. Layers and layers of expectations can be destroyed when people come up against the problems of bureaucracy, and, indeed, it damages people deeply not to be able to move on; they just slip and end up in the same place. That is why it is often said that every opportunity with an asylum seeker or refugee is a chance to promote mental health.

Elan refused the meeting with the psychologist, saying that her problem was not her mind but the protocol—even though it was clear that her mind was being disrupted by every denial of rights that she was facing on a daily basis. For her, all of her problems would be solved once she had the famous foreigner registration card known as the plastic. The lawyer, however, knew that this document would simplify only some issues of her life and that the struggle of living in a foreign country would go on for quite a while. But that he would keep to himself. While walking her to the door, he said that she would be always welcome there and that the organization would do all it could to help her have a better life in Brazil. With sadness in her eyes, she thanked the lawyer and went out to the urban jungle, where foreigners are pushed to endure extreme hardships and obstacles.

Elan's struggle in Brazil is yet another example of how layers of vulnerabilities can shove people down to a lower position in

society and affect the roots of their individuality. The fact that she was an asylum seeker from an Arabic country, practiced a minority religion in Brazil, and had a completely different dress and cultural code could be seen in a positive way as the richness of being different. But the multiple violations of rights she had to endure since coming to Brazil was making her believe that her singularity and personal history was just a very bitter sauce that life had prepared for her.

As one can imagine after reading Elan's narrative and others in this chapter, one of the biggest challenges when working with people who face multiple situations where their rights are violated is that these individuals often develop a negative perception of themselves. They begin to think that the problem is not the structural system of inequalities between dwellers and outsiders but rather themselves as foreigners. For them, being a citizen is a privilege that they no longer possess, and they sadly embrace the position of being less than others.

Conclusion: Understanding Citizenship as a Privilege

In Brazil, even though the number of immigrants is negligible compared with the country's total population (immigrants represent only about 1.5% of the population), the nationalist wave that is affecting the entire world is also growing in our land. This problem is much more worrisome when considering that in Brazil, we have only 9,000 recognized refugees but more than 30,000 asylum seekers awaiting a decision on their status. In a country with more than 200 million people, the lack of will to offer alternatives for a better life for these people cannot be based on a numerical justification—it must be rooted in a much deeper concept.

Most anti-immigration speeches seem to base their arguments on national security and the supremacy of Brazilian national identity. However, if that were truly the issue, measures could be taken without subjecting people to ostracism, because pointing fingers and blaming economic and political crises on immigrants are not elements of the homeland security agenda, and such a small number of immigrants cannot possibly pose a threat to national identity. Protecting the privilege of citizenship seems to be a better fit with xenophobic politics.

If we think about the daily experiences and activities in the life of a citizen compared to those of a noncitizen, we can begin to appreciate what a difference it makes to be able to carry official documents and to count on the support of one's home state. Documents are either a door to access rights and opportunities or a door shut in one's face. When we think about these documents, it is also important to consider the material they are made of. The term commonly used by asylum seekers and migrants in Brazil—"the plastic"—is understandable considering that plastic is sturdy, permanent, and much harder to destroy than paper. It is a good metaphor for an asylum seeker's quest for a stable life. It is a quest not only for the plastic but also for the ability to access rights and be accepted in a new society.

In this way, being able to present one's plastic may seem like the solution to all of one's problems. But as we have seen, this is not entirely true: people who have this document are not yet citizens; they are just allowed to permanently live here. Especially for refugees, there is still a four-year wait to get the definitive permanent card (the first permanent card it is not the definitive one), and only four years after that do they have the right to apply for citizenship. Moreover, applying for citizenship is not an easy assignment, for it requires many documents, some of which are available only in one's home country—a fact that makes citizenship out of reach for some refugees.

It is not common to discuss citizenship from the perspective of inequalities. When one speaks about inequality, what normally comes to mind is the difference between the poor and the rich. Nonetheless, when working in human rights, it becomes clear that inequality is really about the dialectic between privileges and vulnerabilities. When someone accumulates privileges, he or she is pulled up, but the opposite is also true: when a person experiences layered intersectional vulnerabilities, he or she is often pushed farther down the social ladder. And citizenship is one of these pull-up factors.

Working in human rights allows us to see layers of intersectionality that can go unnoticed and can be easily misunderstood. The problems concerning the protocol, which I have illustrated above, are one example of this, as they play an enormous role in a person's life, pushing that person down the ladder and leading to

many violations of rights. Such problems could be easily solved: the situation demands only the political will to issue a new regulation granting a more formal document and more flexible access to institutional and public assistance.

Although the solution appears to be simple, it is not. Allowing asylum seekers to carry a more formal document means granting them a glance of citizenship. Sadly for them, citizenship is the privilege of a few, and governments make big efforts to protect their own. In this light, being a foreigner often means giving up one's self-esteem and never really being accepted for who one is; it means being allowed to exercise one's rights only if one has documents that can prove them worthy of inhabiting the lands that destiny did not make their own.

In sum, it seems that we live in a world where citizenship and national sovereignty are dogmas that cannot be refuted. Once this planet becomes a world of people, perhaps the notions of citizenship, national territories, and frontiers will fall into oblivion. Until then, people will continue to be pushed down the social ladder into a distressing limbo in terms of rights and privileges, with no way to climb back up. And this is where human right defenders must work, taking people out of the abyss to which they were forcibly displaced and denied the world of privileges.

References

Haddad, Emma. 2008. *The Refugee in International Society: Between Sovereigns*. New York: Cambridge University Press.

CHAPTER 5
Personal Narratives from
the Margins: Empathy and Public
Policy in Buenos Aires

Juan Ignacio Leoni
(Argentina)

“The family’s living conditions are extremely perilous; they do not meet basic needs and they put everyone’s—particularly the children’s—health at permanent risk.”¹ This was the conclusion of the health and environmental report prepared for Sonia’s case.² At the Public Defender’s Office, we use documents such as these to learn more about the realities of our clients. The reports provide us with data collected by experts on our team who represent various disciplines: social workers, psychologists, psychiatrists, and architects, among others. They also provide a technical basis for our legal arguments. Before commencing legal proceedings, we try to analyze a range of technical information on the case at hand.

In the case of Sonia and her family, before we received the package of documentation and reports that would support the drafting of her legal complaint, which related to housing, we had already been warned by our field deployment team that the case was a complex one. It centered on a single mother of five children (one of whom had a physical disability) with a history as a victim of domestic violence. The family lives in a slum on the outskirts of Buenos Aires.³ Specifically, they live in a *villa*, a term used in

1 The technical reports I refer to throughout this chapter are supporting documentation that is attached to the case file and to which I have access due to my role in the proceedings. They are currently not available to the public.

2 I have changed the names of the people discussed in this chapter in order to protect their privacy.

3 It is worth pointing out that in 2016, when I began writing this chapter, the municipal government of Buenos Aires was carrying out a process to relocate residents of the site where Sonia, her children, and another 130 families were living. By 2018, the settlement was no

Argentina to refer to shantytowns built on the periphery of large cities. The precariously constructed houses are made from scrap material (cardboard, wood, sheet metal, and, for the “lucky” few, brick and cement) that their inhabitants piece together over time. The houses lack basic public services: electricity is illegally tapped, there is no running water, and propane gas cylinders are used for cooking. Sonia’s house is built against the perimeter wall of an abandoned building that is now being used as a garbage dump. Her home is permeated by the odor of decomposing waste and by the rats and insects attracted by the enormous mountain of garbage.

Sonia and her children live in a severely overcrowded dwelling. They lack the means to rent a more comfortable place with several rooms. The six of them *survive* in a 5-by-7-square-meter space, which is about the size of a bedroom with a closet. Their house is so small that its corridors consist of the space between people’s beds and the boards and boxes used to store clothes. This small space is where the family eats, relieves themselves, plays, does homework, sleeps, laughs, and cries, without privacy, in the view of the others.

As I had been warned, the evidence and technical reports submitted to the Public Defender’s Office confirmed the case’s complexity. But all of this was nothing compared to what I saw with my own eyes the day I went to Sonia’s house to interview her and gain a deeper understanding of the situation. My experience of being in her home went beyond what I had imagined because I had been provided with information that was embodied in a type of narrative that seeks to tidy up, sanitize, and homogenize life experiences. Legal and bureaucratic language simplifies people’s lived experiences in order for these situations to be translated into data, numbers, and categories of social services, types of rights violations, and so forth.

Though useful, such information neglects the details that allow one to feel empathy: things that allow one to smell, to feel, and to live the experiences of others. Narrating a different way, with one’s five senses, as explained by journalist Nelson Frey

longer in existence and the site was being used as the new location for the city’s Ministry of Human Development and Habitat.

Padilla,⁴ is crucial for understanding the lives of others. When conveying an experience in an official report, one must follow a standard format—a format that uses a telescopic lens that limits the view of certain aspects in order to focus on the details needed to fulfill a particular bureaucratic function, which is undoubtedly useful for those deciding whether to award specific assistance to a family. But these reports and their stylistic limitations overlook a fundamental question: How does it feel to live without means? The answer to this is key for developing empathy, for devising solutions, and for being able to define ourselves as a society. This is what I hope to address in this text on public policy and those who live in want of the most basic resources required for a life with dignity.

When someone tells us something, they share their personal interpretation of what they said, felt, or heard. This is even more true when we are dealing with official reports on the situation of the destitute. Being, seeing, and listening allow us to be present, and incorporating this awareness of personal testimony into our accounts of the lives and experiences of others can be a useful tool for overcoming the limits of official language. It allows us to more easily put ourselves in another's shoes. It allows us to feel empathy because, ultimately, we're talking about human beings.

Before visiting Sonia's house, I had read our team's reports describing the uninterrupted presence of rats inside her home. Without a doubt, the reports portrayed an acutely undignified situation. Nonetheless, the impact was exponentially greater when I saw it with my own eyes. The rodents that were intertwined in the reports' legalese came to life when I crossed the house's threshold. They were no longer abstract animals identified in the reports or those that I was accustomed to seeing running around on the subway tracks as I waited for a train. They were there, with us. And while I tried to focus on my interview with Sonia, the rats scurried between my legs. I could see them whisking up the beds and stealing into the burrows that they had gnawed. The house was divvied up among the rats, Sonia, and her children.

4 During the Global Action-Research Workshop for Young Human Rights Advocates organized by Dejusticia, in which I participated in 2016.

It's true that the report was unambiguous: "The presence of rats can be observed in the house." But there was nothing about the mother's desperate—and failed—attempts to keep the rodents from entering their house. There was nothing about the look on Sonia's face when, worried and ashamed, she told me how a rat had once bitten her son while he was sleeping. The report also failed to describe how the stench of garbage impregnated the house. Being there, with my five senses awake, made me feel something distinct—it put me in a place that was closer to the suffering of Sonia and her children. It demarcated a before and an after. It made me think carefully about questions that the antiseptic technical report had not prompted me to consider: How does it feel to sleep while afraid that a rat will bite you or your children? What is it like to breathe the stench of garbage all day, every day? How would I feel if these were my children? How hardened by life must one be—how far must one fall—to be able to bear such indignity without going crazy, without giving up? It made me think about my place of privilege and the kind of justice we're talking about when so many people live in these kinds of conditions.

Sadly, Sonia's family is not alone. This particular *villa* has more than 130 families living in the same conditions. In Argentina, one in every three people is poor ("Indec: El 32,2% de los argentinos es pobre" 2016). In Buenos Aires, more than 16,000 people live in street situations (Rodríguez 2014; Sarmiento 2016; "En los últimos tres años" 2018). Poverty and inequality are not just a statistical data point; unfortunately, one only needs to look at the many situations that reveal, each day, the reality of the underprivileged. In Buenos Aires, we see people sleeping in town squares, under bridges, in ATM vestibules, in building entrances, in trains, in subways, and on sidewalks.

In recent years, this marginalization has only grown. Although there are no official data, the city's homeless population is thought to have increased between 20% and 40% between 2015 and 2016 ("Aumentaron las personas en situación de calle" 2016). According to the municipal government, the number of calls to the city's social assistance hotline had increased by 50% by mid-2016 (ibid.). Meanwhile, society's apathy toward this kind of situation—the "every person for themselves" attitude—reflects a weakening of the collective sense of solidarity that should strengthen social

equality. The general attitude toward the most subjugated sectors of the population demonstrates a complete lack of empathy with the marginalized.

Harsh Mander (2015) writes about the upper-class elite's lack of compassion toward the millions who lack the privileges that shield them from hunger, oppression, violence, misery, and indignity. This inattention is so strong that ultimately it seems that we are growing accustomed to living alongside people submerged in misery, as if they were yet one more "thing" in our daily environment. We make the marginalized invisible and, oftentimes, we even hold them responsible for the reality they are forced to endure. This lack of empathy prevents us from recognizing the suffering of others and in turn distorts our sense of justice and of the measures that we should expect from our governments.

It is difficult for me to describe the emotions of another person in such a way that someone who wasn't there can perceive everything that was hidden behind that sentiment, of looking Sonia in the eye as she recounted her life story. Indeed, developing empathy is easier to do when one is present. Being able to empathize with another allows us to understand that person, to see how they arrived at their situation, even if we do not agree with them. Empathy with regard to social inequality allows us to reflect on the value of justice and on the type of public policies that states develop in pursuit of dignity for the have-nots.

In this regard, and precisely in this context of increasing poverty, being able to recover our collective sense of solidarity is, in my view, the only way to foster a paradigm shift that allows us to conceive of a truly fairer society. To achieve this, we need to be able to empathize with the suffering of the most marginalized.

In the following sections, I will describe situations that I have experienced as part of my work, with the aim of allowing the reader to make contact with the stories of people who are in street situations. How can you describe another's suffering? Honestly, I'm not sure that it can be faithfully transmitted. Further, it depends in part on one's readiness to leave aside their truth and prejudices, in order to truly put oneself in the shoes of another. And, finally, in this chapter I will reflect on the public policies implemented by some governments, but from the point of view of the have-nots.

Concentrated Indignity

Sonia's house is accessed via a narrow dirt path about one meter wide. Her home is a 5-by-7-square-meter room devoid of ventilation and natural light because there are no windows. Inside are one double bed and three single beds crammed together. She explained that they spend most of their time in the "bedroom" because the kitchen area tends to have more rats and insects. As I mentioned earlier, as I interviewed Sonia, rats ran under my feet and around the house. Sonia showed me the various holes that the rodents had made in the floor and how she and her children had tried to plug them.

The health and environmental report said that "the family can be seen to be living in a state of 'extreme overcrowding.'" I don't know how readers interpret this statement, but I imagine that a variety of scenarios of dire housing conditions come to mind, including living jam-packed with others. Once again, the reality eclipsed my expectations. The report's technical language did not do justice to the gravity of the situation. It didn't mean simply that the family lived like sardines in a can—it meant that they lived with rats crawling all over their beds and with electrical wires exposed and patched together with insulating tape, within the reach of Sonia's children as they played in the cramped space. It meant that leaks in their sheet metal roof dripped on some of these wires. It meant that the smell of garbage permeated the home. It meant looking into the eyes of a family used to living this way.

Inside, the family members basically lived one on top of the other. The house has two different nooks separated by pieces of scrap wood, without any ventilation, that make up the kitchen and the bathroom. The water connection is dicey: it links to the pipes that pass through the neighborhood (residents each puncture the neighborhood's sole water pipe with a hose that then carries water to their houses). There is no water tank in the bathroom, so Sonia's family uses buckets to dispose of their excrement. Keeping the house clean is difficult in light of the overcrowding and the fact that the entire space is filled up by beds, mattresses, and clothing, with barely any space left to walk around in. It is also hard to clean the floor—a compacted mixture of cement, dirt, and water—which is perforated by rat burrows. The outlet pipes for the bathroom and kitchen link to the street drains, which means that

on rainy days their contents are regurgitated inside the house. In other words, the family's own waste floods their home.

Sonia also told me about how hard it is to store food. The rats are constantly opening their food packages and scattering the contents all over the place, and the many cockroaches wandering about also contaminate the family's food source. Moreover, the electrical wiring fails to meet even the most basic safety standards. As mentioned, the wires are exposed, without any kind of covering, making them vulnerable to contact with water. This increases the risk of electrocution and fires from overloaded circuits. The wires are old and probably recycled from some other installation.

All of this made me wonder whether it's even possible for one to truly understand the undignified living conditions of Sonia, her five children, and the 130-plus families who live in this *villa*, which is but one of many in the city. These kinds of living conditions also have a negative impact on inhabitants' health. In this regard, the medical professionals from our office who performed an evaluation of Sonia's home noted the following:

- (i) The lack of water hinders hygiene, both personal and food related. Similarly, the house's hazardous construction and the presence of rodents and insects contribute to microbial contamination of the water.
- (ii) The presence of pests and rodents, along with overcrowding and a shortage of water, lead to gastrointestinal problems, parasitism, and food-borne illnesses due to the poor conditions for food storage and preparation.
- (iii) There is a risk of both microbiological and chemical contamination due to the difficulty in washing food, constant contact with rodent and cockroach feces, and the surrounding soil. Food-borne illnesses can cause acute poisoning and chronic illnesses that in turn lead to malnutrition, physical weakness, and cognitive impairment in children. Moreover, they can lead to persistent disability and even death.
- (iv) The regurgitation of sewage inside the home generates a foul odor and contaminates cooking utensils and other objects that, due to the family's lack of furniture, are stored on the floor. This creates an imminent risk of hepatitis infection and intestinal and skin infections.

- (v) The gas used for cooking comes from a portable gas cylinder stored inside the kitchen. This, coupled with the house's lack of ventilation, places the family's lives at risk due to possible gas inhalation or explosion.

The Fallacy of Equality

Lucas is eighteen years old and is the oldest of his siblings. Earlier this year, he took the Ciclo Básico Común⁵ at the University of Buenos Aires in order to be able to enroll in engineering. Currently, he is studying for the entrance exam for the National University of La Matanza. Lucas had a difficult childhood. He was born in a *villa* in conditions of overcrowding that persist to this day. He was forced to live in the streets with his mother and siblings. All of them were—and still are—underweight because they couldn't afford to eat twice a day. Sometimes not even once a day. His father left them when Lucas was a year old. Some time later, the father reappeared in their lives; he was always drunk, he hit their mother, and sometimes he hit the children too.

Going to school wasn't easy for Lucas. Everything was an obstacle, from money for supplies, uniforms, and transportation to the large number of absences that Lucas accumulated throughout the year. When his mother was finally able to land a job that allowed her to put food on the table, she had to work eight hours a day on rotating shifts, so on many days she had to wake up at four in the morning, prepare their lunch, and go to work. But since she had no one to watch the children, she sometimes had to leave them shut in the room under Lucas's watch (Lucas was seven years old at the time). During the time their mother had this job, Lucas and his siblings attended classes only on the afternoons that she came home early.

Lucas told me how hard it was for him to complete the Ciclo Básico Común. He wasn't at the same level as the other students, and there were many topics that were new for him, that had never been taught in his school. He said that he should have gotten a private tutor, but this was out of the question since until a few months ago, he didn't even have bus money to get to his university.

5 In Argentina, the Ciclo Básico Común, or Common Basic Cycle, is the first phase of university studies that must be completed prior to entering into a specific major.

Lucas saw firsthand how the marginalized have a different experience with education compared to the more privileged. I do not wish to analyze those differences here, but it seems important to at least point out that schools attended by the most vulnerable are situated within different social realities and have lower budgets and lower-quality infrastructure, which affects the basic quality of education. Added to this is what François Dubet describes with regard to the fact that “students’ performance depends too heavily on the cultural resources of their parents in order for true equality of opportunities to not be a fiction” (Dubet 2016, 30).

What Lucas didn’t know is that his status as a college student was an exception for someone like him. The fact that he completed the Ciclo Básico Común had already placed him within a small group that, according to statistics, is able to avoid the life plan that seems to be part of the destiny of the marginalized. According to the Argentine Institute for Social Development, in 2015, six out of every ten poor children did not complete high school: “More than half of young people fall by the wayside due to the poor quality of secondary education” (Instituto para el Desarrollo Social Argentino 2015). In this context, Lucas, despite his lack of preparation, is a welcome exception.

A few months ago, he got a job at McDonald’s, where he earns just under 6,000 pesos (about US\$160) a month. According to official figures, this is less than half of what a family of two adults and two children (aged six and eight) needs in order to avoid poverty (Instituto Nacional de Estadística y Censos 2016). In Lucas’s family, there are six people—and he is the only one earning an income.

He told me that he can no longer bear seeing his mother and siblings living under these conditions. He often cries at night, thinking about how he has the “luxury” of going to college, while his family suffers from hunger. He laments the fact that he can’t work more hours in order to earn more money. But at the same time he feels inspired. He says that his only hope of getting his family out of the “pit” they’re living in is by getting an education—by earning a degree that allows him to envision a different kind of future than the one already written for that “kid” from the *villa* who was forced to work at a young age because his family had no food to eat. He knows that this kind of menial labor will

forever constrain his social mobility and his dream of providing a better life for his family.

As Lucas talked to me about his sorrows and dreams, I became anguished and had to hold back my tears. It was heart-wrenching to hear about how this eighteen-year-old was struggling to overcome the set of cards he had been dealt in life. But even though my tears would have been from pain (provoked by the unequal battle that Lucas was fighting against a system that had told him, since the moment of his birth, that he would die in poverty), I couldn't let myself cry because he would likely think that they were tears of pity, and he didn't need anyone's pity.

And while the first thing I wanted to do was encourage him—despite the pain that I was feeling at that moment—that impulse was besmirched by the technical data with which I was familiar: that most children who are born into similar circumstances fail to achieve those dreams. According to a study by the Argentine Institute for Social Development, which was based on data from the country's statistics agency, the following trends can be seen among young adults aged 20–25: 24% are enrolled in university studies, while 17% are neither in school nor working, nor are they seeking work; among the top wealth quintile, these figures are 43% and 5%, respectively; and among the bottom wealth quintile, these figures drop to 12% and 30%, respectively (Instituto para el Desarrollo Social Argentino 2011a).

For poor families, the possibility of attending college is remote. As the study notes, "The majority of poor youth abandon [school] long before being in a position to enter college, and the few who complete their secondary education do so with severe shortcomings in their preparation. *Therefore, those who enter college are unlikely to remain there*" (Instituto para el Desarrollo Social Argentino 2011a; emphasis added).

As philosopher and sociologist Zygmunt Bauman explains:

[There is a] contradiction between the formal universality of democratic rights (accorded to all citizens equally) and the less than universal ability of their holders to exercise such rights effectively . . . [This is] a gap expected to be bridged by individuals deploying their own skills and resources, which, however, they may—and in a huge number of cases do—lack. (Bauman 2011, 13)

In other words, the discourse of equality makes the marginalized even more invisible, compounds indifference toward their lack of resources, and paints a deeply distorted picture of reality. Formal equality helps create stories about a meritocracy, where everything can be summed up as a question of will. This promotes the myth that everyone is in the place that he or she wants to be. We convince ourselves that we are all free and enjoy the same rights, meaning that achieving the future that one wants is really just a matter of the fortitude with which one faces life.

By the same token, those who fail to get ahead are seen as “throwing in the towel” and wanting to live off of handouts from “populist states” despite having been given the tools necessary to achieve a better future. We often hear someone say, “It took great effort to get where I am today and make something of myself. I also faced difficulties, but I never gave up,” as if that person’s case could be generalized to everyone, regardless of the particular contexts that facilitate or hinder certain actions. How is it Lucas’s fault that he was not adequately prepared to tackle the *Ciclo Básico Común*? Can we say that it’s his fault for not paying a tutor to help him improve his performance, even though his family barely has enough money to eat? Or would we dare to say that his problem was because he didn’t dedicate enough time to studying?

Lucas is Sonia’s oldest child. He lives in the same room as the other five members of his family, in addition to the rats. His mother says, crying, that she wants to get out of the *villa*, that they need to find a bigger place because the one where they are now doesn’t have any place for Lucas to study.

In this sense, it is clear that equality and merit are not mutually exclusive—that true equality is needed in order for merit to have value (Dubet 2016). However, the absence of equality needed in order to be able to speak about merit is experienced from the moment of birth. On this point, Harsh Mander notes:

That the accident of where a child is born still determines her chances in life almost irrevocably—whether and how long she would be able to study, and with what quality, the vocations open to her, the limits of her wealth and social standing, even her most basic well-being and dignity—is widely considered unproblematic, even legitimate. Many people of wealth and privilege are convinced that they have what they do because they deserve it, and that those who are in want and need

also deserve their lot—because of laziness, addiction to drink, lack of education, lack of ambition, low capabilities in general, and the profligate breeding of large families. (Mander 2015, xi–xii)

Before we pass judgment on the marginalized, it is important to consider that free schooling is meaningless if, for example, they lack the means to pay for transportation. Or if they are unable to purchase books and supplies. Equal access to education becomes a fallacy if one child goes to school to study and the other goes to school to eat. What equality can there be when one sector of society is unable to enjoy their most basic rights? Personally, it seems evident that the foundation of equity is fiction and that talking about merit is a dangerous mistake that fosters a harmful narrative that perpetuates existing conditions of inequality.

In 2011, eight out of every ten young women with children was poor (Instituto para el Desarrollo Social Argentino 2011b). This statistic is shocking to me, as it should be, especially when marginalized families are growing at a quicker rate than their more well-off counterparts. If we take this trend as a basis, that means there are grandmothers around thirty years old. The Argentine Institute for Social Development has undertaken a good analysis of these demographic trends:

According to [the national statistical agency's] household survey, between 2003 and 2015 . . . higher-income families reduced their average size three times more than the poorest families . . . These data show that while family size fell among higher-income households, it remained practically unchanged in poor households . . . Evidence taken from international experience shows that the reduction of structural poverty is associated with lower birth rates. (Instituto para el Desarrollo Social Argentino 2016)

Part of what this information shows is the vicious circle that is created within the most vulnerable sectors of society. These statistics prompt us to reflect on what kinds of possibilities, or what freedom of choice, exists for the son of a poor girl who had to drop out of school at thirteen because she became pregnant. I find it hard to believe that a child born and raised in a street situation has much chance of avoiding the same future as his parents. The circumstances of his birth violate his rights to health, to proper nutrition, to decent housing, and to education. How can we judge Sonia's children, raised in a context of total poverty and with an

abusive father, if they decide to drop out of school, tired of trying to get ahead in life? We need to be extremely conscious of the path that children in street situations must traverse before reaching adulthood—the barriers they must struggle with—before we judge their actions. Before criticizing government assistance, we need to be very aware of the state of inequality in which an entire segment of society is born, is raised, and dies.

The Story We Choose to Tell Ourselves

He has been back on the street for almost a month. Although it's a familiar situation for him, in the last eight months it has become more frequent. He knows that he is but one more homeless person among the many who inhabit a large city like Buenos Aires, but he doesn't want to live like this. He knows the danger inherent in sleeping in a town square. He has experienced police brutality upon being forced to abandon the site where he tried, unsuccessfully, to get a few hours of sleep. He knows what it is like to go to sleep and wake up with an empty belly, vulnerable to the vicissitudes of the weather.

He wants to take a shower, to change the clothes he has been wearing for weeks. He wants to eat lunch and dinner under his *own* roof. He is obsessed with purchasing a television or finding a boarding house that has cable. He often says, "I want to watch Boca [an Argentinean TV channel], I want to watch movies" and "I can't be shut in, all by myself, without being able to watch TV." I suppose that the company of TV is the only alternative he has for silencing the ghosts that have accompanied him since he was a child.

Who are Adrián's ghosts? They are probably the same as those for any adult who knows what it is like to live on the streets since childhood. The first time he had to sleep on the streets was at age twelve, when his mother, tired of how Adrián wasn't getting along with his stepfather, kicked him out of the house. Since then, he has been without family. Not a day passes by when he doesn't regret the absence of the woman who gave him life. Today, at age forty-six, he says that he hopes god will change his mother's heart and that she will love him again. He says that he has changed a lot, that he misses her, that he doesn't know why she doesn't love him.

Adrián also has the ghosts of a person who, for decades, has been through various periods of institutionalization: juvenile

institutes, prisons, psychiatric institutes, hospitals. After each one of these periods, he returned to the streets, without family, without a friend, without a “someone” who could be there for him and help him get his feet off the ground.

He wants to get off the streets. He wants to live under a roof, but the voices in his head won’t let him. Adrián’s mental health prevents him from forging emotional ties with others, and his drug addiction causes him to spend his housing subsidy⁶ on “rented affection” and cocaine base paste. He knocks on the doors of all the institutions he’s been in, but nobody opens them. It seems that they don’t want to see that there’s someone outside who needs them.

At the Public Defender’s Office, we use all available mechanisms to help him. But some issues are out of our control: the municipal government lacks the mental health facilities that it should have created by law, and as a result the city is not equipped to treat the diseases of a patient such as Adrián. The health care provider that is supposed to cover his treatment turns its back on him due to the lack of these facilities. In addition, the provider seems to not want to exert any effort on patients like these. On a few occasions, lawsuits have been filed against the municipal government to demand a housing solution for the thousands of individuals who, like Adrián, live on the streets. One of the arguments offered by the city to justify its failure to act is that its resources are finite and do not allow it to attend to everyone. That is why it is crucial that state policies be accompanied by sufficient budgets.

Buenos Aires has a broad and generous legal framework for the protection of economic, social, and cultural rights, including the right to housing and the right to health. These rights are recognized in the city’s constitution, as well as in international human rights treaties to which our country is party and in domestic and local laws that raise the minimum level of protection established in international instruments.

6 The municipal government provides a housing subsidy to those who are homeless or at risk of becoming homeless so that they can have a place to sleep. But this subsidy is often insufficient for actual housing and allows these individuals only to rent small, rodent-infested, damp, and unventilated rooms located in shady hotels in marginalized areas of the city.

States' compliance with the duties outlined in the International Covenant on Economic, Social and Cultural Rights indicate the interrelation that exists between the possibility of fulfilling those rights and the resources budgeted for their compliance.

Indeed, the United Nations Committee on Economic, Social and Cultural Rights, interpreting article 2 of the International Covenant on Economic, Social and Cultural Rights, has noted that

a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, *prima facie*, failing to discharge its obligations under the Covenant . . . Article 2 (1) obligates each State party to take the necessary steps "to the maximum of its available resources". In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations. (United Nations Committee on Economic, Social and Cultural Rights 1990, para. 10)

Despite this legal framework, poverty and indigence are on the rise and are increasingly visible to all; structural poverty remains a problem. Time passes, and governments fail to offer effective solutions. It is important to stop and consider how many times governments have demonstrated that they dedicated the maximum available resources in these cases. Have we asked if they cannot allocate more resources to ensure that people don't go hungry or die from the winter cold, or to take people off the streets and give them a better future?

It should be clarified that this is what states have committed themselves to. We need to remind states that they are failing to comply with their own obligations to develop and implement public policies that fulfill the rights to housing and to health (among other economic, social, and cultural rights). They are the ones that assumed this obligation, and it is our duty to demand that they act accordingly.

Unfortunately, we have fallen victim to the myth that public assistance programs are excessive and encourage free-riding. We have constructed a narrative in which we are the victims of the marginalized's misfortune. As Mander describes, the dominant

discourse of the well-off suggests that “we work hard and earn an honest living, and then we are taxed to supply freebies to the undeserving poor, rather than encouraging them to work hard and pull themselves up by their own efforts” (Mander 2015, 273). Along the same lines, Dubet notes that “the tendency to blame the victim is reinforced: surveys show that many citizens do not wish to pay for those who, in their view, do not deserve it. The principle of merit to which everyone adheres is turned against those who have seemingly failed to assert their merit and their dignity: against those who, therefore, do not deserve our solidarity” (Dubet 2016, 38).

We focus on the “expense” represented by the marginalized. We talk about equality, about merit, about fiscal costs, and yet we ignore the fact that the greatest inequality is produced by those at the top of the pyramid. According to a report by Oxfam, in 2014, eighty individuals possessed the same wealth as the poorest half of the world, consisting of 3.5 billion people (Oxfam 2015, 3). In 2017, a mere eight individuals held the same amount of wealth as this poorest half of the world (Oxfam 2017, 2). In Argentina, one out of every three residents is poor, and just 1,000 companies account for 76.5% of the country’s gross domestic product, which means that just 1,000 boards of directors produce the same as about 32 million people (*Contrainfo* 2015).

As we skimp on our solidarity with the vulnerable, we hold them responsible for their future and we see ourselves as victims of their misfortune, and we overlook the fact that there is a sector of society that is infinitely richer than we could ever imagine being. Indeed, a 2016 press release issued by the United Nations Economic Commission for Latin America and the Caribbean noted that “between 2002 and 2015, the fortunes of multimillionaires in Latin America grew an average of 21% per year (or six times faster than GDP in the region)” (United Nations Economic Commission for Latin America and the Caribbean 2016).

We are used to hearing “common sense” perspectives that are cut and dry in their approach to extreme poverty, to the possibilities that the marginalized have to overcome their situations, and to public policies that subsidize their “way of life.” Meanwhile, very few perspectives call for redistributive policies that reduce the gap between equality on paper and inequality in reality or

that seek to achieve a more integrated society in which rights are enjoyed by all.

In 2015, between eighty and ninety people were reportedly dying each year in Buenos Aires as a result of the cold, hunger, and tuberculosis (“Entre 80 y 90 personas en situación de calle mueren por año” 2015). Can you imagine what it’s like to freeze to death, alone, lying on the street like a piece of trash? Think about how your body grows numb as the cold passes through your muscles and reaches your bones—a cold so deep that, suddenly, your heart stops beating. What goes through the mind of someone who knows that they are literally freezing to death? What does that person feel?

Here, I do not wish to debate subsidy policies. I think that, in general, they are poorly implemented, but I’m more interested in reflecting on whether we, as a society, are having the wrong conversation—whether instead of focusing on the money that is “spent” on social assistance, we should first discuss how much money is held by those in power. In other words, wouldn’t it be worth talking about the redistributive policies that governments never implement? Have you ever wondered what the system should guarantee as a minimum to your children in case you were uncertain what the future held for them? Because while we don’t question anything in this regard, the number of marginalized people grows, and the gap between the haves and the have-nots is increasingly wider.

We do not react. We do not demand public policies that emphasize inclusion and equality. Society’s behavior in general prompts us to assume that the urgency of the have-nots is not that urgent. “We are the ones who are truly aggrieved and in need,” the wealthy seem to shout. “We see how our tax dollars are squandered among the lazy and how nothing is returned to those of us responsible for the country’s growth.” We create a narrative that, little by little, begins to legitimize the fact that certain sectors of society must be subjugated. We convince ourselves that the circumstances of their birth make them accustomed to—tolerant of—the reality that they must live. In this sense, the justifications begin to multiply. We talk about freedom, equality, and merit, as if Adrián or Sonia and her children, for example, had the same chances as anyone else to freely choose how to develop their lives.

We need to begin asking ourselves what kind of justice we are demanding from the state, and from what social position we're making these claims. I believe that if we were to lose our social status for just a moment and enter a state of uncertainty in which we don't know whether tomorrow we will be rich, middle class, or the poor boy bitten by a rat, our demands would be different. The minimum guarantees that we would demand from the system would be greater than what we're calling for today. If we were not in our places of privilege, we would not be as indifferent to the fact that just eight people enjoy the same amount of wealth as the poorest half of the world.

Before Going Back to the Streets

Members of the wealthy class are often dismayed when they see a child sleeping in the street, begging for coins on the subway, juggling at a stoplight, or in any other situation that evokes the sensation of a childhood lost. In cases such as these, you can hear their indignation. They exclaim their powerlessness in the face of the current government that is doing nothing to address the situation. When children are involved, everything seems more serious, more urgent. It is different when adults are the focus. If a man is begging for money at a stoplight, he generates insecurity; if he is sleeping in the subway, people are offended by his stench. If a woman with children is begging for money, you can hear people whisper, "She has children so she can get more public assistance." Who are we to judge their survival mechanisms?

When I point out this distinction, I am not trying to ignore the unique vulnerability of children and the special protection they deserve. As cliché as it may sound, children are our future, and caring for them means caring for what is to come. What I wish to highlight is that all children become adults sooner or later. The child who provokes our pity today is the adult who makes us feel unsafe tomorrow. Those of us who live in Buenos Aires and its suburbs experience these situations. It is up to us to acknowledge them and be aware of what they represent. It is also up to us to reflect on the future of these children, the present of these adults, and the tools that current government has given them to compensate for the privileges that they have never enjoyed.

Sergio is one of our clients. He is a “consultant,” as we tend to call those who come to the Public Defender’s Office in search of legal representation, and with whom we have developed a warm friendship over the past few years. A few months back, as I considered what to write about in this chapter, I mentioned to him that I wished to write about his life story. I asked him if he would be willing to help me put together a section of my chapter that would describe his experience living in the streets. He agreed.

From the moment I asked for Sergio’s help, we agreed that we would meet outside of my office hours in order to talk calmly about the text. More than four months went by before this happened. During this time, I felt several different sensations. At first, I wasn’t keeping track of the weeks that had passed since my initial proposal, and then I figured that Sergio had been unable to pay for transportation from the nearby city of Glew. Eventually, I began to wonder if maybe he had died. It was strange that Sergio had not even called me during that time, and as far-fetched as it might sound, it would not be the first time that a client of ours, suffering from myriad health problems, would pass away during the course of their legal proceedings.

Luckily, I was wrong. Last week, *el gordo*, as he lets me call him affectionately, called the Public Defender’s Office. He was alive! I was relieved to hear his voice, though I didn’t lose any time in grumbling about his disappearance. I felt like a father who, after waiting hours to hear from his child, first feels a sense of relief and then reproaches the child for not having been in touch. “No, Juan!” he told me. “I didn’t disappear. I was in the hospital for a month and didn’t have a dime to call you. You have to see how I look.” Once again, his diabetes and a blood infection had put him on the brink.

Sergio lived on the streets without interruption between 1986 and 2000. Thereafter, he went back and forth between the streets and *paradores* (homeless shelters). In 2013, my colleagues and I at the Public Defender’s Office managed to persuade a judge to issue a precautionary measure and order the city to reintegrate Sergio into its housing subsidy program. What did this mean? It meant that in response to a judicial order, the city government had to provide Sergio with a monthly stipend to pay for a room at an extremely sketchy hotel that bordered on degrading.

Sergio was not born on the street. He is not a “bum” who doesn’t like to work. He once had a family and drove a *colectivo* (a collective bus), but the country’s economic woes played so hard against him that one day he was no longer able to pay his driver fees. Without a job and no other relatives to give them a place to stay, Sergio, his wife, and their three children were left in the street. In 1991, his wife died of cancer, and everything went downhill from there. Below are some excerpts from my conversation with Sergio:

Juan: What was that moment like [when your wife died]?

Sergio: I was a mess, Juancho. I was left with the three little kids, the four of us on the street. I fell apart.

[His eyes glaze over and he does not elaborate. What did he mean that he “fell apart”? For how long? I only know that a few years later, fate would play against him once again, this time taking one of his children, who had been killed by a bullet upon leaving a party.]

J: How did you take care of your children?

S: They were very little. At night, I would leave them with someone who let them sleep at their place, and during the day I would take them out to rummage. I would carry them on the cart and we would go look for cardboard, wires, scrap metal, anything that could be resold.

J: Did they go to school?

S: No, since I didn’t have anyone to leave them with.

J: What did you eat when you lived on the street?

S: You eat whatever you can find. When you’re on the street, you don’t work alone, you have your group. So during the day, you would go out to beg, to rummage, and at night, we would put together what everyone got. We would share, and if someone hadn’t been able to get anything, he would be taken care of. You’d get to eat something. Sometimes, when we had a little bit of cash, we would buy some meat. We’d start a fire in the plaza where we stayed and would have a little barbeque.

J: What was the worst thing about living on the street?

S: The winter. The cold is the worst. It used to be worse—the cold was for real, and it would last for months. The winter was bad, very bad. I remember once getting stuck in the cold as I slept on the marble stairs of Congress. Do you know what it’s like to sleep on those stairs? Your bones would freeze, man. During the day, you would try to gather cardboard because you needed several layers to protect yourself from the cold. At night, you’d stack cardboard and nylon together to fight it, but it wasn’t enough. I swear the cold reached your bones.

I remember once how I was apprehended by some people from some government agency or other, and I had hypothermia. They took me to a *parador* [shelter] but it was unbearable, man. The next day I had lice, the people who stayed there were all crazy, it was awful. So I went back to the street the way I was. [Sergio's comment about the undignified conditions of the *paradores* is a common sentiment among those who have had to stay there. Most of the people we represent at the Public Defender's Office say that they prefer to sleep in the street before going to a *parador*.]

J: And what about when it rains?

S: You're right! That's the worst of all—when it's cold and raining. And if the rain lasts for three days? Then you're desperate because you don't have any clothes to wear. You're wet day and night.

A lady used to store my clothes for me. When it rained, I would go to her house and change once or twice, but that was it. When it rained for several days straight, I wouldn't have any more fresh clothes. You'd have to handle being wet until the rain stopped. There's no way to avoid it when you're on the street. That's why the winter was so bad. Also, when it rains, it's harder to go out and panhandle because there aren't as many people in the street, and the people going by are in a hurry.

J: What was the worst thing you ever saw on the street?

S: Hmm . . . I saw it all on the street, Juancho, you have no idea. One time I was collecting cardboard with a buddy. I went into a dumpster to look around and see what I could find, and I found a newborn baby. Wrapped in rags, covered with blood. You can't imagine what that was like! Who does that?

Sergio is not ashamed of having lived on the streets. He is not dismissive of his years sleeping in plazas or on the stairs of Congress. He always "rose to the occasion" and found a way to survive. He made friendships and also suffered important losses. But he always learned, he said. However, he said that times have changed, that living on the streets isn't the same as it used to be. As we chatted, we sat on the sidewalk. People looked at us as they walk by. Noting this, he said, "When I lived on the streets, people would come up and ask me if I needed something, if I wanted an odd job, some kind of work. I would chat with strangers for a good while. Now they walk by and they look at you out of the corner of their eye. They're scared you're going to rob them. Did you see what it [just] took me to bum a cigarette off someone?"

Sergio also pointed out something that we are all aware of. The drug problems faced by many people who live on the street have changed the “rules of the game”:

S: Now they fight more for drugs than for food. The other day, I went to a gathering in a plaza where I used to hang out. I have a friend there who still lives on the streets. And while we were gathered, I saw two skinny guys having a knife fight over a bag of coke. Crazy!

Drugs have changed the street code. We used to watch out for one another, and now you have to watch your back so some drug addict like this doesn't steal your shoes so he can trade them in for *paco* [cocaine paste].

J: Would you go back to living on the streets?

S: No . . . Not a chance. There's no way I would go back. Before living on the streets, I don't know . . . Look! Anything before returning to the streets. It scares me. There's a lot of bad stuff happening there now . . .

J: A memory?

S: The other day I came here [to Buenos Aires] and I saw a kid I knew when I was living on the streets. You can't imagine what he looked like! He couldn't have been dirtier. A stench you couldn't believe. His clothes smelled like piss. He was a ghost, high on coke. I cried when I saw him. [As Sergio told me this, his eyes began tearing up and he couldn't disguise his heartbreak.]

I took him home and gave him a shower. You wouldn't believe the dirt that came washing off—the water going down the drain was black. Now he's living with me. He doesn't have a cent, but we get by with what I scrape together.

J: [I interrupt.] And why are you telling me this?

S: Because it made me remember the time when I was totally derailed. After my wife died, I was drunk all the time, I was dirty, I didn't want to do anything, and he was the one who helped me move on. Seeing him was seeing myself again. Seeing him made me realize how low I had fallen at that moment.

It is so hard to imagine what it must be like to live on the streets. It is even more difficult to feel what a person feels who wakes up and goes to sleep with their head resting on the cold ground of a town square. What does a person feel who must suffer the extremes of weather on a daily basis—someone who is cold, who is wet, or who is suffocating in the heat? What does that person eat? Or, even worse, how many times are they able to eat in a day? Truly, how many of us could stand to live like that? I implore readers to be intellectually honest in responding to this question.

Changing Our Mindset

There is no worse blind person than the one who does not want to see. The number of poor people increases each year, and more and more people in Buenos Aires are living in emergency housing situations. The magnitude of the problem—of people and families living on the streets—can be seen with the naked eye. But we are accustomed to this “scenery.” We are becoming used to entering an ATM vestibule and seeing a person sleeping in there, lying on the floor, covered with cardboard boxes. We are used to seeing town squares being a place for leisure during the day and as a refuge for the homeless at night. We are used to seeing children panhandling on the street, to seeing jugglers at stoplights. We are used to seeing mothers sitting in front of supermarket entrances together with their children, asking for entering customers to buy them something to eat.

The list could go on. We are making the problem invisible and, in the end, making the people who suffer invisible. When we talk about destitution, marginalization, poverty, we are talking about people—people like ourselves whose main difference is the circumstances into which they were born.

This invisibilization has a negative impact at the policy level. Instead of demanding that the municipal government adopt effective measures for combatting poverty, homelessness, and inequality—measures that genuinely comply with international agreements to which Argentina is party and with the city’s own constitution—we are indifferent toward the enormous population of marginalized people. We even blame them for living as they do and for “freeriding” off of a system that gives them nothing. As Mander writes, “We are easily persuaded when the state tells us that it simply does not have the money to ensure that every child gets nutritious food and good schooling; that old people do not have to sleep hungry; that homeless people do not have to sleep out in the cold; and that children do not have to die only because they cannot afford healthcare” (Mander 2015, 304).

The detachment of those who benefit the most from this inequality means that instead of advocating for a redistribution of wealth, they ask that the government not subsidize “bums” or ask the government to do just the bare minimum. And if the state’s

policy ends up being ineffective, they call not for its adjustment but rather for an end to resources being spent on “those people.”

In general terms, Buenos Aires has steadily cut its housing budget since 2008 (“Presupuesto porteño” 2014) while increasing its security budget (“El gobierno de Mauricio Macri” 2014). However, crime has risen.⁷ Could there be any clearer indicator? The data are unequivocal in revealing the fallacy of the idea that more police on the street equals greater safety. The facts and statistics show that insecurity is combatted through inclusion and social equality policies. But such policies bear fruit only in the long term and do not offer any immediate political gains. In the eyes of the community that we have become, it is more profitable to revamp the police force than to build 500 public housing units. While the former means fighting the evil that haunts us (insecurity), the latter means that we continue giving handouts to those who contribute nothing to the country’s economy.

Unfortunately, governments do not change of their own volition. The political risks inherent in reforming the rules of the game seem insurmountable. Powerful groups operating outside the government hold too much sway. Politicians likely owe too many favors to their campaign supporters to be able to change the rules once they take office. Anyway, they surely would not dare. We live in an era where our leaders are thinking more about the next elections than in generating structural changes that endure over time. They worry more about staying in power than leaving a legacy. It seems that no one cares how or why they will be remembered.

Against this backdrop, we need to inspire social consciousness, which in turn becomes the key for government action to fight inequality. There are differing views on how to address this issue, on what the consequences are, and on the actions that should be taken: compassion, solidarity, the right to dignity, etc. Although I agree with the premise, I think that the terrain for its implementation needs to be prepared first and that the only way to do this is by reclaiming our sense of empathy. We need to abandon the

7 In 2013, the Supreme Court published a studying showing how the city’s homicide rate had grown in comparison with the previous year: from 158 to 176 (“Crecieron los crímenes en la ciudad” 2014).

individualism to which we have recently fallen prisoner. But this empathy that we are in need of isn't naïve—it is an empathy that allows us to formulate inclusive policies and to understand (and seriously ask) how supportive communities can help resolve these serious challenges.

My proposal consists of two stages. The first is to allow ourselves the possibility of putting ourselves in another's shoes, of trying to feel what that person is feeling, but from where they stand. The idea is not to think about what I would have done in that person's place but rather if I were that person—with their life story, their knowledge, their impossibilities—could I have done something different? Now that I understand their situation, can I judge them?

The second stage takes the first one (empathy with others) as a starting point in order to ask about what resources I would need in that context in order to work and live with dignity. It is not about empathizing and simply saying "let's not judge." It is about empathizing in order to demand solutions from the state.

I think that the possibility of feeling empathy—and, in the case analyzed in this chapter, empathy with the suffering of others—makes the invisible visible. If a reader, after finishing this chapter, is able to put him or herself in the place of one of the individuals described here, then something has been activated. Putting oneself in the shoes of the mother who knows that rats might crawl over her children at night will allow that person to question the justifications that we often issue for doing nothing. Imagine that you are Adrián, who once told the doctor during a hospital stay that he couldn't recall three happy moments in his forty-six years and that the only happy memory he had was a Christmas that he spent with his family from Mendoza.

Being aware of the indignity experienced by the marginalized, by those living on the streets, gives us the chance to change our focal point. To the extent that we can put ourselves in another's shoes, free of prejudices—forgetting what we know, leaving aside our life experiences, in order to stand alongside them without judgment—we will be less likely to so easily become accustomed again to the scenery of inequality. We will no longer call on the state to stop spending money on "those people" and will instead ask that it implement effective measures to address the issue. We

will call for a fairer distribution of wealth. We will no longer be able to turn our heads when confronted with the obscene statistics showing how wealth is distributed, who holds that wealth, and what returns are enjoyed by the rest of society.

Empathy will open up the possibility of understanding and acting out of comprehension. Once we break the barrier and begin to exercise empathy with the environment that surrounds us, we change. We see things differently, which gives us the chance to choose. We can choose between doing something different from what we were previously doing, or continuing with more of the same. This possibility also makes us responsible. In other words, if we decide to do nothing and we continue to fail to demand a response from our governments, we will no longer be able to place the blame solely on others; we will no longer be able to believe that inequality is a question of will.

In this context, the possibility of reducing inequality depends exclusively on society. The poverty that penetrates our countries—or at least my country—must be an issue that moves us. Only then will we be able to question the discourses that simplify reality and strip it of its meaning. Only then we will be able to reframe the concept of justice and what we expect from states in relation to it. I have no doubt that civil society, by leading a revival of empathy, will be the driving force behind changes in public policies that lead to a truly more just society.

References

“Aumentaron las personas en situación de calle en la Ciudad de Buenos Aires.” 2016. *Télam*, July 12. <http://www.telam.com.ar/notas/201607/154907-situacin-de-calle-ciudad.html>

Bauman, Zygmunt. 2011. *Collateral Damage: Social Inequalities in a Global Age*. Cambridge: Polity Press.

Ciudad de Buenos Aires. 2016. *Líneas de indigencia y de pobreza para los hogares de la Ciudad de Buenos Aires: Noviembre de 2016. Informe de resultados 1092*. https://www.estadisticaciudad.gob.ar/eyc/wp-content/uploads/2016/12/ir_2016_1092.pdf

“Crecieron los crímenes en la ciudad: Hay una víctima cada dos días.” 2014. *El Clarín*, November 28. https://www.clarin.com/policiales/estadisticas-crimenes-capital_0_By5HP3wqD7x.html

del Frade, Carlos. 2015. "La concentración de la riqueza en Argentina." *Contrainfo*, August 18. <https://www.contrainfo.com/16090/la-concentracion-de-la-riqueza-en-argentina>

Dubet, François. 2016. *¿Por qué preferimos la desigualdad? (aunque digamos lo contrario)*. 2nd edition. Buenos Aires: Siglo XXI.

"El gobierno de Mauricio Macri presentó su proyecto de presupuesto 2015 en la legislatura." 2014. *Microjuris*, October 1. <https://aldiaargentina.microjuris.com/2014/10/01/el-gobierno-de-mauricio-macri-presento-su-proyecto-de-presupuesto-2015-en-la-legislatura>

"En los últimos tres años aumentó la cantidad de personas en situación de calle en la Ciudad." 2018. *Chequeado*, July 6. <http://chequeado.com/hilando-fino/en-los-ultimos-tres-anos-aumento-la-cantidad-de-personas-en-situacion-de-calle-en-la-ciudad>

"Entre 80 y 90 personas en situación de calle mueren por año en la Ciudad de Buenos Aires." 2015. *El Diario de Buenos Aires*, May 8. <http://www.eldiariodebuenosaires.com/2015/05/08/entre-80-y-90-personas-en-situacion-de-calle-mueren-por-ano-en-la-ciudad-de-buenos-aires>

"Indec: El 32,2% de los argentinos es pobre y el 6,3% se encuentra en indigencia." 2016. *Télam*, September 28. <http://www.telam.com.ar/notas/201609/164862-pobreza-indec-cifras-estadisticas.html>

Instituto Nacional de Estadística y Censos. 2016. "Valorización mensual de la canasta básica alimentaria y de la canasta básica total: Gran Buenos Aires." https://www.indec.gov.ar/uploads/informesdeprensa/canastas_09_16.pdf

Instituto para el Desarrollo Social Argentino. 2011a. "Sólo el 12% de los jóvenes pobres accede a la universidad." August 28. <http://idesa.org/wp-content/uploads/2011/11/2011-08-28-Informe-Nacional.pdf>

—. 2011b. "8 de cada 10 mujeres jóvenes con hijos son pobres." November 22. <http://idesa.org/8-de-cada-10-mujeres-jovenes-con-hijos-son-pobres>

—. 2015. "6 de cada 10 jóvenes no termina la secundaria a tiempo." November 1. <http://idesa.org/6-de-cada-10-jovenes-no-termina-la-secundaria-a-tiempo>

—. 2016. "Tamaño familiar en altos ingresos se redujo 3 veces más que en los pobres." August 14. <http://idesa.org/tamano-familiar-en-altos-ingresos-se-redujo-3-veces-mas-que-en-los-pobres>

Mander, Harsh. 2015. *Looking Away: Inequality, Prejudice and Indifference in New India*. Delhi: Speaking Tiger.

Oxfam. 2015. *Wealth: Having It All and Wanting More*. Oxford: Oxfam.

—. 2017. *An Economy for the 99%*. Oxfam briefing paper. https://d1tn3vj7xz9fdh.cloudfront.net/s3fs-public/file_attachments/bp-economy-for-99-percent-160117-en.pdf

“Presupuesto porteño: Fuerte rechazo del Consejo Económico y social a lo destinado para vivienda.” 2014. *Télam*, October 5. <http://www.telam.com.ar/notas/201410/80575-rechazo-presupuesto-porteno.php>

Rodríguez, Ulises. 2014. “Personas en situación de calle: los invisibles de la Ciudad.” *Infonews*, June 1. <http://www.infonews.com/nota/146949/personas-en-situacion-de-calle-los-invisibles>

Sarmiento, Gustavo. 2016. “En 2016 ya hay 6000 personas más en situación de calle en la Ciudad.” *Tiempo Argentino*, August 13. <https://www.tiempoar.com.ar/nota/en-2016-ya-hay-6000-personas-mas-en-situacion-de-calle-en-la-ciudad>

“Una familia tipo que vive en CABA necesitó en octubre \$ 13.334,72 para no ser pobre.” 2016. *La Izquierda Diario*, November 17. <http://www.laizquierdadiario.com/Una-familia-tipo-que-vive-en-CABA-necesito-en-octubre-13-334-72-para-no-ser-pobre>

United Nations Economic Commission for Latin America and the Caribbean. 2016. “Income and Wealth Concentration Are at the Heart of Inequality in the Region, According to ECLAC and OXFAM.” March 17. <https://www.cepal.org/en/comunicados/la-concentracion-ingreso-la-riqueza-esta-corazon-la-desigualdad-la-region-cepal-oxfam>

United Nations Committee on Economic, Social and Cultural Rights. 1990. *General Comment 3, The Nature of States Parties' Obligations*, UN Doc. E/1991/23.

CHAPTER 6
What Outrages Society:
The Living Conditions of Women
Deprived of Liberty in Paraguay

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Introduction

Paraguay is a country marked by inequality and corruption. A large portion of the population lives in poverty, and health and education are not universally available. As a country, Paraguay lacks a system of social protection, and its residents are expected to solve their problems by themselves. Paraguayans are nestled in the sluggish beliefs imposed by the previous military dictatorship and the current economic dictatorship, whereby rights are nothing more than privileges—in other words, in order to enjoy certain things, one must earn their keep. Public institutions have not evolved into what they should be and have not been placed at the service of citizens. Seventy percent of the population is engaged in informal labor and lacks health insurance (Robles 2012). Paraguay has the worst public education in Latin America (UNESCO 2015); the ranks of the poor and urban ghettos are on the rise, and marginalized populations are growing. It is a country marked by hardship and a population that is past its prime.

It seems to me that Paraguayans see this state of affairs—that is, structural social exclusion—as natural, and we are unaware of the importance of the dignity inherent in people’s lives, both their own and those of others. And amidst this context of indignity exists a group of people who are the very worst off. This group, whom I will focus on in this chapter, is those who are deprived of their liberty.

I became aware of this group’s situation in 2013, when I became research director for the Mecanismo Nacional de Prevención de la Tortura del Paraguay (National Mechanism for the Prevention of Torture, or MNP by its Spanish initials). Most of my time is spent designing research projects and carrying out inspections in

prisons and in facilities for juveniles in conflict with the law. As a result, I have become familiar with the harsh living conditions experienced by people who are deprived of their liberty. I have also seen how prison can sometimes become an extension of what has already been happening to these individuals: living in misery and being accustomed to unfair treatment by Paraguayan institutions.

Working at the MNP offers many opportunities for constant and meaningful contact with people deprived of their liberty. The MNP is a public institution that was created by law in 2011. Those of us who work there are given certain powers, such as being able to enter a prison at any time without prior notice and without needing authorization from an oversight entity. We can also meet with prisoners alone, without the presence of prison guards, in order to establish a real, sincere, and quality relationship with prisoners.

In 2015, I was responsible for coordinating a census of women deprived of their liberty. We were able to meet this challenge with the support of more than one hundred university students from throughout the country. For several months, we were in constant contact with the nearly 800 women who are incarcerated in the nine women's prisons in Paraguay, which represents a rate of 25 out of every 100,000 women in the country. We sat on their beds and in their chairs; we spent several long days with them, from the time they woke up until their nightly lockup.

Undertaking this census was a necessary exercise that left us with reflections at both the institutional and the personal level. In terms of institutional learning, focusing our analysis on women forced us to place all of our attention on them and their needs, and to place ourselves in their bodies and in the settings in which they are deprived of their liberty.

On a personal level, the census was one of the most complex and difficult experiences that I have lived in terms of developing an awareness of a given reality, to the extent that I felt at times uncomfortable, naïve, and invasive on account of not being a woman. I think that if I were a woman, I would have developed a deeper understanding during the six months that the field-work lasted. But I do not regret the experience. On the contrary, I learned a great deal. I was able to get a sense of what it would be like to not have sanitary pads; I lived the experience of eating

horrible-quality food; I was moved by their visions of themselves as heroines by deciding that drugs were their problem alone and not that of their children, spouses, or grandchildren, because they did not want to see their family pass through the doors of a prison ever again; I imagined what it would be like to be far from home, without visitors because of the prohibitive travel expenses; and I connected with them as I experienced what it was like to live inside the prison.

As with all research projects, we ended up learning more than we had originally expected to learn. The world of incarcerated women is varied and complicated. One of the issues that we had not planned to study, and which we ran up against along the way, was that of prostitution¹ among women prisoners who live in facilities designed and originally destined for men. This chapter explores this particular phenomenon and its institutional and media implications, together with the appalling living conditions experienced by these women.

Women's Prisons in Paraguay

At the time of our census, and until the beginning of 2017, Paraguay had nine facilities with women prisoners²: two all-women prisons and seven prisons in which women were incarcerated alongside men.

In some of the investigations performed by the MNP, we inspected "mixed" prisons and repeatedly called for the separation of the women's wing in terms of their management, administration, and human resources, among other things. This recommendation is in line with rule 11 of the Mandela Rules, which addresses the separation of categories and states that "men and women shall so far as possible be detained in separate institutions; [and] in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate" (United Nations General Assembly 2016).

1 Although the term "sex work" is more appropriate from a human rights perspective, I use the term "prostitution" in this chapter because it is the word used by the women I interviewed.

2 On March 3, 2017, a new all-women prison was opened in the city of Coronel Oviedo, thus allowing women to vacate the men's prison in that city.

TABLE I

Number of women deprived of liberty, according to prison location and type

Prison	Type of prison	Number of incarcerated women
Casa del Buen Pastor	All-women prison	471
Juana María de Lara		88
Encarnación	Women's area within a men's prison	60
Coronel Oviedo		50
Villarrica		23
Misiones		22
San Pedro		18
Concepción		27
Pedro Juan Caballero		26
Total		785

SOURCE: Census performed by the MNP in 2015

Furthermore, rule 31 of the Bangkok Rules, with regard to the vulnerability experienced by women living in men's prisons, states that "clear policies and regulations on the conduct of prison staff aimed at providing maximum protection for women prisoners from any gender-based physical or verbal violence, abuse and sexual harassment shall be developed and implemented" (United Nations General Assembly 2011).

In Paraguayan prisons, women's cells in men's prisons are usually located in areas that were originally designed for the infirmary. These premises are characterized by overcrowding, the violation of basic human rights (such as access to adequate nutrition, to health services, to education, to work, and to family ties), and corruption.

With regard to all-women prisons, certain data from the census (MNP 2016c) reveal various aspects of prison life for women. For example, 59.3% of the women we interviewed reported having a job in the prison at the time of the interview. Of these, 22.6% worked in tailoring; 15.7% in cleaning; 15.5% in handicrafts; 15.5% in food sales; 8.4% in food preparation; and 7.1% in recycling. This type of unskilled manual labor is not the kind of work that allows women to get ahead during or after prison, due to the nature of the work and the amount they earn: the average monthly income

is 455,650 guaraníes (about US\$85), which is 23% of the minimum wage in Paraguay (about US\$360). Additionally, 87% of women spend their earnings on prison living expenses.

This information provokes indignation and raises a key question: What do you mean “prison living expenses” (including sanitary pads, toilet paper, personal care products, food, work supplies)? Shouldn’t these things be provided for free within the prisons? In all of Paraguay’s prisons, inmates are deprived not only of their liberty but of their most fundamental rights: to education, to work, to health, to life, to productive activities, and to leisure, among others.

Every time we visited a prison, we were shocked by the amount of nonproductive time that the women had available and the number of hours they spent locked in their cells—time when they could be studying, for example. In fact, in all of the prisons we visited, women told us that they wanted to study but lacked access to teachers and that nobody ever asked them about their preferences or desires.

With regard to access to education in any type of career, trade, or profession, we found that 66.7% of the women incarcerated in Pedro Juan Caballero were not attending school; 64.7% in San Pedro; 57.1% in Villarrica; 51.9% in Concepción; 47.5% in Encarnación; and 45% in Misiones. In all of these facilities, which house both men and women prisoners, classes are taught in prison hallways and corridors, which clearly works against the learning process.

When I observe conditions such as these, I try to put myself in the body of the women prisoners. If I were one of them, I would not value education very highly given that in my life experience, family, and context, it would be more important to earn money to support my family’s well-being. And if I were a woman living in a men’s prison, it is likely that given the dismal conditions in which educational opportunities are presented, I would not have any interest in studying, despite the fact that in the working world outside of prison, having at least a high school diploma is highly valued. Returning to my body as a man with a professional career, I see the double vulnerability experienced by women in my country, and the multiple exclusions faced by women prisoners.

During our fieldwork in the Buen Pastor prison, the country’s largest and most populated facility, the prison director got mad

at us because we complained to the then minister of justice that there were too many cockroaches there. I remember that the same day that she tried to restrict our entry into the prison, as I was conducting an interview with a prisoner, a cockroach perched on the first page of my census sheet and sat there for a few minutes. This episode leads to the third feature I wish to highlight: the fact that 91.5% of incarcerated women reported the presence of insects in their cells (including cockroaches, flies, ants, and others). Moreover, 17.2% reported the presence of rodents, rats, and opossums in their cells. In addition, 21% of the women reported lacking round-the-clock access to bathrooms, and 56% reported having only cold water to shower.

Another reflection prompted by our visits relates to the fact that, at midday, the garbage cans begin to fill up with the inedible food that inmates throw away and that the prison fauna—mainly cats—rely on for their daily diet. Nearly 65% of the women prisoners we interviewed reported that prison food is bad or mediocre.

Since its creation, the MNP has been addressing these conditions and has called on various ministries, mainly the Ministry of Justice, to take responsibility for ensuring the dignity of individuals who are deprived of liberty.³

Points of View regarding Human Rights Violations

Despite the fact that human rights are for everyone, in Paraguay ill-treatment, torture, and the failure to ensure guarantees for people deprived of liberty are endorsed. Violence at the hands of the state is not seen as such, and there is a general consensus that prisoners are not full citizens and therefore not deserving of human rights.

The culture of human rights has been hijacked by Paraguay's political and business elites. As a sociologist, I believe that there is a generalized perception among Paraguayans (both within and outside the prison setting) that correctional facilities are warehouses whose sole purpose is to lock up people in horrid conditions, as these individuals deserve nothing better in light of their

3 The MNP's monitoring and follow-up reports can be accessed at <http://mnp.gov.py/index.php/repository/informes-de-monitoreo-y-seguimiento>.

crimes. According to this perception, the ones at fault are the prisoners because “they must have done something”—not the prison system or the structure of the country that fails to offer equal opportunities or to promote human and social development.

In this regard, I have begun to pay closer attention to the comments and opinions expressed in news coverage on prisons and incarceration in general, looking particularly at those who stigmatize the incarcerated. My aim is not to track how many people are in favor of and how many are against prisoners’ well-being, although it is striking that there are barely any statements in support of individuals deprived of liberty. What interests me is the fact that there are viewpoints that condone depriving the incarcerated of their rights to life and to adequate living conditions.

Furthermore, it is important to keep in mind that the country’s main three newspapers are owned by Paraguayan billionaires with reprehensible track records. The owner of *ABC Color* belongs to a family with ties to ex-dictator Alfredo Stroessner and has been accused of tax evasion (Galeano Monti 2012). The owner of *La Nación* is the country’s president at the time of writing, considered to be one of the biggest smugglers of contraband cigarettes into Brazil and who, in the 1980s, was imprisoned for capital flight. Lastly, the owner of *Última Hora* also acquired his fortune thanks to political ties with dictator Stroessner and has been accused several times of smuggling (ibid.).

On April 25, 2016, an editorial in *ABC Color* analyzed a decision by the Ministry of Justice to declare a state of emergency in Paraguay’s prisons in order to be able to hire additional security guards and to take steps to improve the living conditions among prisoners. Some of the comments published on the newspaper’s online forum read as follows:

- Perhaps those who are in prison are saints, respectable people, who deserve to live as decent people and in hotels? Some of them are monsters disguised as people, motorcycle assassins, rapists, thieves . . . It’s a place of detention, they are being deprived of liberty for committing a punishable offense.
- May those shitty criminals suffer until death and rot . . . These [prisons] are not hotels . . . They should be made to do forced labor, bound in chains, like they do in other countries . . . And if they don’t want to have so many parasites in prison, let’s give them the death penalty like in China. None of this weakness and compas-

sion, these scum don't take pity on anyone, so we shouldn't have any for them!!!!!! ("Cárceles inhumanas" 2016)

On July 15, 2015, the then minister of justice reported that the Paraguayan state was spending 6,000 guaraníes (about US\$1) for the three daily meals of each prisoner ("El Estado gasta G. 6000 por cada recluso por día" 2017). One of the comments to a related news report was the following: "The government shouldn't spend a dime on these criminals. Instead, they or their relatives should have to pay for each day of housing in prison or have the option of doing forced labor for public works, in order to pay for their prison stay. The prison policy should be reformed, and every criminal should pay [in cash] for their misdeeds."

On November 19, 2016, the minister of justice, Ever Martínez, announced the construction of more prisons, including a new prison complex for 5,020 people with a price tag of US\$80 million. Some of the comments to this announcement were as follows:

- For me, the solution would be to require the police to have MORE TARGET PRACTICE . . . so when they chase after the pests . . . they shouldn't hit the civilians out there . . . they should aim so [the criminals] end up paralyzed, paraplegic, or crippled so they CAN'T COMMIT CRIMES.
- These people who are doing nothing in prison need to be forced to work, to cut rock . . . to pave roads, everyone chained together and with whips for those who don't want to work.
- We need to think about having a prison for highly dangerous criminals . . . without any chance of committing crimes again and zero change of reintegrating into society, it should be more or less a cemetery for criminals in the Lagerenza area!! If they're kept here living like kings, crime will never go down!! ("Gobierno anuncia un nuevo complejo carcelario en Emboscada con un costo de US\$ 80 millones" 2016)

On Friday, February 24, 2017, two prisoners died after setting fire to their mattresses in the solitary confinement cells where they were being held, as a form of protesting the lack of medical attention and poor state of health. A single piece of information is enough to describe their situation: they had no water inside their cells ("Murió recluso herido en incendio de 'La Esperanza'" 2017). Among readers' comments were these:

- If they were truly there for homicide, then justice has been served.

- One less pest that needs to be fed for free.
- It's not for nothing. They were there for a reason and it wasn't for being good!!!
- Good news, but too bad that only two of these pests died, who aren't even worth the air they breathe, let's see if they learn not to play with fire.
- Two RATS less hahahahaha.

In response to a news story published on March 24, 2017, on the risks inherent in prison overcrowding, as exposed by the National Institute of Respiratory and Environmental Diseases, one reader posted this comment: "This woman director should worry more about the people who work there than the criminals, who are there for a reason" ("Hacinamiento trae riesgos" 2017).

This line of discourse reveals a clear lack of empathy for individuals who are deprived of liberty. And it allows us a glimpse into the type of society we are living in: one that celebrates and mocks the death of citizens who have the misfortune of ending up in prison. Behind such attitudes is an uncritical society that lacks the elements needed to see and reflect on prisoners' reality, in a way that is respectful of their human rights, with regard to one of the most extreme situations that a person could go through, which is the act of dying in prison.

Even more problematic is that such thinking is prevalent within prisons. Indeed, many statements made to us by women prisoners show that they do not see themselves as rights holders. One woman prisoner at Buen Pastor mentioned that "if you're going to complain about something [to prison authorities], they tell you, 'Señora, you're in prison, not a hotel'" (Guttandin and Taboada 2014, 20). Another woman told us, "Here, we live with all kinds of crazies and mentally ill women. We had one person with advanced tuberculosis, and it wasn't until she got really sick that they finally treated her; and we all live together, what can we do?" (ibid.).

According to others, the only option is to accept the deplorable reality in which they live, as if destiny wanted it that way, and which they cannot change or do anything about: "We have to tolerate the injustice, the discrimination because we have to tolerate everything here, like seeing, listening, shutting up, and

sometimes not eating. Sometimes you have to see, hear, and ignore the things you see, and that's when you realize that, yes, you're in prison" (ibid.).

Pregnancy and Prostitution in Men's Prisons

Several women's testimonies caught us by surprise after we completed our fieldwork for the census in the men's prison of San Pedro. After few days, as we performed some calculations for a brief report, we saw a line of analysis that we had not initially considered. We realized that 40% of the women in that prison were either pregnant or living with their children. This shocking finding led us to go back to our survey response forms to look for testimonies related to sexual practices and maternity within prison.

In the Coronel Oviedo men's prison, we found this same proportion of women who were pregnant or living with their children. In this prison, women respondents referred several times to a prostitution scheme inside the prison. One of the women told us that "we have to have several [sexual] partners in order to be able to buy the things we need."⁴ In other words, living in indignity

TABLE 2

Percentage of pregnant women in Paraguay's prisons

Prison	Not pregnant	Pregnant
Buen Pastor	92.8%	7.2%
Encarnación	75%	25%
Coronel Oviedo	84.6%	15.4%
Villarrica	94.1%	5.9%
Misiones	95%	5%
Juana María de Lara	100%	0%
San Pedro	62.5%	37.5%
Concepción	92.3%	7.7%
Pedro Juan Caballero	96.2%	3.8%
Total	92.2%	7.8%

SOURCE: Census performed by the MNP in 2015

4 Interview with a woman prisoner in the Coronel Oviedo prison, September 21, 2015, Coronel Oviedo.

and without rights in a men's prison means that women's bodies are the only good to be exchanged for money or basic supplies that allow them to enjoy (slightly) better conditions behind bars.

According to our census, 7.8% of women prisoners were pregnant or breastfeeding. Two prisons in particular caught our attention: Coronel Oviedo, where this figure was double the size, and San Pedro, where it was five times larger. Both of these prisons are men's prisons where women inmates are in permanent contact with male prisoners, even though regulations require the two populations' separation from each other.

How could this be? The Ministry of Justice is officially in charge of prison administration. Nonetheless, the day-to-day affairs are governed by inmates themselves, prison directors, and prison officials and guards. Except for offering prisoners liberty, those holding power inside the prison can offer inmates access to all sorts of privileges when money is on the table.

The prisoners are the ones who allow a given person to enter a wing. They are also the ones who allow access to the cafeterias and pantries, who sell drugs, and who pay prison guards to smuggle items in. The inmates are the ones who pay off the guards in order to allow women to enter the wings, or to allow men to go to the women's areas. A news story released on March 2, 2017, offers a paradigmatic example: the story reported "a massive orgy in Itapúa prison" ("*Tremenda orgía en la cárcel de Itapúa*" 2017), located in the Encarnación district and where guards facilitated the entry of twenty prostitutes and alcohol at the request of inmates.

The situation faced by women prisoners in Paraguay is not unique, but it does shed light on the many sources of vulnerability faced by incarcerated women. Not only are they deprived of liberty, but they also lack access to their most basic rights. Not all of the women we interviewed (whether personally or with our census team) talked about prostitution. Since it was not a pre-established variable in our census questionnaire, most women did not talk about this topic. However, those who shared their experiences with us, or who perhaps talked about what went on inside the prisons and did so in the form of a complaint, said things such as "I have several partners" or "I have someone who protects me" or "I have a special friend," among other euphemisms that put some distance between what they must do in order to survive in

a men's prison and the definition of a victim of sexual exploitation. Others directly admitted to being practically forced to prostitute themselves because they had no visitors, were far from their families, and the prisons did not provide them with the essentials necessary for living with dignity.

At the end of 2015, we prepared reports based on the prisons that we had visited. In doing so, we began to get a sense of the dynamics within prisons that facilitate contact between men and women. In our report on the San Pedro prison, we noted:

Both the entrance gates to the women's area and the quadrangle that allows access to the men's wards remain open without supervision, thereby allowing the passage of anyone inside the penitentiary. One of the most frequently observed phenomena was that men are able to enter the women's cells and wards, and we also observed groups of up to three women entering the men's wards, without the slightest oversight of or resistance by prison authorities. Access to the men's wards is blocked by gates that are indeed closed and under the watch of a guard, who has the discretion to decide who enters and exits those wards. (MNP 2016b, 6)

In addition, in our report for the Concepción prison, we recommended that the Ministry of Justice ensure the "separation of the women's area from the men's area of the prison. Women inmates have different characteristics and needs from their male counterparts, making it necessary for them to have access to management that is special[ized] and trained to deal with these aspects" (MNP 2013).

When we analyzed our findings from the Coronel Oviedo prison, where respondents made greater references to prostitution, we debated about what we should report on. Many questions arose: How should we include these findings? How should we describe the situation? Do we have to include them? Finally, as a team, we decided to communicate our findings, for the first time in a MNP report, in the following manner:

According to information gathered from various sources, there seems to be a prostitution scheme among female and male inmates, facilitated by prison authorities, via encounters that take place in rooms meant for conjugal visits. According to informants, prostitution is used as a method of survival and being able to access to money, personal care products, medicines, and basic supplies for women. Re-

spondents even reported that a bathroom in the ward is sometimes used for quick sexual relations and that its use is made possible by prison staff. (MNP 2016a, 11)

Unfortunately, we did not describe this issue in earlier reports, either because such prostitution schemes did not exist (or at least they were not mentioned by respondents) or because our eyes were not as sharp in evaluating an issue that we had not set out to research or discover.

One additional element has to do with women inmates' attitudes toward prostitution. After completing our census, we went back to examine the living conditions in prisons, especially in the capital. Even though we did not specifically ask about it, many respondents referred to the prostitution schemes in their prisons.

Toward the end of 2016, we spoke with one woman who had recently been transferred from another prison. When we asked her which prison was worse, she said, "Coronel Oviedo, because you have to prostitute yourself there. In Oviedo, you need to prostitute yourself in order to take care of your children. There, they don't even give you a diaper, not even a piece of fruit for your kid. Nothing. Nothing!"⁵

In early 2017, we returned to that same prison. One interviewee used the following metaphor: "Here, girls are punished by being sent to other prisons, and they return a few months later with their bellies like this [simulating a bump with her hand]. It's like they're being sent to a pregnancy factory."⁶

One story published in *Última Hora* featured an interview with a woman prisoner from the Coronel Oviedo men's penitentiary, who decided to reveal her story of prostitution. Although her testimony was not directly collected by the MNP, her account is exactly the same as others described by respondents during our visits: women inmates lack basic supplies such as shampoo, soap, *yerba mate*, and food, which forces them to find "boyfriends" within the prison. The newspaper's story also described the constant contact between men and women in this particular prison:

5 Interview with a woman prisoner in the Buen Pastor prison, December 8, 2016, Asunción.

6 Interview with a woman prisoner in the Buen Pastor prison, January 18, 2017, Asunción.

Finally, she accepted the offer of a male prisoner: he would pay her 200,000 guaraníes if she would sleep with him. The male prisoner would also have to pay a guard from the women's ward and another prison official in order to be able to use the private room [reserved for conjugal visits]. María recalls that the guards called her to leave the women's ward and was then brought to a private room where she entered with the male inmate who paid her. She said that she "was forced to sleep with him." "I'm telling my story because I don't want this to happen to other women," she noted.

"At Oviedo, there are people with money, especially people who are in jail for drugs. Girls prostitute themselves out of necessity, and even for drugs. The prison is like a brothel," she said. ("Presa relata cómo se prostituyó dentro de la cárcel al no tener dinero ni visitas" 2016)

If we summarize the MNP's reports, we could say that all of the prisons involve structural violations of prisoners' human rights. Within this group, women prisoners are more vulnerable since they suffer greater rights violations than their male counterparts.

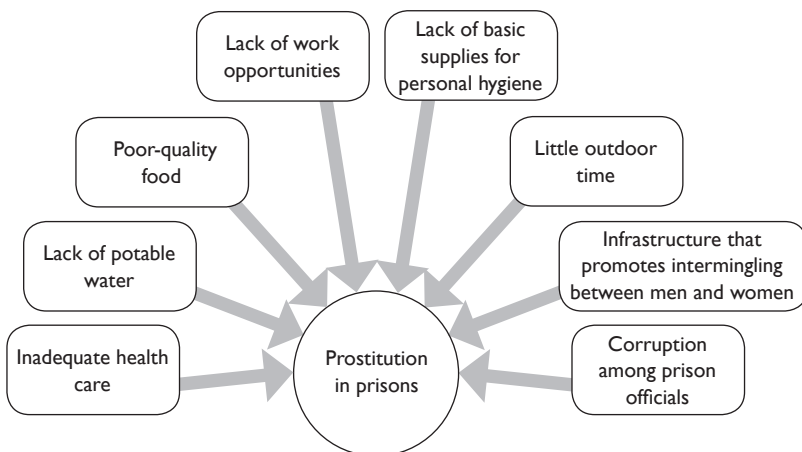
All prisoners, both men and women, are affected by a lack of adequate health care and potable water, poor-quality food, and a dearth of options for earning money. On top of these conditions, women suffer from a lack of access to personal hygiene products (such as sanitary napkins) and diapers for their children, as well as less time in outdoor and recreational areas compared to male prisoners. Furthermore, they are in contact with male prisoners due to an administrative failure to separate the two populations and the fact that both groups are housed within the same prison infrastructure, which is sometimes taken advantage of by prison guards in order to orchestrate encounters between the two populations.

The mere fact that women find themselves in a men's prison means that their male counterparts observe them when they go outside to the courtyard area and that the men catcall or whistle as a form of "flirting." Additionally, women inmates at some prisons sell their food products in the men's area, and, in other prisons, men enter the women's area to establish friendships, romantic relationships, or business relations.

We did not witness these situations in either of the two all-women prisons. Thus, it stands to reason that the main entry point for this situation is the sharing of an infrastructure and physical space between men and women. In this light, a few questions

FIGURE I

Factors that encourage prostitution among women who are incarcerated in men's prisons in Paraguay



arise: What impact does this type of sexual exploitation have on women who are deprived of liberty? How does this situation create dependence?

The newspaper *Última Hora* echoed the MNP's reports by denouncing the existence of women's prostitution in the men's prisons of San Pedro, Misiones, and Coronel Oviedo. After the newspaper published its story, the issue began to receive attention in a range of different settings. For those of us working at the MNP, we were surprised to see that our work on prisons was beginning to be reflected in public opinion. We were surprised because we had already written more than one hundred reports detailing the degrading and inhuman treatment and avoidable deaths inside prison walls, but when it came to sexual issues, public interest was piqued.

From that moment forward, the media began to talk about "sexual relations," "the selling of one's body," "encounters," "pimping," and "prostitution" within the country's prisons. Generally, these stories portrayed these women as victims. And, in fact, they are victims—of complicity within prison administrations that allows and facilitates contact between men and women.

This media exposure helped generate a dialogue between the MNP and the Ministry of Justice. Even though the director

TABLE 3

Media accounts on prostitution in prisons

Excerpt
Women prisoners in San Pedro, Misiones, and Oviedo are forced to sell their bodies to prison officials and male inmates in order to eat, access toiletries, and even have a place to sleep at night. (<i>Última Hora</i> , June 5, 2016)
Women prisoners who agree to have periodic sexual relations with other well-placed [male] prisoners or with prison officials earn good money or the best meals, personal hygiene products, and even cells with TVs and fridges. (<i>Última Hora</i> , June 5, 2016)
The lack of sufficient prison guards and, in other cases, complicity among officials allows prisoners to run prostitution rings within co-ed prisons. (<i>Última Hora</i> , June 6, 2016)
According to the National Mechanism for the Prevention of Torture, in the prisons of San Pedro, Coronel Oviedo, and Misiones, a profitable prostitution ring was established in which women prisoners must sell their bodies in exchange for food, toiletries, and even a place to sleep (resources which, according to international treaties and national laws, must be provided [for free]). (<i>ADN Paraguayo</i> , June 6, 2016)
In these prisons, only the sheet-metal walls or narrow hallways separate the men's wards from the women's wards, making contact [between the sexes] easy to arrange. Encounters are arranged in the rooms reserved for conjugal visits and in bathrooms. (<i>ADN Paraguayo</i> , June 6, 2016)
These women are forced to sell their bodies to officials and to male prisoners in order to obtain food, toiletries, and even a mattress for sleeping on. (<i>Última Hora</i> , June 7, 2016)
The report that was released reveals that women prisoners allegedly must sell their bodies in order to receive basic supplies, such as mattresses, soap, and food. (<i>Hoy</i> , June 8, 2016)
Some women have to prostitute themselves with male prisoners or prison officials, according to the document. (<i>Hoy</i> , June 8, 2016)
Many accounts confirm the existence of cases of pimping within co-ed prisons, where women are the most vulnerable. (<i>Última Hora</i> , June 8, 2016)

of the Misiones prison denied the existence of prostitution within that facility, the Ministry of Justice intervened there on June 8, 2016. It removed the prison staff who were working in the women's area, and as of the time of writing, these personnel are no longer working there. In doing so, the Ministry of Justice implicitly confirmed our allegations. In practice, for the MNP, this constituted a positive response to our complaints and recommendations as outlined in our reports.

On this occasion, the minister of justice stated that "we have witnessed certain irregularities, but sometimes it can be very difficult to prove these allegations within the penitentiary system because we do not have a system for protecting victims and

witnesses who are in a situation of confinement” (“Tras denuncias de prostitución, intervienen cárcel de Misiones” 2016). Moreover, she announced that the ministry would be conducting the necessary investigations in the San Pedro and Coronel Oviedo men’s prisons. In the latter prison, we discovered—through its very staff—that in some cases it was the guards themselves who paid the women in Misiones, as the last link in the prostitution chain.

The MNP has been putting forth allegations of human rights violations in prison environments in Paraguay since 2013. Up until June 7, 2016, there had never been an editorial or headline in national newspapers on this issue. That day, *Última Hora* published the following editorial:

Women’s Prostitution in Prisons Must Be Investigated

Paraguayan society has become accustomed to living with certain realities faced by those in prison, such as overcrowding and the lack of infrastructure, as well as the absence of materials that ensure a minimum level of well-being among prisoners. But the situation, like that published by *Última Hora*, of the degrading conditions faced by women prisoners in San Pedro, Misiones, and Oviedo is unprecedented. These women are forced to sell their bodies to officials and to male prisoners in order to obtain food, toiletries, and even a mattress to sleep on. In this respect, the Ministry of Justice’s lukewarm reaction is concerning, and the institution is failing to comply with its constitutional mandate by allowing this type of facility. (“Urge investigar prostitución de mujeres en cárceles” 2016)

This milestone at the institutional level interests me more than anything as an indicator of what is and isn’t important to us as a society. In essence, the range of denigrating conditions revealed in report after report did not step over the red line of indignity, but once sexuality and prostitution were at play, now that is news! Paraguayans are not outraged by the atrocious living conditions behind bars, but they are outraged when the issue is sexuality. The first instance of violence is accepted as normal, but the second seems to call our attention and is deemed grave. After the publication of our report, despite the fact that all of our reports are publicly available, an alarming situation was exposed for many individuals and sectors.

To determine whether our report had any repercussions within prisons, we decided to conduct a brief survey of the main prisons

in order to see how they had reacted. One of the women prisoners told me angrily, in so many words, "Because of what you guys said, now my family thinks I'm a prostitute."⁷ She, like many others, had never prostituted themselves, and unfortunately the issue was generalized to the degree that prostitution rings were thought to exist in all prisons and all women were thought to have prostituted themselves. This, of course, was not true.

This situation caused us to realize that practically no woman prisoner likes the idea of her family discovering what goes on behind bars. It worries them and adds to their feeling of powerlessness. From my perspective within the MNP, I understand the importance of ensuring that women prisoners who have been victims of sexual exploitation have the power and control to, at the very least, determine how to define themselves in the eyes of the outside world. And in this sense, the MNP has a duty to protect, above all, the integrity of these individuals. This led us to think about the extent to which we are exploiting the issue of sexual exploitation in order to bring other issues to light.

My entity, in denouncing this situation, runs the risk of creating a definition of these women for the non-prison world, which could lead their communities and families to stigmatize them and make their reinsertion into society even more difficult. But on the other hand, I also recognize the importance of urging the state to fulfill its legal obligations (both domestic and international) and to provide the necessary resources and protections to remedy these forms of victimization and to avoid the continued violation of human rights.

Finding a balance between these two imperatives—that of denouncing and that of demanding compliance—is difficult in cases like this, and sometimes we do not get it right. It is clear that we have not managed to maintain a balance concerning the extent to which we can denounce (in order to promote the protection of women deprived of their liberty) without at the same time damaging their integrity.

The newspaper editorial and the outpouring of media coverage (which lasted for about a week) could be seen as an important

7 Interview with a women prisoner in the Coronel Oviedo prison, September 21, 2016, Coronel Oviedo.

tool for the MNP in terms of bringing the issue of prison prostitution to light. Nonetheless, although this visibility strengthened our institutional image before the public, it also prompted rejection from many women prisoners and hostility from the directors and officials of some of the prisons. I think that the latter item is the least important because the MNP's objective is often, in fact, not to achieve consensus (as occurs in cases of torture by officials in which there isn't anything to reconcile and where the only task remaining is to provide reparations and justice). However, we did grow concerned about not creating a wedge between us and the population on whose behalf we are fighting—those who are deprived of liberty—and to whom we dedicate a lot of time and effort in terms of building their trust. After visiting women in some of the prisons, we realized that we did create negative reactions among them, which luckily did not affect our work, but which did provoke an anger that is completely understandable.

Therefore, we should be more aware of the consequences of our actions. While we cannot control what gets published in newspaper editorials or the way in which the media presents the news, there is a science to producing and communicating knowledge that, at a minimum, defines and describes victims. In this way, victims' identity is protected at the same that we support their reinsertion into their families and communities in a way that does not stigmatize them. As an institutional strategy for shedding light on a problem related to sexuality, in the most Catholic country in Latin America,⁸ might it have been better to expose the situation of just a few women who were willing to share their stories publicly? And if there weren't any women willing to denounce the situation, how could we have gone about it?

Fortunately, we continued to enjoy good relations with the women we interviewed, and to this day, we recognize each other as necessary parties for improving their living conditions in the short term. To this extent, we will be able to achieve the precious—and almost utopian—prevention of torture and ill-treatment in the long run.

8 Nearly 90% of the region's population declares itself Catholic (Pew Research Center 2014).

This was one of the lessons learned that motivated us to seek an appropriate balance between two ideas in tension with each other. On the one hand is incarcerated women's privacy and their right to self-determination. On the other is the use of the tools that we have at our disposal to push the state to take actions in these prisons. It is through this balance that we can establish effective mechanisms to protect these victims, to prevent future violations, and to ensure accountability both among the state officials who participate and among those who allow these situations of sexual exploitation to continue.

Is Prostitution Reproachable from a Human Rights Perspective?

From a human rights perspective, prostitution takes place in a neoliberal context, in which women's bodies are seen as merchandise, as a consumer product. This, together with growing inequality, means that women living in poverty must resort to increasingly harsh and informal strategies to earn money. One of the main debates on this issue is among abolitionists, feminists, and defenders of prostitution. The debate over prostitution was one of the reasons behind a fracturing of the feminist movement (Gentile 2017). Although all parties agree on the need to combat trafficking, there is disagreement on whether prostitution should be regulated or recognized. On the one hand are the abolitionists, who aspire to achieve a world free of prostitution, which they see as a market created solely to satisfy the sexual desires of men within the framework of a deeply unequal society. On the other hand are the regulationists, who advocate for the legalization and regulation of prostitution. They view prostitution as a job and, as such, something that should be included in labor legislation, with rights and obligations outlined for those who practice the trade.

That said, all sides view prostitution as an institution based primarily on patriarchal values and as "one of the most extreme forms of violence against women" (Lipszyc n.d.). However, today there are voices that defend prostitution as a job option for women with few other alternatives, arguing that it is a profession like any other and should be the subject of labor rights when exercised of one's own choice. These arguments are based steadfastly on the liberal principle of free will (Pibernat Vila 2016).

In this sense, we maintain that criminalization should be reserved for those who pimp, recruit, traffic, or exercise any kind of violence against these women or who promote prostitution. To call this activity a “job” is to legitimize and naturalize the patriarchal basis for oppression that we have been fighting against from theory and praxis. Ultimately, it is to contradict the very foundations of feminism (Lipszyc n.d.). One possible solution for these discussions and confrontations could be that proposed by Cristina Garaizábal (n.d.), an activist and defender of the rights of prostitutes, who places the focus on the person. Under her vision, sex workers are not seen simply as objects, as disempowered people and necessarily victims, as if they were innocent people taken by force and devoid of self-determination:

For us, it isn't useful to talk about prostitution as if it were synonymous with sexual slavery. If we disregard the decisions made by prostitutes, if we victimize them thinking that they always practice in an obligated and forced manner; if we view them as people without any decision-making capacity . . . all of that means failing to break with the patriarchal notion that we women are weak and defenseless beings in need of protection and care. Moreover, experience shows that the implementation of abolitionist policies deepens the gulf between prostitutes and the rest of society, increasing stigma, exclusion, and social marginalization that many suffer from. (Garaizábal n.d., 5)

For international human rights organizations, the issue is a novel one. For the first time, on March 18, 2017, the Inter-American Commission on Human Rights held a hearing on the human rights situation of sex workers in the Americas. However, the discussion of prostitution within prisons does not have much history beyond the situations exposed by state agencies such as the MNP in Mexico and Paraguay. Without resorting to discussions such as those carried out by civil society organizations, these agencies denounce such practices within the penitentiary system, which is marked by corruption and self-government among prisoners. And these practices, in that setting, are deemed ill-treatment toward women who are deprived of their liberty. Specifically, in terms of standard setting, much content has been produced regarding the prevention and punishment of human trafficking. A ruling from the Inter-American Court of Human Rights, issued on November 25, 2006, in *Miguel Castro-Castro Prison v. Peru* sets

a judicial precedent for the protection of women prisoners from sexual violence.

The court, with regard to the treatment of women who have been detained or arrested, has reaffirmed observations by United Nations bodies that such women “must not be the object of discrimination, and they must be protected from all forms of violence or exploitation.” Such discrimination includes “the violence directed towards a women because she is a women or that affects her in an disproportionate manner” and “acts that inflict damages or suffering of a physical, mental, or sexual nature, threats of committing those acts, coercion, and other forms of deprivation of freedom.”⁹

Final Reflections

The issue of prostitution in prisons remains in need of attention. The MNP has not yet undertaken any actions aimed exclusively at denouncing the fact that women are housed, in situations of vulnerability, in men’s prisons. However, some findings from our field work allow us to identify certain elements of this prostitution scheme within prisons. In this regard, we believe that the issue stems from the exploitation and vulnerability experienced by women who are deprived of their liberty. Moreover, this group is doubly vulnerable on account of living not only under extremely precarious conditions in prison but also in a facility occupied mainly by men. At the same time, prison guards are responsible for organizing and overseeing encounters between male prisoners who are willing to pay for sex and women prisoners who are willing to sell their bodies in exchange for money.

One facilitating factor for sexual exploitation that we discovered in our work—both in women’s statements during inspections that we carried out and in our interviews with women during our 2015 census—was the fact that women are being incarcerated in prisons designed for men. A 2016 report by the United Nations Special Rapporteur on Torture notes that women “face higher risks of sexual assault and violence when they are held in

9 Inter-American Court of Human Rights, *Miguel Castro-Castro Prison v. Peru*, Judgment of November 25, 2006 (merits, reparations and costs), para. 303.

facilities with convicted offenders and men or are supervised by male guards” (Méndez 2016, para. 20).

A new landscape is being opened up in the sense that new all-women prisons are being rolled out for women who were previously housed in men’s prisons, such as the Serafina Dávalos prison in the city of Coronel Oviedo. This prison, opened in 2017, houses women who were previously in the men’s prison of Coronel Oviedo. Now the question that comes to mind is whether the prisoners are better off at this new prison, where they complain about a lack of supplies and food, compared to the men’s prisons, which allowed them access to these items through prostitution. This is an issue that has yet to be explored, and I do not have a clear answer—but I do believe that the fact that these women are no longer subjected to a perverse scheme where they are oppressed in a masculine and macho world, added to the fact that they were living with their basic needs unmet, is a step forward. It is clearly necessary to ensure that all prisons offer women inmates the necessary conditions for a dignified life and the enjoyment of their fundamental rights.

The current debate among human rights organizations over whether to support, reject, or abolish prostitution seems to have no place in a prison context. In both cases (freedom and incarceration), the motivation behind prostitution could be the lack of economic means and the lack of social protection by the Paraguayan state. But considering that women’s testimonies refer to a failure to guarantee decent living conditions, practicing prostitution within a prison setting suggests a special degree of neglect by the state, whose role is to protect and encourage the social reinsertion of those deprived of liberty.

The Special Rapporteur’s 2016 report supports this position when it notes that “states are complicit in violence against women and lesbian, gay, bisexual and transgender persons whenever they create and implement discriminatory laws that trap them in abusive circumstances” (ibid., para 10). With regard to the neglect of women, the report further states:

Women, girls, and lesbian, gay, bisexual and transgender persons are at particular risk of torture and ill-treatment when deprived of liberty, both within criminal justice systems and other, non-penal settings. Structural and systemic shortcomings within criminal justice systems

have a particularly negative impact on marginalized groups. (ibid., para. 13)

It is crucial that civil society and media outlets (as key channels for information sharing) react similarly in the face of the daily violations of Paraguayan women prisoners' economic, social, and cultural rights, as reflected by their overcrowding and lack of access to medical care, education, potable water, and basic personal hygiene products. Such a panorama converts prisons into an exclusionary machinery that fails to meet the objective of facilitating the social reinsertion of those deprived of liberty.

Recognition of the sexual exploitation that has resulted from the hardships faced by women deprived of their liberty requires that the state acknowledge its responsibility in creating the conditions that foster this kind of victimization. Ideally, this greater awareness will have the short-term effect of triggering reforms that provide guarantees to incarcerated individuals. This necessarily requires an honest self-assessment by the Ministry of Justice, which has traditionally denied the situations reported by the MNP.

The debate among feminists, regulationists, and defenders of prostitution applies in the case of reclaiming the prostitution trade. From my perspective within the MNP, we did not encounter this situation and we have yet to discuss, for example, whether it is desirable to advocate for the self-determination of women who, in order to earn income, wish to prostitute themselves. For now, my position as a human rights defender is that sexual exploitation falls within a spectrum of vulnerability caused by the state. And I trust that when this vulnerability disappears, there will be less chance that women prisoners are at risk of sexual exploitation and prostitution.

References

"Cárceles inhumanas." 2016. *ABC Color*, April 25. <http://www.abc.com.py/edicion-imprensa/editorial/carceles-inhumanas-1473856.html>

"El Estado gasta G. 6000 por cada recluso por día." 2017. *ABC Color*, July 15. <http://www.abc.com.py/edicion-imprensa/editorial/carceles-inhumanas-1473856.html>

Galeano Monti, José. 2012. "Lo que leemos y creemos: Análisis de la información de la prensa escrita paraguaya durante el

Golpe de Estado Parlamentario a Fernando Lugo." *Revista Paraguaya desde las Ciencias Sociales* 1.

Garaizábal, Cristina. n.d. "Una mirada feminista a la prostitución." http://cdd.emakumeak.org/ficheros/0000/0412/Una_20mirada_20feminista_20a_20la_20prostitucion.pdf

Gentile, Emmanuel. 2017. "Prostitución y feminismo: ¿Contradicción o reivindicación de derechos?" *Infobae*, January 21. <https://www.infobae.com/sociedad/2017/01/21/prostitucion-y-feminismo-contradiccion-o-reivindicacion-de-derechos>

"Gobierno anuncia un nuevo complejo carcelario en Emboscada con un costo de US\$ 80 millones." 2016. *ABC Color*, November 19. <http://www.abc.com.py/edicion-impresa/editorial/carceles-inhumanas-1473856.html>

Guttandin, Friedhelm, and Victoria Taboada. 2014. "La cárcel como microcosmos: La vida en el buen pastor desde la perspectiva de las internas." *Estudios Paraguayos* 31–32(1–2): 7–31.

"Hacinamiento trae riesgos." 2017. *ABC Color*, March 24. <http://www.abc.com.py/nacionales/hacinamiento-trae-riesgos-1577364.html>

Lipszyc, Cecilia. n.d. "Mujeres en situación de prostitución: ¿Trabajo o esclavitud sexual?" <http://mercosursocialsolidario.org/valijapedagogica/archivos/hc/1-aportes-teoricos/2.marcos-teoricos/1.articulos/6.Mujeres-en-Situacion-de-Prostitucion-Cecilia-Lipszyc.pdf>

Méndez, Juan. 2016. *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. UN Doc. A/HRC/31/57.

MNP. 2013. *Hogar Quinta Mitai – Central*. <http://mnp.gov.py/index.php/repository/informes-de-monitoreo-y-seguimiento/penitenciarias/func-startdown/174>

—. 2016a. *Hogar de adultos mayores "Residencia Zermatt"*. <http://mnp.gov.py/index.php/repository/informes-de-monitoreo-y-seguimiento/penitenciarias/func-startdown/130>

—. 2016b. *Hogar de adultos mayores "Santa Cecilia SRL"*. <http://mnp.gov.py/index.php/repository/informes-de-monitoreo-y-seguimiento/penitenciarias/func-startdown/129>

—. 2016c. *Censo de mujeres privadas de libertad 2015: Condiciones de vida, vulneración de derechos humanos, tortura y malos tratos*. <http://mnp.gov.py/index.php/investigacion-social/2015-08-23-04-09-46/Publicaciones/Censo-de-Mujeres-Privadas-de-Libertad>

“Murió recluso herido en incendio de ‘La Esperanza’.” 2017. *Última Hora*, February 24. <https://www.ultimahora.com/murio-recluso-herido-incendio-la-esperanza-n1065684.html>

Pew Research Center. 2014. “Religion in Latin America.” November 13. <http://www.pewforum.org/2014/11/13/religion-in-latin-america>

Pibernat Vila, Marina. 2016. “Feminismo y prostitución.” *Nueva Tribuna*, April 28. <https://www.nuevatribuna.es/articulo/sociedad/feminismo-y-prostitucion/20160428121634127822.html>

“Presas relata cómo se prostituyó dentro de la cárcel al no tener dinero ni visitas.” 2016. *Última Hora*, September 5. <https://www.ultimahora.com/presa-relata-como-se-prostituyo-dentro-la-carcel-al-no-tener-dinero-ni-visitas-n1021424.html>

Robles, Marcos. 2012. *El gasto público en protección social*. Washington, DC: Inter-American Development Bank.

“Tremenda orgía en la cárcel de Itapúa.” 2017. *Itapúa en Noticias*, March 2. <http://itapuanoticias.tv/tremenda-orgia-en-la-carcel-de-encarnacion>

“Tras denuncias de prostitución, intervienen cárcel de Misiones.” 2016. *ADN Paraguayo*, June 8. <http://www.adndigital.com.py/tras-denuncias-de-prostitucion-intervienen-carcel-de-misiones>

“Urge investigar prostitución de mujeres en cárceles.” 2016. *Última Hora*, June 7. <https://www.ultimahora.com/urge-investigar-prostitucion-mujeres-carceles-n997709.html>

UNESCO. 2015. *Informe de resultados TERCE: Logros de aprendizaje*. Santiago: UNESCO.

United Nations General Assembly. 2011. *Resolution 65/229: United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders*. UN Doc. A/RES/65/229.

—. 2016. *Resolution 70/175: United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*. UN Doc. A/RES/70/175.

CHAPTER 7
Neoliberalism and
Authoritarianism: How Radical
Market Reforms in Russia
Destroyed a Fledgling Democracy

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1990s: Shock Therapy and Its Long-Lasting Effect on Russian Society

“A transition that lasts two decades, during which poverty and inequality increase enormously as a few become wealthy, cannot be called a victory for capitalism or democracy.”

—JOSEPH STIGLITZ (2003),

DISCUSSING RUSSIA’S POST-SOVIET HISTORY

I was almost five years old when the Soviet Union collapsed, so there is very little I remember about those times. One of the first memories I have is sitting on the floor and staring at the TV screen. At one point, I saw a familiar face on the screen and shouted, “Mommy, look, Gorbachev!” My mom rushed to turn up the volume, shouting to my dad, who was working in the garden. “Yura! Gorbachev is giving a speech, come over here!” I can’t recall exactly when this happened, but it must have been the summer or fall of 1991, during the final months of the Soviet Union’s existence. Every piece of news coming from the Kremlin at the time had an immediate impact on the lives of millions of people. Hence my parents’ reaction. As I learned later, in 1991 most of the disintegrating country’s nearly 300 million citizens had no clue what was ahead of them; they were simply hoping for the best and preparing for the worst. While the former superpower was going downhill at a dizzying pace, fears and uncertainties floated in the air. Would there be a civil war? Would KGB hardliners stage a coup? Would there be a new, restructured Soviet Union? If so, what would it look like?

As a four-year-old, I certainly could not have cared less. I had other things to be concerned about. For instance, at one point around the same time, I noticed that something strange happened

to my favorite ice cream. Simply put, it had disappeared. The Soviet ice cream industry was not particularly famous for its variety of flavors, but even the few that were available on the market had suddenly vanished.

Another vivid flashback dates back to the same period. It was late at night, and my parents and I were returning from a visit to my grandma, who lived in same village. Right next to her house was a bakery—or “bread factory,” as we called it—that provided bread for the whole village. That night, I saw something that in hindsight should have seemed really bizarre. My father approached the gate of the “bread factory,” jumped on it, and began climbing. The image of him scaling that tall gate lit by the dim street lights is still stuck in my head. “Papa is just going to get some bread for dinner,” my mom whispered to me.

Much later, I learned to make sense of all these developments—but at that time, I could only sense fear and hopelessness, which I learned to accept as integral parts of my life. It was like being in one of those high-budget Hollywood films about the apocalypse. These movies usually have great visual effects, but a particularly unrealistic thing about them is that after the calamities are over, the lucky survivors happily go on with their lives, full of hope and aspirations, as if nothing had happened. When I was growing up, I lived with a subtle feeling that I had been born into one of those post-apocalyptic worlds. But unlike the happy Hollywood endings, we had to face the negative fallout, both economic and psychological. We could not just go on with our lives and rebuild the world around us. The feelings of hopelessness, fear, violence, aggression, disbelief, and mistrust saturated everything: people’s faces, the news, city streets. I was born into such a post-apocalyptic world, with no knowledge of what life had been like before the apocalypse; I was used to the fact that we were basically doomed and that things would keep getting worse. When one winter evening in 1992 my dad came to the door to announce that my mom had just given birth to my little brother, my grandma wailed, “What will happen now? What will we do? How will we make it? It is so hard, it is so hard!” Grandma was legitimately concerned about how my parents would manage to feed the family, now with three little children in tow. Yet I could not understand her lament about how hard life was and how we did not have enough

money. Wasn't a lack of proper food, clothing, or money just a natural way of being? What was there to lament about?

My grandma's bitter feelings at that time were shared by tens of millions of others throughout the country. These citizens were forced to undergo a radical and painful economic and social experiment in the 1990s—an experiment often referred to as “democratization” or “transition” in the Western press—that was supposed to bring freedom and happiness to the people of Eastern Europe. But in reality, it was a much more complicated and much less joyful experience. That grim reality of suffering and fear, and its accompanying shock and trauma, eventually turned out to be a fruitful ground for the rise of xenophobia and militant nationalism.

As time passed and I became more politically aware, I learned how to contextualize these flashbacks. I learned that those bizarre moments were not that bizarre after all and that millions of people at that time had similar experiences. The year 1990, the year that capitalism was introduced in the Soviet Union, was also the year that the Soviet economy and the incomes of its citizens began a decade-long free fall (Maddison 2005). By the summer of 1991, the country—still officially referred to as the Union of Soviet Socialist Republics—virtually ceased to exist. The republics, including the Russian republic, suspended the cash flow to the central government, meaning that central authorities could no longer fulfill their social and economic obligations. Meanwhile, local authorities had yet to take on full responsibility. The planned economy was abolished, and unbridled market forces took over the country. In late 1991, the government of Russia (then still referred to as the government of the Russian Soviet Socialist Republic) announced that from January 2, 1992, prices throughout the country would be liberalized—in other words, the government would stop the Soviet practice of price regulation. Business owners decided to hold back goods from shop windows, knowing that after price liberalization they would be able to make mega profits by boosting consumer prices. As a result, products such as ice cream and bread literally disappeared from the shelves for several months. By December 31, 1991, the specter of famine was haunting millions of families as the country prepared to celebrate the new year. As one *New York Times* headline read, “Hunger Is Stalking the New Year in Moscow” (Bohlen 1992).

The scale of the socioeconomic collapse in the 1990s and its multiple consequences have been significantly underreported and underresearched. The decline, which started in 1990, lasted for the entire decade. During this period, citizens of Russia and most of the other former Soviet republics experienced a series of major economic, social, and cultural shocks that, to a great extent, still define these countries today. Following World War II and Stalin's death in 1953, the average Soviet citizen became used to a certain level of stability and a range of social guarantees provided by the government. The idea that one need not worry about his or her future became engrained in the Soviet cultural code. If you abide by certain rules, you get certain benefits in return. This all came to an abrupt end in early 1992, when the new (neo)liberal government of Russia, following the advice of a group of economists from the Chicago school of economics, launched a radical market experiment known as "shock therapy" (Stavrakis 1993).

Starting very early that year, Russian citizens began facing a new reality. On January 2, most prices—especially those of food—were deregulated, and shop owners released all of the food that they had been withholding. But predictably, these liberalized prices meant hyperinflation. In January, inflation reached 245%, and by the end of 1992, it soared at 2,600%. The price hikes meant not only that most people could not afford food, which was now plentiful in the shops, but also that millions of former Soviet citizens lost all of the savings they had been putting aside over the years of hard work during communism.

The controversial policies of this "shock therapy" (which implied rapid privatization and economic liberalization) plunged the country into chaos and misery unseen since World War II and comparable only to the Great Depression of the 1930s in the West. In fact, Russia's economic crisis in the 1990s significantly exceeded the Great Depression in the United States and Germany in terms of its depth and scale (Milanovic 1998, 27). During the course of the decade, the country's economy almost halved. But in terms of real income, it took just one year to halve due to hyperinflation. The number of people living below the poverty line grew from a mere 11% in 1989 to an astonishing 60% in 1999. Between 1990 and 1995, Russia fell on the Human Development Index from 37th to 66th place (United Nations Children's Fund 1999, 3).

Illiberal Democracy

Later, as a student, I would learn that my childhood occurred during the period known as the “transition” from one economic system to another. The key feature of this transition, which caused so many of my childhood grievances, was the “shock therapy” consisting of a series of radical market reforms that unleashed some of the worst social ills throughout the country. Jeffrey Sachs, who served as Russia’s main economic advisor from 1991 to 1993, notes that this period marked the beginning of a public health crisis and the breakout of various epidemics (such as diphtheria, multidrug-resistant tuberculosis, cholera, and typhus) that had been considered to be eliminated in the Soviet Union (Sachs 2012). After several decades of decline, tuberculosis reemerged in the 1990s, with cases increasing by 7.5% each year throughout the decade (Shilova and Dye 2001, 1069). Within the first three years of reforms, life expectancy dropped by five years. The suicide rate doubled (Walsh 2003). The rate of alcohol consumption also doubled, and the homicide rate tripled (Pridemore 2002). The number of new HIV cases between 1994 and 1998 increased ninefold, with most cases associated with staggering rates of drug abuse and the sex work industry, which was controlled by organized crime (United Nations Children’s Fund 1999, 15). Due to rapid impoverishment and destruction of the country’s welfare system, millions were unable to meet their basic needs. Cities were flooded with sex workers, many of whom were young girls moving to large cities from provincial towns and villages to earn money to send to their families back home. The news was saturated with violent images of deadly showdowns between criminal gangs, while car bombings became the signature method of resolving business disputes among the Russian *nouveau riche*.

These socioeconomic shocks had a profound effect on people’s thinking about politics. In the late 1980s, large segments of society were looking forward to change and welcomed the brave ideas of Mikhail Gorbachev and Boris Yeltsin. Neither of these leaders minced words when criticizing previous party leaders for their luxurious lifestyles or calling for social and economic justice to finally be delivered in the country. In 1991, during the country’s first presidential elections, Western-oriented Yeltsin received 57% of the vote, while the Communist Party candidate received a

meager 16%. And when the KGB tried to stage a coup later that year, tens of thousands took to the streets of Moscow, defending the country's fledgling democracy. But bitter disappointment was just around the corner.

While poverty was not a new phenomenon for Russians—some still remembered the extremely harsh wartime years—something very unfamiliar started to emerge in the early 1990s. Along with Western culture, Western political institutions, and the Western economy, Russians were introduced to the concept of the “oligarchy,” the small class of ultra-rich people who received control over the remains of the enormous Soviet industry (such as the extraction of natural resources and precious metals) and who eventually gained control over the corrupt Russian government. This new class appeared after the government, in its pursuit of shock therapy, moved to privatize huge segments of the economy. President Yeltsin, who promised to build a fairer society, ended up building one of the most economically unequal countries in the world, where the upper class could manipulate elections by buying politicians and controlling the media. Independent journalists who were not up for sale were dealt with in different ways. The regular murders of journalists, which Vladimir Putin's Russia is known for today, actually started in the early 1990s. The rate of journalist assassinations during the Yeltsin years was twice as high as during Putin's reign. More than a hundred journalists were killed in Russia before Putin even came to power (Committee to Protect Journalists 2018).

Society's disillusionment reached a breaking point very soon. In September 1993, Yeltsin singlehandedly dissolved Parliament, which had been criticizing the general course and the negative consequences of the reforms. In response, legislators barricaded themselves inside the parliamentary building. Tens of thousands of anti-Yeltsin protesters marched through the streets of Moscow in defense of Parliament. Generally outraged by the radical market reforms, people protested and rioted in support of Parliament's opposition to Yeltsin and his government. This standoff came to a bloody end on October 3. On that day, protesters took full control of the streets around the parliamentary building and then moved toward the mayor's office and the central TV tower, where they were met by pro-Yeltsin military

units that opened fire on them, killing sixty-two people. But this was only the beginning. That night, military units approached the parliamentary building in an attempt to get rid of adamant legislators. Tanks and snipers surrounded the building in the early hours of October 4. Another bloodshed followed as tanks pounded on the building at the order of the president. By the eve of October 4, approximately 150 people had been killed, many of them university students. This was the largest massacre in Moscow's history since the 1917 Revolution (Human Rights Center Memorial 1993).

Many details of those tragic days remain to be clarified. Yeltsin and his team had already been widely discredited by that point due to their disastrous economic policies. Meanwhile, those leading the parliamentary protest were not very different in their qualifications or methods. Violence thus became acceptable for both sides, and this was a clear manifestation of how Russian society had begun to change. For instance, back in 1991, when KGB hardliners tried to prevent the collapse of the Soviet Union and take back power, Moscow residents rallied in the streets in defense of democracy. Military units loyal to the KGB moved to the streets, but the standoff was resolved fairly peacefully. The military refused to attack the people, and soldiers willingly talked to journalists and protesters, showing their empty mags to prove that they would never shoot "fellow Soviets." Then, a rather egalitarian Soviet society did not have the now-dominant energy of social hatred flamed by staggering inequity. Although there was a lot at stake in political terms, politicians on both sides did not have a powerful oligarchic and corporate lobby. But by 1993, things changed: the fledgling billionaire class threw its full support, both political and financial, behind Yeltsin. The Russian nouveau riche had already accumulated enough capital that they needed to fight to maintain it. And in order to protect their capital, they had to make sure that Yeltsin stayed in power, even if this meant violating the Russian Constitution and dissolving Parliament—or shooting protesters.

By 1996, the year of Russia's second presidential elections, Yeltsin's approval rating was a mere 3%, putting him far behind his rivals (Rodionov 2015). But the desire to continue radical market reforms and the incredible wealth they produced for the few forced

the oligarchs to unite behind Yeltsin and do anything to ensure his reelection. They launched a massive fear-based campaign in the media, warning voters that should they refuse to vote for Yeltsin, the communists would come back and unleash nationwide terror. Despite multiple assurances from the Communist Party and its sympathizers that they were promoting an upgraded version of European-style social democracy that respected civil liberties and small business ownership, all of the major TV channels, under the full control of pro-Yeltsin oligarchs, relentlessly aired the fear-mongering commercials suggesting that voters had to choose between freedom, symbolized by Yeltsin, or mass arrests, symbolized by his opponent from the left (Yeltsin 1996).

These campaign techniques were widely criticized, even in the West, but at the same time, liberal critics tried to downplay the fraudulent electoral methods used by Yeltsin's team, arguing that these were extraordinary times and that the threat of Russia returning to Soviet-style communism was real.

I myself would not go so far as to judge who would have been a better president or what choice Russians should have made in the 1990s. But what I do know is that this massive hypocrisy cloaked in the slogans of freedom and democracy—when oligarchs manipulated elections and politicians while the country was in ruins—gave birth to the country's current political culture. This culture is not the brainchild of some political party or any other institution. It resulted from the everyday life experiences of millions of people and was a desperate attempt to make sense of everything, especially the huge disappointment that the democratic experiment had brought with it. The feelings and aspirations of millions of people were crushed very quickly when the new liberal government withdrew from the economy, hoping that the invisible hand of the market would work a miracle and save the country. Against the backdrop of mass impoverishment, the new billionaire class looked especially cartoonish. While the economy was a wreck, the liberal government insisted that despite the huge price, democracy was worth it. Yet the real actions of that government—dissolving Parliament, shooting protesters, taking over the media, and rigging elections—belied any such claim. The oligarchy presided over by an authoritarian leader is not Putin's invention. It had been created at least ten years before

Putin's accession to power by the first liberal president of Russia, or as he was referred to at the time, Tsar Boris (Sweeney 2000).

Thus, we have it: the basic tenets of the new political culture and a new narrative that emerged by the early 2000s and which would determine the forthcoming history of Russia (and which today likely sounds familiar to more and more people throughout the world). According to this narrative, Western-led global liberal capitalism and democracy, which had initially fascinated Russian society, turned out to be false and damaging, and their proponents turned out to be crooks, hypocrites, and criminals; Russia had been naïve to believe in these Western liberal universalist ideals; and the domestic proponents of the Western lifestyle were in fact traitors to the country. The consequences of this simple narrative can now be seen everywhere. In Russia, the triumph of President Putin in the early 2000s, his paternalistic approach to governance, his patriotic rhetoric, and his appeal to "little men and women" made him very popular among the working people, who were still so terrified of the liberal market reforms of the 1990s that they were ready to sacrifice their freedoms in exchange for the illusion of stability and security.

Gender Norms in the Neoliberal Regime

The mistrust of the West and anything associated with it, which followed the neoliberal disaster of the 1990s, was accompanied by another enormous cultural shift related to gender roles. Gender issues used to be one of the fortes of the Soviet state. As one of the first countries to legalize abortion, to appoint women to diplomatic positions, and to recognize women's rights to vote and to divorce, the Soviet Union emphasized its progressive culture compared to the "capitalist patriarchy" of Western societies. Indeed, many of the Soviet system's achievements in terms of women's rights are still unattained in the West: fully paid maternity leave for two to three years, a wide range of free kindergartens throughout the country, and liberal laws regulating women's reproductive rights.

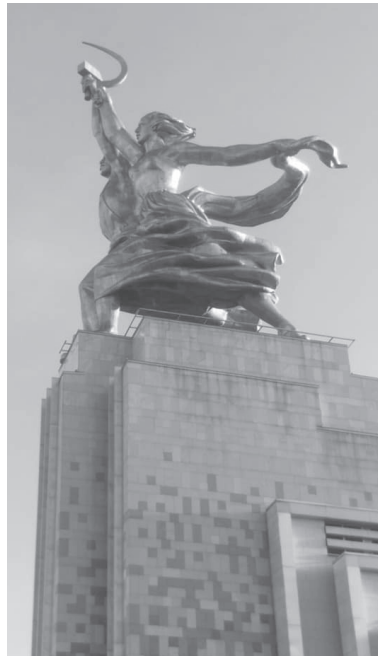
But in the 1990s, many of these policies began to erode. The state abandoned many of its functions, such as welfare and the provision of free services, forcing both men and women to compete in the job market. Men were now assumed to take back the role of

“breadwinners” in a new and unfamiliar world of savage capitalism, while women were increasingly becoming housewives with no life outside the family. Many women, deprived of their previous social guarantees, had to go back to “traditional” gender roles out of fear of losing a partner who was putting food on the table.

Scholars researching gender relations in post-communist countries have coined the term “patriarchal renaissance” to describe this phenomenon of widespread cultural and social gender polarization following the collapse of communism. This is how Russian feminist scholar Olga Zdravomyslova describes the 1990s and its immediate aftermath:

Before the Soviet era, men and women were in a way united through ideology. And, in the 1990s, when this concept started to disappear, things changed. This concept was really deeply Soviet, but when it disappeared, the profound traditionalization of society began . . . This is when the movement toward the naked patriarchy began—this primitive, uncivilized patriarchy with its cult of strength, masculinity, with a notion that a woman should “know her place” in the kitchen, or in the entertainment business. (Radio Svoboda 2011)

This reemerging gender order had direct and indirect effects in diverse spheres, including culture, politics, and the economy.



Picture 1
Iconic Soviet sculpture “Worker and Kolkhoz Woman” in Moscow
Photo: Evgeny (Zhenya) Belyakov

The cynical and “dog eat dog” nature of capitalism contributed to a cult of masculinity and physical strength. While the images of strong men were also ubiquitous in Soviet propaganda, so were the images of female heroes, who fought in wars and built factories (see picture 1). But the new imagery ascribed such features as strength and power exclusively to men.

The cultural trends and political forces that were informing the rapid formation of modern political culture in Russia were many, and they interacted in complex ways: the rise of traditionalism in gender roles, the resurrection of pre-Soviet traditions and religious fervor, the self-interested machinery of an oligarchy that controlled mass communication, and the belief in a narrative blaming Western democratic idealism. Against the backdrop of the country’s suffering social order, anything associated with Western democracy was rejected as false and self-destructive; moreover, some of the old principles of Soviet ideology were rejected as outdated and naïve. The notions of workers’ solidarity, collective action, and trade unions became fodder for jokes and anecdotes. This new social nihilism and Machiavellianism had one basic goal: personal survival. Ideals, principles, and human values of any sort became seen as distractions and as obstacles to survival in an increasingly aggressive and atomized society. The country’s economic shock knocked down tens of millions of families, who in order to survive had to return to something “traditional” and familiar—to something that was centuries old and outdated but at the same time a source of comfort and security.

Yeltsin’s presidency ended abruptly on the last day of the twentieth century. On that day, Russia’s widely hated and aging leader shocked everyone with a surprise speech on TV in which he asked for forgiveness for everything he had done and proclaimed that then prime minister Putin would take over as acting president. Just three months later, in March 2000, Putin was officially elected president, easily defeating his rivals. Unlike the previous master of the Kremlin, Putin was young and fresh and widely seen as a great choice by domestic liberals and the West alike.

I was thirteen when Putin became president, but at that moment I could not care less about the new guy in the Kremlin. This was the year when I realized I was gay, so I had many other things, such as bullying at school, on my mind. Homophobia was

rampant at that time, although nobody talked about it publicly. And there were no human rights organizations or online communities of support where one could turn to. So everyone had to develop their own survival strategy. My trick at high school was to develop friendly relations with the strongest boys in the class by helping them with their homework. Having developed these friendships, I knew I had a degree of safety because nobody would dare touch me lest I turn to my powerful “protectors” for support.

In a weird way, this struggle with internal and external homophobia nurtured my political coming-of-age. We had very little political education at school, and there was little political or sociological literature to engage with. But I was able to develop sophisticated political and academic concepts on the ground long before I read about them at college. As a young gay boy, I had to adapt to the culture of machismo around me. I knew that I would have neither freedom nor security to be who I was, so I had to be vigilant and analyze the social structures and hierarchies around me and use them to ensure my social survival. As I would learn later, this skill is a precious asset for surviving in Russia.

Coming to Terms with the Past: How the Disaster of the 1990s Was (Mis)Used for Political Purposes in the 2000s

As I was maturing and learning harsh political lessons in the streets, the Russian regime had also been maturing and learning lessons. The nihilist Machiavellian spirit of the 1990s produced a disoriented society that had lost its identity, had lost its sense of direction, and was overwhelmed with fear, insecurity, and despair. And by the early 2000s, the trauma of the previous decade and its accompanying victimhood narrative entered a period of transformation. The new president sensed society’s mood and gradually learned how to take advantage of those sentiments. But as president, he was reluctant to address deep ontological issues, leaving that task to another powerful institution—the Russian Orthodox Church. Under Putin, the church slowly assumed ideological functions somewhat similar to those of the Communist Party. It was given a very challenging task: articulating a national

identity and giving people a sense of direction by explaining the complexities of the world.

I would like to look more closely at the ways that multiple actors, particularly the Russian Orthodox Church, utilized the tragic developments of the 1990s and the trauma inflicted on society by shock therapy and the state's collapse. In this section, I will analyze what happened during the first decade of Putin's presidency by focusing on the discourse of the church, which played a key role in the formation of Russia's political and national identity in the post-Soviet period.

My goal here, however, is not to see how the church, directly or indirectly, was reflecting on the grim realities of the state's collapse or how it tried to make sense of the combination of disasters that occurred in Russia in the 1990s. Since the Russian Orthodox Church is an intrinsically conservative institution, I do not expect that it would conduct a thorough or reliable analysis of the complexities of this decade. Instead, I am interested in its discourse because the church had a very large audience and consequently had an impact on social attitudes and politics.

The development of the discourse about Russian identity and the values and virtues associated with it can be seen in the statements of the World Russian People's Council, one of the major recurrent summits held by the Russian Orthodox Church, which has attracted throughout its history a large number of politicians, political and cultural activists, and, of course, religious leaders. I will look at the press releases from various council sessions over the years in order to single out the various mentions of identities connected to the Russian state and the "Russian people." Then I will analyze how these identities are contextualized. This requires looking at the year when particular identities were invoked and interpreting the meaning of these identities in light of the political developments of the time. Finally, I will explore whether the articulated identities can form a new narrative as opposed to the victimhood narrative inherited from the 1990s.

Throughout the history of the World Russian People's Council, the themes it has addressed have varied greatly, from domestic issues (including national security, education, and health) to Russia's role in world politics. In fact, with a collapsed state and withdrawal of state institutions, it was the church that tried to

come up with comprehensive solutions, at least rhetorically. The first three council sessions—one in 1993 and two in 1995—were saturated with apocalyptic visions of Russia's contemporary condition. The Russian people were proclaimed to be facing a disaster of unprecedented scale: "humiliated national pride and Russian distinctiveness are under attack," and the army and the state were being "humiliated and discredited" (World Russian People's Council 1993). In addition, these initial years following the Soviet Union's dissolution were marked with a hope of possible reunification or at least renegotiation of the borders, which had cut off millions of Russians. The Russian people found themselves being "thrown away from their traditional lands," and those Russians who were left in other former Soviet republics were forced to live under "conditions of injustice" (World Russian People's Council 1995b). The council insisted on the granting of dual citizenship to Russians in the newly created states and even suggested the possible reunification of some parts of the former Soviet Union, namely Ukraine, Russia, and Belarus (World Russian People's Council 1993, 1995b).

Aside from the enormous amount of attention paid to the poor conditions of Russians throughout the former Soviet Union, the council focused on the domestic troubles that ascended on Russia in the 1990s, such as "crime, poverty, [and] a demographic crisis," as well as the fact that "millions of the elderly are picking up the crumbs from the table of the 'new masters of life'" (World Russian People's Council 1995b). The notions of humiliation, self-pity, and an imminent complete disaster were central during those first three council sessions. The humiliation of the Russian people at home was compared to the country's humiliation on the world stage:

In front of our eyes, the drama of the collapse of historically inherited national interests is unleashing. The centuries-long work of Russia in all directions—in the West and the South, in Asia and Europe—is being destroyed. Instead of joining the "civilized community," Russia is being pushed back from access to the sea, and the Berlin Wall has moved to the borders of Russia. (World Russian People's Council 1995a)

This idea of Russia as a "fortress under siege," threatened by external and internal forces and still under the menace of a final partition, was a dominant aspect of the Russian collective

consciousness in the 1990s and early 2000s. Although the notion of the “enemy” in the 1990s did not have a precise embodiment, the West was a top candidate. For example, in 1996, as part of a survey conducted by the Russian Public Opinion Research Center, 55% of respondents claimed that the West was trying to impoverish Russia and bring it to collapse (Gudkov 2004). Similarly, throughout the 1990s, the proportion of respondents believing that Russia’s national wealth was being threatened by other countries fluctuated between 60% and 70% (ibid.).

The council made continuous statements about “the collapse of the historically inherited national interests [of Russia],” which happened at the hands of unidentified “leaders” and “new masters of life” who were “selling the country to the West” (World Russian People’s Council 1995a). It emphasized that Russia was losing its *samobytnost’*, or uniqueness. With *samobytnost’* under attack, the very core of the Russian self was being threatened by the external “other,” represented as the West and its surrogates within Russia.

Starting with the fourth World Russian People’s Council in 1997, this rhetoric changed to a more optimistic tone as President Yeltsin and his administration slowly began adopting a less pro-Western approach. Around this time, the discourse started to shift from that of “Russia as victim” to that of “Russia as actor.” In 2001, when newly elected President Putin attended the sixth session of the council, the emphasis was on what kind of world Russia wanted to see in the future. Thus, for the first time, Russia was given agency in the processes happening in the world rather than simply being a victim of external forces. Putin reiterated the traditional claim that “Russia is uniting the peoples of Europe and Asia, Orthodoxy, Islam, Buddhism, and Judaism” (World Russian People’s Council 2001a). The final statement of the council was more elaborate, arguing that multipolarity and overcoming injustice should be the world’s priorities for the new century, which Russia needed to lead. The council also shifted its rhetoric from lamenting over the dramatic situation of the Russian “self” to articulating the need to defend *samobytnost’* from the threats posed by external forces. This claim was made when the council expressed its belief that “nobody can impose one’s values and traditions on others” and that “artificially vaccinated schemes of

legal and political organization” would not work (World Russian People’s Council 2001b). The council further stated:

Those who claim the right to a monopoly [on defining values] are categorically wrong: both the followers of Western liberal humanism, who put the earthly interests of humans at the fore, and the radical religious forces, who allow for the imposition of faith by force. (ibid.)

Later, this sort of response to criticism was often employed by Putin’s government, which urged countries in the West to “mind their own business” (Belton 2010). And after the 2001 terrorist attacks on the United States, the council—despite its unconditional condemnation of the attacks—questioned whether they might have been a specific and inevitable reaction to the cultural and spiritual hegemony of the West (World Russian People’s Council 2001b, 2002).

The question of the Russian Orthodox Church’s attitude toward the West is a complicated one. It is obvious that in the 1990s, the statements made during council sessions were not particularly favorable toward the West-centered model of the world or toward the idea of a Western historical and cultural experience as being suitable for Russia. However, the church did not have a very large impact on the Russian elite in the (re)construction of the West as the enemy or a potential threat. It was simply articulating the widespread sentiment of disillusionment that had saturated all layers of Russian society, including the government, during that decade.

Over the years, the tone of council’s statements went through significant changes, shifting from an apocalyptic vision of Russia’s future to exerting moderate enthusiasm. Yet the most important change that the council underwent during the years of its existence was in relation to the Russian government. In 1993, the council was a platform for mostly oppositional voices (the rebellious legislators who barricaded themselves in Parliament were headlines at that year’s council session) who were endorsed by the National Salvation Front, comprising a strange mix of anti-Yeltsin monarchists and hardline Stalinist communists (World Russian People’s Council 1993; Pozner 2010). At a time when the Russian political elite accepted the need to adhere to “Western values” and hoped for assistance from Western governments in implementing reforms, the council proved to be a

strong critic. Although the council never opposed the idea of economic reform or modernization of the economy, its participants were unanimous in their condemnation of the unconditional endorsement of the idea of Russia's belonging to the West because, in their view, the West would never fully accept Russia as an equal partner, either culturally or politically. In the second half of the 1990s and especially after the rise of Putin, the council gradually became a staunch ally of the Kremlin, praising the nationalist fervor and anti-Western anti-liberal stance.

In order to assess the degree to which the Russian Orthodox Church reflected the opinions of Russian society and to see what sort of opinions the church was supporting and reinforcing, we can take a look at the broader political discourse at that time. Two prominent studies—one by Iver B. Neumann and another by Ted Hopf—claimed that during the 1990s there were several major discourses that were trying to shape Russia's identity, specifically around what Russia is and should be in the world (Hopf 2002; Neumann 1995). However, two broad discourses were opposed to each other to such a degree that some of their most dedicated participants were ready to use physical and military force to resist their opponents. The first group—broadly characterized as “romantic nationalists/new Soviet Russians”—was represented by a wide range of communists, socialists, nationalists, and members of the religious right, all of whom were united by a common idea of a uniquely “Russian way” that was distinct from the West. This group was also opposed to the ideas of capitalism and Western consumerism that had taken over Russia in the 1990s. The second group—which can be described as “liberals/the new Western Russians”—represented the opposite. Its members insisted on the need to incorporate Russia into the Western cultural and political realm and, starting in the 1980s, adopted an extreme neoliberal approach of promoting Reaganomics and Thatcherism as the panacea for the ailing Soviet economy's problems. Both of these discourses were sustained and shaped by a large number of politicians, activists, religious and civil society leaders, cultural professionals, writers, and others. According to Neumann, the two discourses were connected to the identities that had been discursively present in different forms since the nineteenth-century Westernizers-versus-Slavophiles debate.

The Russian Orthodox Church became one of the most important voices in this debate in the 1990s and, in its own way, was opposed to the idea of a neoliberal experiment being imposed on Russia. The church's discourse, as expressed through the work of the World Russian People's Council, largely corresponds to the romantic nationalist/new Soviet Russians discourse, which saw Europe and the West as morally inferior to Russia. While recognizing the economic and technological superiority of Europe and the West, it saw Europe as spiritually dead precisely because of the capitalist mode of production that provided for its economic advance.

In this way, the church and other diverse actors, including monarchists and hardline communists, increasingly saw the West as something that needed to be contained and fought against in order to prevent future disasters from happening. In 2004, Lev Gudkov, a Russian independent sociologist, published an article that addressed the rise of "conspiratorial" beliefs in Russian society. After the short period of collective disorientation and frustration in the beginning of the 1990s, he wrote, the situation changed by the time of the 1996 presidential elections. During the electoral campaign, candidates tried to evoke a feeling of national pride by referring to national symbols and Russia's heroic past. Russia and the Russians were counterposed against "developed" countries. As Gudkov argues, the notion of the "enemy" was again becoming a cornerstone of the post-Soviet identity (Gudkov 2004). In the late 1990s and early 2000s, a number of Russian politicians, foreign policy strategists, political analysts, and public figures, including Dmitry Medvedev, Vladimir Putin, Boris Yeltsin, and Mikhail Gorbachev, publicly accused the West, particularly the United States, of conspiring against the "rebirth" of Russia. Major international developments such as NATO and European Union enlargement, plans for the deployment of a US missile defense system in Poland and the Czech Republic, color revolutions in post-Soviet countries, and preparations for the Nabucco pipeline project were often publicly denounced as part of a larger US or Western conspiracy against the strength and sometimes even existence of the Russian state. These denunciations appeared not only in the public speeches of Russian politicians but also in media coverage of international events. Russia's foreign policy concepts

of 2000 and 2008 confirmed the Kremlin's view of the West as a challenger to Russia's national interests. For instance, the concept adopted in 2000 emphasized that "there is a growing trend towards the establishment of a unipolar structure of the world with the economic and power domination of the United States," and the concept adopted in 2008 announced Russia's intention to resist "the continued [Western] political and psychological policy of 'containing' Russia" (Federation of American Scientists 2000; President of Russia 2008).

The 2010s: Putinism, Conservative Values, and Anti-globalization

A complicated process of Russia's struggle with humiliation and the loss of its identity in the 1990s, exacerbated by economic turmoil and rampant inequality, lasted for more than two decades. President Putin's first two terms in the 2000s were marked by growing nationalism and anti-Western rhetoric. Meanwhile, at the official level, Russia still appeared to be closely cooperating with the West. Despite the mutual accusations and mistrust, Russia was still a part of the G8, it was still cooperating with NATO, and, when in 2010 Secretary of State Hillary Clinton came for an official visit, she was met with open arms. Yet shock and despair brought in by the radical reforms of the 1990s taught people to distrust anything coming from the West. Reaganomics and Thatcherism had turned out to be disasters for Russia. Thus, in the eyes of the average person, the best way forward was to fight against whatever the West was promoting. And in the 2010s, two such issues were feminism and LGBT rights.

A point of bifurcation was reached in December 2011, when exactly twenty years after the fall of communism, the streets of Russian cities were crowded with protesters again. But this time, the protesters came for Putin. The public's dissatisfaction with his government had been felt in the air for some time already, but the fraudulent parliamentary elections on December 4, 2011, turned out to be a catalyst for a real change. The protesters—most of whom were relatively young, educated urban dwellers—rebelled against the rigged elections, demanding democratization and more political openness. Hundreds of thousands protested throughout Russia, competing amongst themselves to see who

could come up with the best meme about Putin and the most cheerful antigovernment slogan. To the shock of Russian authorities, these young protestors were unafraid not only to take to the streets but to cheerfully make fun of the aura of sanctity around Russian statehood and the Russian president.

The government hastily attempted to take the situation under control. Televised speeches by pundits and clerics praising Putin and the achievements of his government had apparently lost their sway. Thus, to ensure its survival, the Kremlin decided to officially stop pandering to the liberals and stake everything on anti-liberal nationalism. And a convenient excuse to do so arose very soon.

On February 21, 2012, five women entered the Cathedral of Christ the Saviour, the country's most important Russian Orthodox cathedral, located in Moscow. The women, who made up a feminist punk band called Pussy Riot, put on colorful balaclavas and tried, unsuccessfully, to perform an anti-Putin punk song near the altar. Seconds after they began playing, they were escorted outside and released. This was not the first time that Pussy Riot had held a provocative art performance in unexpected places in Moscow. Usually, they would be detained and then released. But this time was different. Five days after their performance, the women were placed on the country's wanted list, and Moscow police launched a special operation to find them. By mid-March, three of them were under arrest and faced possible sentences of up to seven years in prison. The unusually harsh measures against the band were supposed to attract attention to the case and turn it into an Orwellian show trial.

And very soon the show began. During the months of investigation and court hearings, Pussy Riot became one of the faces of the aforementioned protest movement. The question was, though, were these faces beautiful or ugly? For some, the band members were young, energetic, smart, freedom-loving young women who were not afraid to express their political beliefs in a creative way at the headquarters of the Russian Orthodox Church, an institution as corrupted as the entire Russian political system. For others, they were insane, unashamed, silly radicals who insulted the faith of millions of Russians in an extremely sacred place. The latter narrative was promoted by the government and the state media, which did their best to exploit

the controversial Pussy Riot affair in order to undermine the momentum of the protest movement.

The authorities aggressively promoted Pussy Riot as symbols of everything Western, everything liberal, everything that corrupts Russia and its “traditional values.” Over the course of several months, TV viewers were bombarded with dozens of shows framing Pussy Riot’s activism as contradicting the moral values of Russia and supporting Russia’s subjugation to Western influence (Mamontov 2012). This new moralizing stance of the Kremlin was aimed not only at Pussy Riot but at the Russian protest movement in general, which was depicted as trying to bring the country back to the “wild 1990s” (Sharafutdinova 2014). Needless to say, this stance was met with cheers across Russia. According to several polls, a vast majority of respondents spoke in favor of persecuting and punishing the punk band (Levada Center 2012). Distrust toward Western liberalism, which was inherited by Russian society in the 1990s and was nourished by nationalists and religious institutions during the 2000s, now became the core of the Kremlin’s official ideology. With the Pussy Riot trial, the Kremlin finally ceased its flirting with liberal ideals and explicitly proclaimed its ideological opposition to the West.

Just when the Pussy Riot affair began to subside in August 2012, after the women were sentenced to two years in prison, another nationwide witch hunt was launched. Regional parliaments in different corners of the country started adopting legislation aimed at fighting “homosexual propaganda.” By early 2013, a similar bill was introduced in federal Parliament. Similar to the Pussy Riot case, the discussion around this bill was framed by the government and state media as a matter of preserving Russian statehood against the advances of global liberalism. LGBT people, the bill’s proponents argued, would not be persecuted for their identity as long as they did not make it public. In other words, it was okay to be gay but never to say it out loud. Despite multiple protests from Western activists and human rights organizations, as well as the Russian LGBT movement, the bill was signed into law later that year.

As a Russian gay man myself, I was not very surprised by these developments. For outside observers, the federal law might seem an outrageous act of homophobia, but having grown up in

Russia, I actually used to wonder why the country did not have homophobic laws on the books much earlier. Under pressure from European countries, Russia decriminalized homosexuality in 1993, although homophobia remained rampant. The criminal culture of the 1990s did not usher in anything good for LGBT people despite these formal legal changes adopted under pressure from the West. The social collapse caused by the radical market reforms created a ripe environment for the rise of machismo saturated with homophobia and misogyny. By no means am I trying to excuse the current discriminatory policies of the Russian government; however, the legal standards and practices of any country are often influenced by domestic social attitudes rather than the demands of the international community. Russia's current repressive actions, whether against liberals, feminists, or gays, are echoed by widespread sentiment that has been in place for some time. The uncontained pace of change, accompanied by disregard for the plight of "little men and women," created a society in which the notions of democracy, human rights, and open society became associated exclusively with neoliberal globalization and economic inequality. In the eyes of Putin's voters—who have a legitimate reason to be angry at liberal reforms—it is historical revenge and a triumph of justice. In this way, Putinism is not as much a Soviet legacy as a traumatic consequence of the neoliberal capitalism of the 1990s. In the 2000s, this trauma started to play an increasing role in Russian politics, and in the 2010s, it was officially adopted and utilized for ideological purposes.

Today, though, it seems that some sort of Putinism is spreading all around the globe. When I began writing this chapter, I was certain that Hillary Clinton would be elected president in the United States. By the time I completed it, Trump had already been in office for several months. Despite a world of difference between Russia and the United States, Putinism and Trumpism have many similar origins. They exploit the fear of the "other" and of change and uncertainty. They appeal to the disadvantaged, especially the working class. They piggyback on the very real and legitimate discontent caused by economic hardship and inequality. Over the next several years, there will no doubt be numerous research papers and newspaper articles about how Trump is

manipulating his constituents and how many of his ploys seem to come straight from Putin's playbook.

As an activist who tries not only to understand the world but also, hopefully, to change it a bit, I wish we would see more analysis of how leaders such as Trump and Putin have even become possible. Defending justice implies more than monitoring abuses and restoring someone's violated human rights. In order to prevent the emergence of environments where the very notion of human rights becomes redundant, we need to look into deeper social causes behind the rise of the Trumps and Putins of the world. To truly protect human rights is to ensure that no one ever feels so desperate and abandoned that they fall into the trap of authoritarian populism; to recognize the legitimacy of all citizens' concerns, regardless of whether we agree with them; and to finally admit that the distinction between economic, social, and political rights is a false one because one right can never exist at the expense of another, and neglecting one part will inevitably compromise the whole idea.

References

- Belton, Catherine. 2010. "Mind Your Own Business, Russia Tells West." *Financial Times*, December 28. <https://www.ft.com/content/f0512bfe-1272-11e0-b4c8-00144feabdc0>
- Bohlen, Celestine. 1992. "Hunger Is Stalking the New Year in Moscow." *New York Times*, January 1. <https://www.nytimes.com/1992/01/01/world/hunger-is-stalking-the-new-year-in-moscow.html>
- Committee to Protect Journalists. 2018. "Database of Attacks on the Press." <https://cpj.org/data>
- Federation of American Scientists. 2000. "The Foreign Policy Concept of the Russian Federation, Approved by the President of the Russian Federation V. Putin, June 28, 2000." <https://fas.org/nuke/guide/russia/doctrine/econcept.htm>
- Gudkov, Lev. 2004. "Структура и характер национальной идентичности в России" ["Structure and Character of National Identity in Russia"]. *Polit.ru*. http://www.polit.ru/research/2004/04/05/national_identity.html
- Hopf, Ted. 2002. *Social Construction of International Politics: Identities and Foreign Policies, Moscow, 1955 and 1999*. Ithaca, NY: Cornell University Press.

- Human Rights Center Memorial. 1993. "Список людей, погибших в Москве 21 сентября - 5 октября 1993 года" ["List of People Killed in Moscow 21 September–5 October 1993"]. December 12. <https://memohrc.org/ru/reports/spisok-lyudey-pogibshih-v-moskve-21-sentyabrya-5-oktyabrya-1993-goda>
- Levada Center. 2012. "Россияне о деле Pussy Riot" ["Russians about the Pussy Riot Affair"]. July 31. <http://www.levada.ru/2012/07/31/rossiyane-o-dele-pussy-riot>
- Maddison, Angus. 2005. "Measuring the Performance of Communist Command Economy: An Assessment of the CIA Estimates for the USSR. Review of Income and Wealth." *Review of Income and Wealth* 44(3): 478–9.
- Mamontov, Arkady. 2012. "Провокаторы" ["Provocateurs"]. *Russia-1*, April 26. <https://www.youtube.com/watch?v=aeT0dZbGkzc>
- Milanovic, Branco. 1998. *Income, Inequality, and Poverty during the Transition from Planned to Market Economy*. Washington, DC: World Bank.
- Neumann, Iver B. 1995. *Russia and the Idea of Europe: A Study in Identity and International Relations*. London: Routledge.
- Pozner, Vladimir. 2010. "Гость Александр Проханов. Познер. Выпуск от 18.05.2010" ["Guest Alexander Prokhorov. Pozner. May 18, 2010"]. *Channel One*, May 18. <http://www.1tv.ru/videoarchive/20012>
- President of Russia. 2008. "The Foreign Policy Concept of the Russian Federation." July 12. <http://en.kremlin.ru/supplement/4116>
- Pridemore, William Alex. 2002. "Vodka and Violence: Alcohol Consumption and Homicide Rates in Russia." *American Journal of Public Health* 92(12): 1921–30.
- Radio Svoboda. 2011. "Свобода в клубах" ["Freedom in Clubs"]. October 2. <https://www.svoboda.org/a/26011537.html>
- Rodionov, Kirill. 2015. "были ли чистыми президентские выборы-1996?" ["Were the 1996 Presidential Elections in 1996 Clean?"]. *Gaidar: Russkij Liberalizm*, July 30. <http://gaidar.center/articles/transparent-election-1996.htm>
- Sachs, Jeffrey. 2012. "What I Did in Russia." <http://jeffsachs.org/2012/03/what-i-did-in-russia>
- Sharafutdinova, Gulnaz. 2014. "The Pussy Riot Affair and Putin's D marche from Sovereign Democracy to Sovereign Morality." *Nationalities Papers* 42(4): 615–21.
- Shilova, Margarita V., and Christopher Dye. 2001. "The Resurgence of Tuberculosis in Russia." *Philosophical Transactions of the Royal Society of London*, series B, 356:1069–75.

Stavrakis, Peter J. 1993. "State-Building Post-Soviet Russia: The Chicago Boys and the Decline of Administrative Capacity." Kennan Institute Occasional Paper No. 254. https://www.wilsoncenter.org/sites/default/files/op254_state_building_post_soviet_russia_stavrakis_1993.pdf

Stiglitz, Joseph. 2003. "The Ruin of Russia," *Guardian*, April 9. <https://www.theguardian.com/world/2003/apr/09/russia.artsandhumanities>

Sweeney, John. 2000. "Tsar Boris's Many Faces: The Fool, the Patriot, the Crook." *Guardian*, January 2. <https://www.theguardian.com/world/2000/jan/02/russia.theobserver>

United Nations Children's Fund. 1999. *Women in Transition: A Summary*. MONEE Project Regional Monitoring Report No. 6. <https://www.unicef-irc.org/publications/pdf/monee6sume.pdf>

Walsh, Nick Paton. 2003. "Russia's Suicide Rate Doubles." *Guardian*, July 9. <https://www.theguardian.com/world/2003/jul/09/russia.nickpatonwalsh>

World Russian People's Council. 1993. "Заявление I Всемирного Русского Собора" ["Statement of the First World Russian People's Council"]. May 28. <https://vrns.ru/documents/54/859>

———. 1995a. "Стенограмма II Всемирного Русского Народного Собора" ["Transcript of the Second World Russian People's Council"]. February 1–3. <https://vrns.ru/documents/55/1269>

———. 1995b. "Итоговый документ" ["Final Statement"]. December 6. <https://vrns.ru/documents/56/1256>

———. 2001a. "Выступление Президента Российской Федерации В. В. Путина на открытии VI Всемирного Русского Народного Собора" ["Speech by the President of the Russian Federation at the Opening of the Sixth World Russian People's Council"]. December 13–14. <https://vrns.ru/documents/59/1231>

———. 2001b. "Соборное слово VI Всемирного Русского Народного Собора" ["Synodical Statement of the Sixth World Russian People's Council"]. December 14. <https://vrns.ru/documents/59/1229>

———. 2002. "Соборное слово VII Всемирного Русского Народного Собора" ["Synodical Statement of the Seventh World Russian People's Council"]. December 17. <https://vrns.ru/documents/60/1226>

Yeltsin, Boris. 1996. "Предвыборный ролик Б. Н. Ельцина в 1996 году" ["Boris Yeltsin's Campaign Ad, 1996"]. <https://www.youtube.com/watch?v=w0lNVhZjsO8>

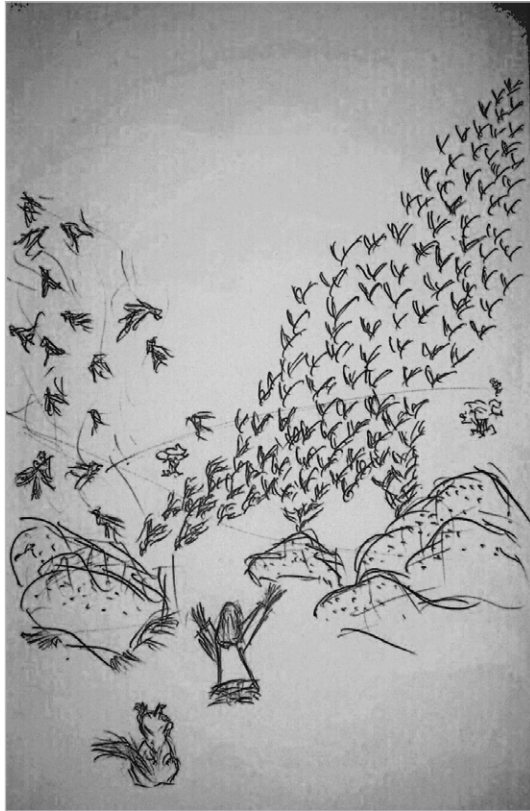
CHAPTER 8

Battle for Artificial Paradises: The War on Drugs in Lebanon, Its Consequences, and the Fight to End It

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* I would like to dedicate this piece to all victims of the war on drugs, particularly persons who use drugs and who have been marginalized by a criminal system that refuses to understand addiction.

“The opposite of addiction isn’t sobriety. It’s connection . . .
If you are alone, you cannot escape addiction.
If you are loved, you have a chance. For a hundred years
we have been singing war songs about addicts.
All along, we should have been singing love songs to them.”
—JOHANN HARI (2015)



Picture 1
“Flying with Birds,” sketched by author

It was a sunny morning when Saada's mother was installing her and her sisters securely on their father's tractor. Her mother put a rope around Saada's waist and carefully navigated that same rope around her other daughters' waists to ensure that they were all bound together safely for the long journey from the town of Hermel in northeastern Lebanon to the *djurd* (a stretch of high barren mountains surrounding the Hermel area). It was the beginning of June in the early 1980s, school was over, and by then the snow had almost completely melted in the *djurd*, which is about 1,700 meters (approximately 5,578 feet) above sea level. In June, the land in the area was ready for farmers—such as Saada's father—to grow a special type of plant that they would later harvest, manufacture, and sell to wealthy dealers to cover their children's school tuition, clothing, and medical expenses, as well as the family's basic needs for the coming year. The voyage to the *djurd* meant all of that for twelve-year-old Saada and her sisters. It meant new shoes, new books for school, and, at some point, a pair of pajamas. Saada knew very little about that plant; she only knew it was the household's main source of income and that it was called hashish.

Most Octobers, after spending the summer between the hemp¹ fields and the millennial *lezzeb* trees² scattered across the arid Hermel plains, farmers would proceed with the harvesting of their hemp crops. While Saada's brothers and sisters would actively take part in the harvesting process, her father—realizing how much she lacked dexterity for cutting crops—would appoint her as the family's scarecrow, guardian of the hemp seeds. This is because after the harvest, farmers would lay out their hemp seeds on the beautiful mountainous rocks to be bathed in the sharp sun, but it was also during the height of bird migration season, when tens of thousands of soaring birds (including cranes, storks, and pelicans) would migrate south, passing above the Hermel plains. Saada's job, as the appointed scarecrow, was to shoo away the birds. She liked migrating birds and was fascinated by how well structured the flocks were. They would arrive from the north in a flawless V-shape, and at the sight of the seeds drying on the

1 The plant from which hashish is extracted.

2 More commonly known in English as Phoenician juniper.



Picture 2
Saada with a millennial lezzeb tree in the Hermel high plains
Photo: Saada Allaw

rocks, the chief bird would lead the flock's descent like an emerging waterfall cascading over a steep rock. On days her father was not around to watch, Saada would step away from the seed-covered rocks and welcome the flocks. After their well-structured descent, the birds would feast on the seeds and then reemerge up toward the skies, "each bird dancing on its own in complete disorientation," according to Saada.³ It would be only years later, upon moving to Beirut for college, that Saada would realize what those seeds were and thus understand "why a perfectly structured bird flock would reemerge from the Hermelian rocks as a completely disorganized black cloud," as she laughingly explained to me when I first interviewed her for this chapter.

3 Interview with Saada Allaw, October 2016, Dekwaneh. All quotations from Saada in this chapter derive from this interview.

Almost thirty years later, in the fall of 2011, Panos⁴—a beautiful twenty-two-year-old college student and inspiring actor with Greek ancestry, long black curly hair, and piercing green eyes—was out in Beirut partying with some friends to celebrate the submission of a college paper they had been working on. They started with dinner and drinks at a friend’s flat, where they shared a few joints, and then went bar-hopping in Beirut’s hotspots. On the way back home, Panos fell asleep in the backseat of his friend’s car only to be violently awoken a few minutes later by a barking dog held on a leash by a police officer. Chris, the car’s owner, had run low on gas and the car had stopped—to their misfortune—right in front of a police station. The police officers on duty that night suspected the group of possessing drugs, given the fact that those in the backseat were sleeping and had an “artsy” look. The officers searched the car for narcotics and then searched each individual until they found a small plastic bag on Lea, one of the group’s members, containing a tiny ball of what looked like mud. The entire group was taken to the police station, where they were placed in a humid, unsanitary, and jammed cell while the officers contacted the Anti-Narcotics Bureau so that it could send special agents to investigate the matter.

Upon the special agents’ arrival, Panos was the first to be interrogated. “You look like a guy who likes his hashish fresh, where do you get it?” they asked. “I don’t smoke up,” Panos responded. One of the agents looked at him and said, “A guy shouldn’t have long hair and piercings. You must either be a faggot or a junky. I will submit you to a urine test, it will prove whether or not you ‘smoke up,’ so you’d better get your story straight. Where do you buy the stuff? Answer me or else.” The officer then proceeded to slap him three times on his cheek. A traumatized, hung-over Panos then told a story he had concocted with his friends in the cell to avoid getting any of the group’s members into a prosecution involving the “promotion” or “trafficking” of drugs. The story involved a Dutch tourist they had met at a bar earlier that night and who had shared a joint with them. Once the interrogation was

4 I have used pseudonyms for some of the people mentioned in this text in order to protect their privacy.

over, the agents put Panos back in the cell. He would spend the next five nights there before being released on bail.

During his stay, Panos witnessed a heroin addict going through withdrawal and getting physically assaulted inside the cell without even as much of a verbal intervention from the police officers on duty that night. It wasn't until a group of detainees started shouting for help that one of the police officers gave the person going through withdrawal a Panadol pill he had found somewhere in the police station. The following night, that same agent would sexually harass Panos after Panos asked him for a cigarette. Once out of the police station, Panos had one thing in mind: finish college and emigrate to any other country. Little did he know that what had happened then was just the beginning of his story (I will return to this later).

Saada and Panos have never met, but they are connected by the drug chain that began in the soil of Saada's hometown plains and ended in Panos's hands in the streets of Beirut. They stood at the two extremes of the drug chain, and yet—as we will see—were equally victims of a war initiated more than a hundred years ago by various actors (including drug dealers and gangs, police officers, statesmen, and lawmakers). In this chapter, I explore how this war was manufactured in a small office in the United States and propagated globally until reaching Lebanon. I analyze its socioeconomic and legal consequences and how it failed to achieve its stated objectives in terms of fighting drug addiction, instead exacerbating addiction and manufacturing marginalization.

The Manufacturing of a War on Drugs

In the early 1930s, a former diplomatic agent during the First World War and former prohibition officer to the Bahamas was appointed as the United States' first commissioner to the newly created Federal Bureau of Narcotics.⁵ This man, who looks like he could have been Mussolini's twin, was Harry Anslinger, the engineer of the war on drugs as we know it today. He had been appointed by his wife's uncle, Andrew Mellon (the US Secretary of the Treasury back then), to head the successor of the old Department of

5 A federal agency of the United States Department of the Treasury and predecessor of the current Drug Enforcement Administration.

Prohibition. However, prohibition had been abolished, and the Federal Bureau of Narcotics was now a small department with little funding from the government. Fighting cocaine and heroin (both prohibited in 1914) was not going to be enough to keep the department going. According to journalist Johann Hari (2015, 15), Anslinger started noticing interesting stories in the newspaper, such as the one published by the *New York Times* on July 6, 1927, entitled “Mexican Family Go Insane,” in which a Mexican family was said to be driven insane after eating a marijuana plant. Anslinger believed that “the two most-feared groups in the United States—Mexican immigrants and African Americans—were taking the drug much more than white people” and proceeded to send inquiries to thirty scientific experts across the country, asking them about this marijuana plant he had read about and whether it should be banned. All of the experts firmly stated that the effects of the plant were wildly exaggerated and that it “would be wrong to ban it” (ibid.). All except one. Anslinger adopted the latter’s response and lobbied the House Committee on Appropriations, to which he presented “a nightmarish vision” of what consumption of the plant could lead to (ibid.). The fear tactic worked, and the Federal Bureau of Narcotics began to receive more funding to deal with this “threat,” eventually growing into a major federal bureau of the United States. One cannot help but note at this point the manifestation of an intersectional manufacturing of inequality. Anslinger believed that African Americans and Mexican immigrants were consuming the drug much more than white people were—and criminalizing consumption meant that he could now use a legal tool that he personally created to marginalize both of these ethnic groups, whom he feared and scorned. Indeed, his “crusade” on drugs and what would later ensue in terms of mass incarceration of people of color in the United States would generate a “contemporary system of racial control” (M. Alexander 2010). The criminalization of drug consumption would ultimately serve such a purpose not only in the United States but across the globe, a point to which I will return later.

A few years later, however, things were not quite working for the Federal Bureau of Narcotics’ crusade. In spite of prohibition and repressive policies, drug consumption had not decreased. The most striking example of this was the city of Baltimore, which had

adopted every piece of legislation Anslinger proposed and yet did not become a “drug-free paradise” (Hari 2015, 42). Commissioner Anslinger’s explanation was that there was an evil force secretly manipulating events. In testimony before Congress, he spoke of a “Communist heroin” flowing from China to the United States and of a conspiracy to form people who would “be willing to pay with treason for their drugs” (ibid., 43). Such claims were baseless, as evidenced by Anslinger’s own agents (ibid.; Valentine 2004, 68). However, according to Hari:

Whatever America was afraid of—blacks, poor people, Communists—[Anslinger] showed how the only way to deal with the fear was to deal with drugs, his way. By conjuring this Communist conspiracy into existence in the 1950s, [Anslinger] found a way to turn his failure into a reason to *escalate* the war. Drug prohibition *would* work—but only if it was being done by everyone, all over the world. So he travelled to the United Nations with a set of instructions for humanity: Do what we have done. (Hari 2015, 43)

Some countries were resistant to his rhetoric at first, but according to one of his key lieutenants, Charles Siragusa (who was also the bureau’s main agent dispatched to Lebanon), “a casual mention of the possibility of shutting off our foreign aid programs, dropped in the proper quarters, brought grudging permission for our operations almost immediately” (King 1972, chapter 21). Hari explains that many people were persuaded by Anslinger’s arguments because they wanted simple solutions to complicated fears:

The public wanted to be told that these deep, complex problems—race, inequality, geopolitics—came down to a few powders and pills, and if these powders and pills could be wiped from the world, these problems would disappear. It is a natural human instinct to turn our fears into symbols, and destroy the symbols, in the hope that it will destroy the fear. It is a logic that keeps recurring throughout human history, from the Crusades to the witch hunts to the present day. It’s hard to sit with a complex problem, such as the human urge to get intoxicated, and accept that it will always be with us, and will always cause some problems (as well as some pleasures). It is much more appealing to be told a different message—that it can be ended. (Hari 2015, 44–45)

This is why Anslinger’s rhetoric resonated so well across the world and reached ears far beyond the borders of America.

In the early 1920s, on the other side of the Atlantic, across the Mediterranean Sea, a newly created country was about to become one of the world's most important producers of hashish and transit territories for narcotics. After Greece banned hemp cultivation, production shifted to the arid plains of what is now northeastern Lebanon and western Syria. Lebanese farmers in this area were having a hard time growing anything else (the soil and weather obstruct most other forms of cultivation)—and this, added to Greece's hemp ban and intense demand from Egypt, led their production to soar to an estimated sixty tons of hashish per year. Despite the fact that this was the French Mandate period⁶ and the French prohibited the cultivation of hemp, the occupying authorities were not strict in applying the ban. They feared that its enforcement would upset local rural leaders whose support they needed, and they were aware that even prominent Lebanese politicians—among them Raymond Eddé⁷—opposed the ban on the basis that hemp cultivation was a great source of income for villagers (Marshall 2012, 17). In fact, some estimates show that more than 50% of the Lebanese economy depended on hashish at the time (*ibid.*).

This situation eventually upset Anslinger, who in 1954 addressed the Lebanese ambassador to the United States and United Nations in a letter stating that “the illicit narcotic traffic in the United States is, in a large measure, being supplied by Lebanese narcotic traffickers,” adding in an attached memorandum his opinion that “Beirut [the Lebanese capital] is probably the greatest single transit port in the international traffic in narcotics . . . Certain of the largest traffickers are so influential politically, and certain highly placed officials so deeply involved in the narcotic traffic, that one might well state that the Lebanese Government is in the narcotic business” (cited in Marshall 2012, 2). This is how Lebanon entered Anslinger's war on drugs. That same year, the Lebanese government proceeded with a crop eradication campaign across the Beqaa and Hermel regions (see map 1), which enraged farmers and large landowners and led to armed

6 Lebanon was under French administration from 1920 until its independence on November 22, 1943.

7 A prominent Lebanese politician, leader of the Lebanese National Bloc, and son of Lebanese president at the time, Émile Eddé (whose mandate lasted from 1936 until 1941).

MAP I

Areas of hemp cultivation in Lebanon



clashes with authorities. Lebanon's president at the time, Camille Chamoun, wanted to launch a military campaign in the Beqaa Valley, but the army's commander, General Fouad Chehab (who would later succeed Chamoun as president), refused to order air strikes (Marshall 2012). What followed was a pattern that the Lebanese government would repeat every year with large landowners and drug traffickers.

Torn between pressures from the United States on one side and from big, well-connected armed traffickers on the other, succeeding governments proceeded with well-publicized campaigns showing government officials eradicating small areas of apparent hemp crops in collaboration with powerful drug lords. Authorities couldn't arrest powerful drug lords and needed to show Anslinger and his agents that they were doing their job (for which they received funding), so they aimed at the weakest link of the chain: persons who use drugs, whom they started incarcerating by the thousands. This is how a new category of marginalization was born: the "drug user." This category was so vilified by Anslinger's

rhetoric that it became synonymous with “criminal” beginning in the second half of the twentieth century. Suspected drug users would be arrested, beaten, mistreated, and jailed for years without any consideration of their physical or psychological health needs. The situation remained this way for decades, changing only in the late 1990s with Lebanon’s adoption of a new drug law.

Treatment as an Alternative to Prosecution

I visited Elie Aaraj at the MENAHRA⁸ headquarters, located in a suburb of Beirut, on a sunny morning in October 2016. Elie is one of the founders of MENAHRA—an association specialized in harm reduction policies in the Middle East and North Africa—and has been its executive director since 2007. He has been working in the field of HIV/AIDS and harm reduction since 1987, when he founded the Lebanese organization Soins Infirmiers et Développement Communautaire, which began with an in-home nursing program during the civil war and expanded to work on HIV/AIDS and drug projects in subsequent years. Elie, who looks like a young version of Santa Claus, was one of the key actors involved in the adoption of the 1998 Drug Act in Lebanon.

He explained to me that in the mid-1990s, before the adoption of the Drug Act, the government decided to undertake a large-scale crackdown on all drug-related crimes. Its aim was to catch everyone who had committed such crimes in violation of applicable criminal laws back then, before the statute of limitation on these cases ran out. Indeed, many people who had committed crimes before that period had not been prosecuted because public prosecutors were largely unable to do so as a result of unrest during the country’s civil war (1975–1990) and the events that followed the Taif Agreement in 1990 (which put an end to that war). Thus, the government wanted to make sure that these crimes would be properly tried before becoming obsolete. Elie and other health professionals saw the urgency of amending the drug law

8 MENAHRA is short for the Middle East and North Africa Harm Reduction Association, which was launched in 2007 as a collaborative initiative of the World Health Organization and Harm Reduction International. It is the first network on harm reduction for injecting drug users in the Middle East and North Africa, covering about twenty countries.

and proceeded to form a multidisciplinary panel whose function was to work on various drug-related issues, including proposing amendments to the existing law. Members of the panel drafted a memorandum of understanding related to the humanization of the law and calling for the reinstatement of drug users into society rather than further marginalization through incarceration. The panel thus tried to shift the discourse from one dominated by a repressive and punitive logic à la Anslinger to one that was more comprehensive, rational, and health oriented.

However, despite civil society's efforts, there was another plan in motion. "One day in October 1997, I was reading the newspaper," Elie explained, "and I noticed that on the following day a general parliamentary session was planned and that a new drug law was about to be adopted by Parliament."⁹ That draft law had been pushed onto Parliament's agenda as a result of pressure by the United Nations Office on Drugs and Crime to amend current legislation "partially in accordance with US policies of that time regarding its global war on drugs," Elie added.

So I took the memorandum of understanding we had agreed on in the multi-disciplinary panel, added a few recommendations regarding the monies collected from penalties mentioned in the law to be redistributed equally amongst various organizations and rehab centers working in the field, and contacted friend-MPs convincing them to lobby the speaker of the House to suspend proceedings until the proposed draft law was amended according to our recommendations.

It worked, and the draft law was sent back to the relevant parliamentary commission for review. Elie's main concerns with the bill supported by the United Nations Office on Drugs and Crime were that it reproduced the Anslingerian logic that was present in the old law. For example, it provided for the installation of police posts or police representatives in rehab centers; it included a clause inciting people—such as parents and neighbors—to denounce others who used drugs; it created an obligation for health professionals to denounce individuals who did not finish their treatment, even if those individuals had voluntarily submitted

9 Interview with Elie Aaraj, October 2016, Sin el Fil. All quotations from Elie in this chapter derive from this interview.

themselves to that treatment; and in cases where someone was being prosecuted and asked to undergo treatment, it stated that the person would be referred to a rehab center but that prosecution would not be suspended. Elie and his partners lobbied the judge appointed by Parliament to oversee the bill's redrafting. "We realized that the punitive logic was really enshrined in the minds of jurists," Elie explained. "They could only conceive managing drug addiction by resorting to repression and treating people who use drugs under the *bonus pater familias* [good family father] perspective"—a moralistic patriarchal approach for dealing with societal issues (which also dominated Anslinger's rhetoric) as opposed to a holistic one based on scientific and other information.

A few days before the parliamentary session to discuss the bill proposal, Elie and his colleagues distributed a comprehensive paper with their version of the amendments to all 128 members of Parliament. Parliament took some, but not all, of their recommendations into consideration; the United Nations Office on Drugs and Crime and US representatives were pressuring legislators not to proceed with further amendments to the bill and to vote for it as it stood. And so it was: on March 16, 1998, Parliament and the president of the republic at the time (Elias el-Hrawi) adopted Law 673 on Narcotics, Psychotropic Substances and Precursors, also known as the 1998 Drug Act.

The 1998 law adopted a new approach to acts related to the purchase, procurement, and possession of narcotic substances, including the possession of small amounts for personal use. Such acts became punishable by prison terms of up to three years and fines of up to 5 million Lebanese pounds (around US\$3,333). However, if the person using drugs turns out to be physically or psychologically dependent on the substance (in other words, addicted), that person is assigned a special status whereby they face prosecution only if they fail to comply with the treatment program set forth in the law (art. 127). The new law therefore consecrated the principle of "treatment as an alternative to prosecution and punishment."

In other words, in the case of addiction, evidence of past drug use or possession does not constitute a sufficient reason to punish; instead, punishment is called for only when the person in question refuses to undergo treatment. Furthermore, the law noted that the

state is responsible for ensuring free treatment to addicted individuals and established the Counter Addiction Committee (CAC), which includes health professionals and is headed by a judge to oversee individuals' treatment. In doing so, it declared that treatment is not only in the interest of the person who uses drugs but in the interest of society at large. Treatment and the suspension of prosecution became an option for anyone undergoing legal proceedings for drug use. Voluntary commitment was encouraged by forbidding prosecution in such cases; and even after the issuing of a verdict, the person concerned may submit themselves to treatment, in which case the sentence is automatically suspended or the period of treatment is subtracted from the punishment.

In the following section, we will see how the principle of "treatment as an alternative to prosecution and punishment" unfortunately remained just ink on paper for the next fifteen years and how Anslinger's rhetoric has survived to this day.

Anslinger's Rhetoric Survives

Eight months after being arrested and subsequently released on bail, Panos was standing next to me as he waited nervously outside the investigative judge's office. I was a junior lawyer then, freshly graduated from law school, and had just started working at Nizar Saghieh's law firm. "Do you think he's going to force me to take a urine test?," he asked while puffing obsessively on his cigarette. "I won't let him," I answered. "I'm requesting he suspend prosecution and transfer you to a rehab center." The law was clear on this. There are two components to the drug-use offense: using or possessing drugs and refusing to undergo treatment. If one of the components is missing (in this case, refusal to undergo treatment), then there is no offense. The clerk came out and told us to enter the room, which reeked of the judge's cigar smoke. The judge was sitting nonchalantly behind his desk. Quickly, and without looking at either of us, he addressed his clerk, telling him to postpone Panos's hearing because other defendants in the same file had not been notified yet. "Your honor, I request suspending the prosecution against my client and transferring him to treatment," I interjected. The judge responded, "If your client wants to undergo treatment, he

can go by himself.” “Your honor, the law states that—” “I know what the law states, but there is no Counter Addiction Committee yet, and those people will never stop using drugs anyway. Treatment will do him no good. The hearing is adjourned. Bring a urine test with you next time!”

And just like that, I finished my first hearing as a lawyer, feeling quite powerless and not given a chance to deconstruct the judge’s prejudices regarding people who use drugs. The judge was right on one thing, though: the CAC had not yet been enabled. Eleven years had passed since the adoption of the Drug Act, and the Ministry of Justice had yet to undertake all necessary measures required to enable the CAC to function properly. As a result, judges found themselves faced with a crisis of conscience: denied the choice to order treatment or pursue prosecution, they were forced to choose between refraining from prosecution without treatment or prosecuting in violation of the law.

According to a 2010 study of verdicts issued during this period, courts tended to carry out their duties as they were accustomed—that is, according to a punitive logic—even if it meant going against the letter of the Drug Act and its principle of treatment as an alternative to prosecution (Saghieh 2011). One verdict mentioned by the study even found a recovered drug addict guilty of using heroin despite testimony that the person had successfully undergone treatment at a renowned accredited rehab center. The judge ruled that in order for the case to be closed with no punishment, it wasn’t enough for the defendant to provide proof of treatment—instead, the defendant had to show that such treatment had been undertaken according to the mechanisms and procedures stated in the law, most notably under the guidance of the CAC (which was nonfunctional at the time). This judgment considered that it is not the judge’s duty to study the “intent” of the law in order to find other mechanisms in keeping with the principle of “treatment as an alternative to prosecution and punishment,” or to compensate in any way for the administration’s failure to activate the CAC; rather, the judge must condemn the individuals concerned despite their willingness to undergo treatment. And this is precisely what would happen with Panos, who despite dozens of requests for suspension of the prosecution against him, the submission of regular clean urine tests, and the

submission of certificates from an accredited rehab center proving that he was undergoing treatment, would eventually be indicted by the aforementioned investigative judge for drug use. His trial is pending to this day.

Furthermore, the punitive logic manifested itself in the fact that prosecutions were often initiated on the basis of proof referred to as “priors.” The problem here is that reference to priors (or “previous offenses”) usually means that those offenses are recorded with the Anti-Drug Bureau but have not been held up in court; in fact, they may not have even resulted in an investigation. In some cases, the offense took place in the distant past (even thirty or forty years prior), and very few charges issued refer to the defendant’s actual criminal record (Saghieh 2011). The reality is that the use of priors in these cases—without any legal framework for entering and saving information or regulating how long the Anti-Drug Bureau and its branches may keep information on record—renders any person who has been accused of using drugs by a third party vulnerable to criminal prosecution at any time, granting the Anti-Drug Bureau sweeping powers to initiate prosecution or present evidence.

The survival of the punitive logic was most striking when it came to administrative arrests¹⁰ at police stations. According to the same study mentioned above, in more than 80% of the cases, public prosecutors resorted to such arrests, which lasted on average six and a half days (even though the legal maximum is four days). I witnessed this very issue in my work as a lawyer. For example, one of our clients was Rami, a young college student living in one of Beirut’s impoverished areas, who was arrested one night, along with his friends, as they were cruising around in his car. The police had found some hashish inside a small plastic bag in Rami’s cargo shorts. Rami and his friends were taken to the nearest police station for interrogation. The police wanted Rami to supply them with two things: the name of his dealer(s) and a list of everyone he knew who “smoked up.” They also asked him to provide them with his phone’s passcode, and when he refused, the police officers took him out of the interrogation room and into

10 Arrests undertaken administratively by the public prosecution before the issuing of a pre-trial arrest warrant.

the corridor—where there were no surveillance cameras—and proceeded to beat him with their fists and feet, and eventually with chairs and steel bars. Rami was then thrown back into the cell, where he remained for more than twenty days without appearing before a judge (an issue I will return to later); they wanted to make sure that his bruises disappeared before he appeared in court.

Indeed, according to a 2013 study by Human Rights Watch, torture was institutionalized inside Lebanese police stations as an interrogation technique, particularly with people who use drugs. Many techniques—other than the traditional “beating the hell out of the arrestee”—were used to extract information. Three days before sitting down to write this section, I was attending a court hearing at the Felonies Court in Beirut, where Alya (a woman being prosecuted for drug use) was recalling how after she had been arrested with her husband and brought to the police station, police officers forced her to hear her husband screaming out of pain from being beaten. The officers then took her into a room where her husband was lying on the floor in a pool of his own blood. At this point, Alya was ready to tell the officers anything to make the beating stop; she would even inadvertently implicate her father as her alleged “dealer,” a confession extracted under torture that she would later recant in court. Persons who use drugs were condemned as soon as they had been arrested; police officers—and, to some extent, public prosecutors—viewed them solely as criminals who needed to be treated with repression and punishment. One of the most sadistic forms of torture reported by Human Rights Watch is the use of a defendant’s withdrawal symptoms as an interrogation technique. Indeed, we saw a similar technique being used at the beginning of this chapter, when Panos was forced to witness one of his inmates painfully go through withdrawal symptoms.

But there was an even more dangerous side to the survival of Anslinger’s rhetoric—one that would lead to the death of hundreds of people in just a few years.

The Institutionalization of Overdose

“Il n’y a pas de médecine sans confiance, de confiance sans confiance et de confiance sans secret.”¹¹

—LOUIS PORTES (1954)

Beginning in 2006, the wide-scale misinterpretation of a memo issued by the Lebanese minister of public health¹² led to an increase in the number of overdose cases. The memo, which was addressed to all hospitals in the country, required hospitals to notify the nearest police station of any case that reaches the emergency room in which the patient “seems to be the victim of another person’s action.” Most hospital administrations would misinterpret this memo and read it as a call to denounce “criminals” and consequently individuals who use drugs who are admitted to the hospital (Skoun 2011). In cases where the on-call doctor refused to denounce the person admitted or refrained from doing so, the police were even said to commission emergency room personnel as their informants to denounce drug users as soon immediately after being admitted.¹³

To better understand the situation, I met with Sarah, a recovering-heroin-addict-turned-activist who works with drug addicts in harm reduction programs. Sarah got caught up in drugs when she was very young. “I was probably twelve or thirteen the first time I tried a joint,” she told me.¹⁴ By the time she was sixteen, she was hooked on heroin, and at nineteen she checked into rehab after being arrested and forced to go to treatment. Sarah explained to me that the rehab center she was admitted to made her sign a pledge not to leave the program before it ended—otherwise, they would denounce her to the police. “I wanted to leave,” she said, because

11 “There is no medicine without trust, trust without confidence, or confidence without secrets.”

12 Lebanese Ministry of Public Health, Memo No. 55, April 1, 2006.

13 See the intervention of Antoine Zoghbi (head of the emergency room at the Hotel-Dieu de France hospital in Beirut) during a seminar organized by the Legal Agenda and Skoun on June 26, 2014, entitled “Institutionalized Overdose”: <https://youtu.be/hBUwDHkw-brM>. The seminar was attended by Ghassan Chamseddine (current head of the Anti-Drug Bureau), who did not respond to such charges.

14 Interview with Sarah (pseudonym), November 2016, Beirut. All quotations from Sarah in this chapter derive from this interview.

the rehab center felt like a prison. As soon as she showed signs of wanting to leave the program, personnel at the center called the police, who came and escorted her to the Anti-Drug Bureau for a “rough-up.” The head of the Anti-Drug Bureau at the time (a guy I had the displeasure of meeting a few years ago—a Lebanese Anslinger, if you will) interrogated Sarah. “At some point, he told me, ‘Show your hands . . . You’re shooting up.’ Then he picked up his ruler and hit me with it and then slapped me three times on my face in front of my father,” she explained. Eventually, she was forced back into the rehab center. This story seems like nothing compared to other events she had witnessed or heard about. On one occasion, she and her friends were shooting up heroin in a house when one of them had an overdose. Fearing an investigation and eventual arrest, the group preferred not to take the overdosing person to the hospital and instead injected him with salt and water, “which makes no sense in terms of harm reduction,” Sarah said, “but the kid survived. He was lucky enough, but then everyone literally ran out of that house.” On another occasion where she wasn’t present, her friends ran away from the house where one of them was overdosing without even resorting to a homemade technique to reverse the overdose. The person was left alone in the house and eventually passed away. Little did they know at the time that his mother had naloxone in her medicine cabinet (a medicine used to reverse an overdose); she knew that her son was a heavy drug addict and felt powerless to help him stop, so she opted to prepare herself for the worst. The worst had come, but she wasn’t there.

Although there are countless stories like these, the Anti-Drug Bureau’s official figures show fewer than twenty overdose cases in the past ten years¹⁵— in other words, only one or two cases per year. That figure is strongly disputed by Skoun, a Lebanese addiction center, which conducted more than 300 interviews with individuals who use drugs. Half of the people interviewed admitted to having overdosed an average of three times and said that they had refrained from going to the hospital out of fear of being

15 See the intervention of Ghassan Chamseddine (current head of the Anti-Drug Bureau) during the aforementioned seminar organized by the Legal Agenda and Skoun on June 26, 2014: <https://youtu.be/qDeiXMK-67c>.

reported to the police.¹⁶ “You cannot take someone to the hospital when you are under the influence of drugs,” Sarah told me.

You cannot do it . . . It’s tough. So you have two choices—either you run or you grab the person and throw them in front of an emergency room, leave, and hope for the best; but the cops will show up, they will probably take [the overdosing person’s] phone, probably look into it, probably find out who [they were with], and probably arrest everyone . . . That’s the case. I don’t understand this fixation on drug users, honestly.

This “fixation” on users was deadly, indeed, and is where this war’s casualties were most striking. It was yet another consequence of the punitive rhetoric that was so internalized by society that even health professionals stopped seeing drug users as patients in need of care and rather as criminals in need of redress. So they went on violating their own Code of Medical Ethics¹⁷ and even the Lebanese Criminal Code¹⁸ to contribute to the state’s war on drugs. The principles of the right to life and of “treatment as an alternative to prosecution and punishment” were completely forgotten in the face of the imperatives of this war.¹⁹ However, this situation would change when persons who use drugs and activists decided to fight back.

Fighting Back

Several years ago, during my final year at law school, I started working as a part-time junior researcher and paralegal at the law firm of Nizar Saghieh (who would later become my registered

16 See the intervention of Nadya Mikdashi (executive director of Skoun) during the aforementioned seminar organized by the Legal Agenda and Skoun on June 26, 2014: <https://youtu.be/w0aAX5cyO10>.

17 See Lebanese Code of Medical Ethics, art. 7 (regarding professional secrecy). It is worth mentioning that prior to 2012, the law allowed doctors to inform state authorities about cases of drug and alcohol addiction where the person in question refused to undergo treatment. However, Parliament abolished that clause in 2012 in an effort to protect professional secrecy and the doctor-patient relationship.

18 See Lebanese Penal Code, art. 579 (penalizing the unlawful divulgence of any form of secret information acquired during the exercise of a profession).

19 For an in-depth legal analysis of the matter, see Nammour (2014).

mentor lawyer at the Beirut Bar Association during my training years as a lawyer). One day, Nizar took me to a day-long roundtable at a hotel in downtown Beirut. Present at the meeting were representatives of civil society associations, rehab centers, and government agencies; psychiatrists; anthropologists; lawyers; and young judges. The impressive multidisciplinary meeting was the first of a series to discuss and draft a bill to amend the 1998 Drug Act. It was also when I had my first encounter with Skoun, the organizer of that meeting, a Lebanese addiction center whose aim is to provide persons who use drugs with a caring environment of treatment and counseling and to advocate for progressive drug policy reform. The series of roundtable sessions eventually produced a progressive draft law signed by a coalition of almost all Lebanese associations working in the field. It was also the first collaboration between Skoun and our law firm—one that would last to this day and develop into a more comprehensive approach to reactivate the dormant principle of “treatment as an alternative to prosecution and punishment” and, more generally, to fight against the punitive rhetoric dominating public discourse and judicial decisions.

In parallel to the meetings consecrated to amend the Drug Act, Skoun collaborated with the Legal Agenda (a nongovernmental organization that addresses issues of legal activism, reform, and transformation in the context of social and political change in the Arab world, and of which I have been a part since 2010) to organize roundtables with judges from various regions of the country in order to establish a referral system between judges and rehab centers and therefore fill the void generated by the absence of the CAC mentioned earlier. The meetings also aimed to introduce the concept of addiction to young judges and to deconstruct preconceived ideas they may have had regarding people who use drugs. This resulted in a new wave within the judiciary that—even if it did not completely remedy the problem of the missing CAC—drew on legal tools under criminal law to encourage persons who use drugs to undergo treatment. Such tools included reducing sentences upon the concerned person’s pledge to undergo treatment, as well as releasing the defendant before their trial was complete and then deferring the trial from session to session while asking the defendant to submit urine tests proving that they had quit

using drugs. Other judges went on to encourage defendants to seek treatment after verifying their desire to do so at a center of their choice or upon the judge's request.²⁰ However, these proved to be rare occurrences given the scarcity of affordable treatment opportunities—and in no case did a judge go so far as to replace the CAC in its role of overseeing treatment programs or to exonerate defendants who submitted themselves to treatment. In other words, and in reference to what I mentioned earlier, judges were still issuing decisions condemning individuals who use drugs. Even if these decisions sometimes lacked prison sentences and sometimes were without a penalty, they were still being issued in spite of the absence of one of the crime's components (i.e., refusing to undergo treatment) and therefore were registered on these individuals' criminal records, with all that this entails in terms of obstructing future job opportunities, education, and travel.

It was therefore of paramount importance to resort to a more action-oriented strategy. This is when we came up with the idea of drafting a comprehensive model defense that explains in a very pedagogical manner what it means to be an addict and why people who use drugs should not be considered criminals, and to then use that model to undertake strategic litigation before different judges across the country in order to generate horizontal precedents consecrating the principle of "treatment as an alternative to prosecution and punishment" and to call on judges to replace the inactive CAC and play its functions.

We proceeded to organize various seminars to which we invited judges and lawyers, and we also published and distributed the model in order to make it accessible to the public at large. Progress was apprehensive at the beginning. Judges couldn't see themselves replacing the CAC and exonerating defendants who had completed a treatment program. However, some of them did modify their approach to drug-related cases. Judge Nazek el-Khatib from Tripoli, for example, developed a direct relationship with the Skoun addiction center, referring defendants there after having them sign what she called a "trust agreement" that morally incited them to complete a treatment program; but she

20 See Single-Judge Criminal Court of Batroun, ruling of March 8, 2011, issued by Munir Sleiman.

eventually resorted only to suspending their sentences without going so far as exonerating the defendants. The only judge on record to do so was Judge Mounir Sleiman, who, for the first time in Lebanon's judiciary, not only replaced the CAC and therefore oversaw a defendant's treatment but also issued a landmark decision on May 7, 2012, in which he exonerated the defendant who had completed a treatment program. Unfortunately, no other judges followed in his footsteps.

That was all about to change in 2013, when after tireless lobbying before the Ministry of Justice, we successfully encouraged the ministry to accredit a governmental hospital to offer treatment to drug users, therefore enabling the dormant CAC. It is worth mentioning, though, that the ministry's decision was partially motivated by the fact that a few days earlier, two dozen or so students from an upper-middle-class background had been arrested for drug possession and use. But it wasn't until October 3 of that year that the first court decision suspending prosecution and transferring a defendant to the CAC was issued.

That case goes back to the day Mike, who was a drug addict, visited me in my office a year earlier. He was being prosecuted for using heroin and was already undergoing treatment at Skoun and doing pretty well. We decided to use the freshly drafted model defense for the first time. The court of first instance in Beirut rejected our claim, and we appealed the decision, but our claim was rejected by the court of appeals. We finally resorted to the Supreme Court, which issued a groundbreaking ruling on October 3, 2013, stipulating that a judge examining a drug user's case must suspend all legal proceedings as soon as the defendant commits to treatment, adding that "the judge has no discretionary power in this area."²¹ In the wake of this ruling, the year 2014 witnessed what appeared to be a domino effect, as several similar rulings were issued across the judiciary.

Our success in the courts motivated us to tackle the institutionalization of overdose. My colleagues at Skoun and I visited the general director of the Ministry of Public Health to ask him to issue another—more specific—memo to adjust the damage that

21 Lebanese Supreme Court, 3rd Criminal Chamber, Decision No. 260/2013, October 3, 2013.

had been generated by hospitals' misinterpretation of the 2006 memo. He was very receptive at first, but pursuant to the minister's request, he referred us to the new minister of justice for his opinion and approval.

To our misfortune, the newly appointed minister of justice happened to be a former police officer and former head of the Internal Security Forces (the hierarchical superior of the Anti-Drug Bureau). Needless to say, his advisors had a different vision of the issue; they would have made commissioner Anslinger very proud. They strongly believed that hospitals must denounce all admitted persons who use drugs. We thus decided to halt our lobbying efforts before that minister. Nevertheless, the discourse in society, in the media, and within the judiciary had shifted; the association between "criminal" and "drug user" had started to disappear, and, to our surprise, the general director of the Ministry of Public Health stopped waiting for the minister of justice's opinion and issued a memo on March 22, 2016, specifically instructing hospitals not to denounce cases of drug addiction or overdose to police stations, further stating that health professionals and hospitals in general have an obligation to treat drug addicts as "patients who have the right to receive medical care without discrimination and stigmatization, and are entitled to have their privacy respected, in accordance with the Code of Medical Ethics."²²

Such advancements in the judiciary and public administration succeeded in chipping away at the country's punitive rhetoric toward drug use—but as we will see in the next section, some of this rhetoric managed to survive. In fact, something was still not working; three years after the enablement of the CAC, only 2% of drug addiction cases had been referred to it.

22 Lebanese Ministry of Public Health, Memo No. 46, March 22, 2016.

The Disillusionment of the Incentive

*“From the very first puff, you make peace with the whole world . . .
Listen, hold it inside and let it roll-in, hopefully it will last inside
the head and make all worries disappear faster than any treatment
. . . Verdicts are for small ones, don’t worry,
you’re walking in Lebanon, many here are like you . . . You’re not
seeing clearly, better keep it blurry.”*

—LYRICS FROM THE 2010 RAP SONG “TAYREEN” (“FLYING”),
BY EDD ABBAS, DOC-T, AND MOE

I believe that Edd Abbas’ lyrics above (which I have roughly translated from Arabic) accurately convey the pleasures of getting intoxicated in a country with little sustainable prospects for youth and where the weakest links of the drug chain (in other words, users, possessors, and small dealers) are the ones mainly targeted through prosecution. Indeed, according to official statistics from the Anti-Drug Bureau, an average of 3,000 people each year are arrested in Lebanon for drug use—that is almost one-thousandth the entire Lebanese population. Yet according to the Civil Observatory for an Independent and Transparent Judiciary at the Legal Agenda,²³ only around 2% of drug addiction cases have been referred to the CAC since it was enabled at the beginning of 2013. The staggering difference between the number of people prosecuted for drug use and those referred to the CAC raises several questions about the application of the principle of “treatment as an alternative to prosecution and punishment” and its effectiveness as an incentive for fighting drug addiction.

The parents of Rami, the college student who was tortured by police and detained for more than twenty days, reached out to us to represent him. We were unable to secure his release from the police station at first, as neither the police nor the public prosecutor were compliant in that regard. Once we were able to finally release him after tireless pressures on the Mount Lebanon Public Prosecutor’s Office, his bruises had disappeared and it was too late to file a torture complaint (in fact, there are no effective mechanisms in Lebanon to report torture perpetrated by state actors).

23 For a more comprehensive look at this issue, see Nammour (2015).

Nevertheless, we used the model defense that we had drafted and asked that prosecution be suspended and Rami referred to the CAC. The process was going well and the new judge on the case was receptive to our arguments; however, Rami had disappeared in the meantime. After several tries, I was able to get in touch with his father, who informed me that Rami had packed his bags and fled to Europe. He couldn't care less about the repercussions and even less about treatment and how it was an alternative to prosecution and punishment.

Rami, like many other persons prosecuted for drug use, felt that he had already served his sentence, so what was the point of going to the CAC? The practice of systematically arresting drug users during preliminary investigations (in 90% of cases) (Saghieh 2011) was destroying all incentives to go to treatment. This makes sense when you consider the fact that judges generally issue rulings with prison time limited to time already served by the defendant (*ibid.*). As for the incentive of keeping their criminal record clean if they undergo treatment, it is worth noting that many defendants are repeat offenders and do not have that option to begin with.

Other stories include that of Charles, an aspiring singer who was successfully referred to the CAC and later to an accredited psychiatrist. The psychiatrist was unlawfully requesting US\$100 each time Charles visited him pursuant to the treatment program he was forced to follow, knowing that such programs should hypothetically be covered by the state according to the law. Eventually, Charles couldn't afford the weekly sum requested by the doctor and had to drop out of the program. And there is Omar, who was also successfully referred to the CAC but after many months was still unable to start the program given that it included a mandatory visit to a governmental hospital outside of Beirut, with many military checkpoints on the road leading to it. Omar is an undocumented Palestinian-Syrian refugee in Lebanon, and going to the hospital meant taking a huge risk in terms of being arrested at a checkpoint and sent to prison. Talk about intersectionality!

Indeed, referral to the CAC entails attending additional hearings before it, going for regular medical examinations, and often submitting to physical and psychological detoxification procedures that deprive referred persons of their freedom. In reality, their choice comes down to one between not undergoing



Picture 3

Cover photo of Edd Abbas, Doc-T, and Moe's track "Tayreen" on soundcloud.com
Source: Edd Abbas

treatment and paying a fine or undergoing a costly and lengthy treatment. It feels like punishment in both cases.

At some point during all of this, I started feeling that referral to the CAC was a masquerade. The law's tools were still not enough to cope with other aspects of addiction. This becomes particularly relevant when you look at professor Bruce Alexander's²⁴ interesting observations on Canada's successful heroin blockade a few decades ago.

During the 1970s, Canadian authorities managed to blockade the Vancouver port to prevent heroin from entering. Nevertheless, heroin addicts were not going through withdrawal or disappearing from the streets—they were carrying on exactly as before, buying what they thought was heroin and adding some alcohol or Valium to their consumption. It didn't matter whether they were effectively getting high, as this was how they bonded and is what gave meaning to their lives (Hari 2015). Professor Alexander believed that

today's flood of addiction is occurring because our hyper-individualistic, hypercompetitive, frantic, crisis-ridden society makes most people feel social and culturally isolated. Chronic isolation causes people to look for relief. They find temporary relief in addiction to drugs or any of a thousand other habits and pursuits because addiction allows them to escape from their feelings, to deaden their senses,

²⁴ Canadian psychologist and professor emeritus from Vancouver, famous for his Rat Park experiments related to drug addiction.

and to experience an addictive lifestyle as a substitute for a full life. (B. Alexander 2010)

When you take note of all of this, you start wondering, How do we go from here?

The Epitaph of Prohibition

Saada, the young daughter of the hemp farmer from the beginning of this chapter, is now an award-winning investigative reporter who recently worked for the Lebanese *Assafir* newspaper. A single mother of two and a great cook, she allowed me to interview her in her house in a busy middle-class suburb of Beirut on a Wednesday morning. Saada opened the door and immediately led me to her kitchen, where she was preparing breakfast for her children and me—all from products she grew herself. She is the sort of person who is capable of giving you a detailed and complex analysis of the internal gang dynamics in northeastern Lebanon while simultaneously reviewing her kids' homework and preparing a panoply of traditional breakfast dishes. After a succulent meal, we sat down in her living room, and she began recounting her story.

Saada left Hermel twenty-six years ago. "We used to spend our summers in Hermel's *djurd*, where hemp was cultivated and then produced to become hashish . . . We also grew potatoes, beans, tomatoes, and wheat for our own consumption," she explained, adding that the cold weather and the type of land there were quite hostile to the production of these latter crops in quantities large enough to be manufactured and sold at the market. Hemp is the only plant that grows efficiently there, and it grows in large amounts.

We knew that hemp financed our education. There was this guy from a prominent Lebanese family who used to come over every year to buy hashish by the *ho'a*.²⁵ His yearly visit was synonymous—to my sisters and I—with being able to buy new shoes, new books, go to the doctor, etcetera. He used to buy the *ho'a* at 500 Lebanese pounds [about US\$530 today after accounting for inflation]. This was a huge amount for us.

25 *Ho'a* is a measuring unit in the jargon of the hashish business. It is equivalent to 1.1 kilos.

According to scholar Jonathan Marshall (2012), hemp plants occupied 80% of all farmlands in northeastern Lebanon by late 1981 and accounted for almost one-third of the country's export income.

The Hermel and *djurd* regions have traditionally been neglected by the central government, according to Saada. She recounted:

We didn't have heavy machinery and resorted to bulls and donkeys instead to plow and cultivate the land. Roads were not, and to some extent are still not, asphalted there . . . Farmers don't have the skills to sell the few other products they poorly grow. So when it comes down to it, when you sell a few *ho'as* of hashish, you can cover yourself and your family for the following year.

When I asked her about law enforcement authorities' crack-downs on farmers, Saada explained that "sometimes when police and undercover officers there find land cultivated with hemp, they inquire about its owner and contact them. If they don't adjust their situation with the officers [pay them off], they become a target." She added that "there are more than 35,000 arrest warrants today for that region alone."

In fact, there has been a well-established theatrical nature to crop eradication since the beginning of the war on drugs in Lebanon. Crop destruction was confined to the smaller plots of poor farmers, whereas big land owners with political ties were almost never targeted (Marshall 2012). A British report from 1945 noted how "it is the poor laborer working for the big landowner who gets punished as he is always put forward as the grower and his employer escapes."²⁶ Furthermore, it is worth noting that state-sponsored crop substitution plans for small farmers have all failed to date.

The situation took a drastic turn in the mid-1970s, when production shifted from hashish to heroin. As Marshall explains, this shift was due to the fact that "a grower could sell a kilo of opium for hundreds of dollars, several times more than an equivalent

26 "Hashish Campaign - 1944," confidential report by Col. Patrick Coghil, chief of the British Security Mission, Syria and Lebanon, to Sir Thomas Russell Pasha, attachment to George Wadsworth, American Minister, Beirut, cable to Secretary of State, May 1, 1945, box 160, FBN records, cited in Marshall (2012).



Picture 4
Saada Allaw in Hermel
Photo: Boumeddjen el-Sahili

load of cannabis would bring. [In fact, thanks] to high value per unit of weight and volume, smugglers could maximize profits and minimize risks by carrying small, easily concealed quantities of heroin” (Marshall 2012, 77). This is the most dangerous consequence of prohibition: hard-core drugs proliferate because they are more easily transportable. Put another way, the iron law of prohibition is *the strongest possible kick in the smallest possible space* (Hari 2015, 268). This iron law is the root cause behind the increase in cases of heavy drug addiction and in overdose cases, since products on the market are not being controlled. An interesting parallel can be drawn with alcohol prohibition in the United States at the beginning of the last century: before alcohol prohibition, beer was the most popular drink in the United States, but as soon as prohibition was introduced, hard liquor sales soared and outbreaks of mass alcohol poisoning across the country ensued (ibid.).

Let us recap. So far, prohibition has caused a serious proliferation of harder, uncontrolled drugs on the market, with a consequential increase in overdose cases due to both the quality of the products sold and the lurking fear of arrest among drug users. It has also led to stigma against and the marginalization of persons who use drugs, who have low prospects in terms of employment, education, and travel due to their criminal records. Moreover, it has led to the further impoverishment of farmers who grow hemp plants and have no sustainable alternative. Meanwhile, prohibition has not helped decrease drug use or addiction. We saw what

happens when prohibition and addiction are combined—Sarah’s friend, for instance, was left to die alone from an overdose. In fact, prohibition has proven to be the antidote to sobriety because it doesn’t understand the nature of addiction to begin with.

Furthermore, drug prohibition in Lebanon has contributed directly to the manufacturing of systematic inequality on several grounds. First, it targets only certain types of drugs, with neither a scientific nor a criminological rationale behind it. Why would hashish or marijuana (a mild drug) be criminalized, when other drugs such as alcohol and nicotine are not, in spite of their proven lethal toxicity? Why would cannabis be classified under drug list number 1 (i.e., very dangerous drugs with no medicinal value), whereas cocaine is classified under list number 2 (i.e., very dangerous drugs with medicinal value)? Such criminalization and classification offer insight into the twisted logic behind prohibition.

Second, far from the romanticized media coverage that big drug dealers receive for the lives they lead and for their position as gang chiefs with exposed weapons who are seldom—if ever—arrested by the state, the treatment for the weakest links of the drug chain (farmers, small dealers, and drug users) is quite different. These individuals do not get portrayed as “cool marginals” living outside the state’s reach but rather as petty criminals who need to be incarcerated or as sick people, victims, or people with weak willpower.

Third, it is important to note that farmers in the Hermel region are mostly Shi’as.²⁷ Authorities’ systematic crackdowns on their lands and production of hashish exacerbates their historic marginalization in the region. Indeed, 35,000 arrest warrants! That’s thousands of people with already very limited resources, very limited transportation means, and very limited access to proper education, work, and health care. This situation encourages their dwelling in a state of informality in order survive. Parallels may be drawn here with the conclusions reached in *The New Jim Crow* (M. Alexander 2010), especially when one factors in the systematic large-scale targeting suffered by this religious community in the

27 The Shi’as belong to one of the main two branches of Islam, the other being Sunni Muslims.

political, cultural, and socioeconomic realms during the modern history of the region that is part of Lebanon today (Salibi 2017).

Finally, with regard to small dealers and drug users, poverty is a constant that may explain their systematic and mass incarceration. Official statistics do not offer clear insight into the backgrounds of those getting arrested, but my experience with these cases is that these individuals generally come from socially and economically disadvantaged backgrounds. Sure, some rich kid will be caught and arrested every now and then, but the fact of the matter is that poverty keeps popping up again and again in these cases. Here, too, parallels can be drawn with the conclusions reached in *The New Jim Crow* (M. Alexander 2010), where poverty is the main driving force behind marginalization and the institutionalization of inequality.

* * *

As I reflect on all of this, I am sitting in a café next to the courthouse in the town of Zahle (the capital city of the Beqaa district) overlooking the snow-covered Mount Lebanon, waiting for my turn at the local investigative judge's office. I am representing a recovering heroin addict in yet another court case. I believe that the substance you are hooked on becomes the thing you connect with to fight dislocation and loneliness—it is another form of a relationship, if you may. I know this because I was hooked on nicotine for ten years. I used to smoke more than a pack and a half per day. I tried to quit many times and failed. Nothing really worked—not the nicotine patches, not e-cigarettes, not yoga, and not writing about it. Nothing. When I decided to force things a little bit and effectively cut all ties with my addiction, I went through a full-scale authentic breakup. In fact, I never felt as alone as when I quit smoking. So to compensate, I avoided staying at home and saw friends and family members on a daily basis. Hari has it right when he writes that “the opposite of addiction isn't sobriety. It's connection” (Hari 2015, 293). To effectively deal with addiction, we must first deal with the socioeconomic factors that encourage it and reflect on professor Alexander's wise words I quoted earlier, and certainly avoid adopting policies that contribute directly to what causes addiction in the first place.

I believe that it is time to put an end to this century-long war on drugs. The state ought to build a system that nestles persons who use drugs instead of stigmatizing them. Their sacred right to life should mean that they have access to free addiction centers, free counseling, free medical care, and even safe shooting rooms if necessary (see Maguder 2013). This approach has been successfully adopted, for instance, by Portugal, which decided to decriminalize drug use after a rapidly rising drug problem in the 1990s (principally, but not exclusively, involving heroin use). This decision was driven not by the perception that drug abuse was an insignificant problem but rather by the view that it was a highly significant one and that criminalization was exacerbating the problem. In 2000, the Portuguese Parliament enacted a law to this effect, and since then, drug usage in many categories has actually decreased and lifetime prevalence rates (which measure how many people have consumed a particular drug over the course of their lifetime) have also decreased for various age groups. Even the level of drug trafficking, as measured by the numbers of those convicted of that offense, has steadily declined since (Greenwald 2009). According to Glenn Greenwald, “by freeing its citizens from the fear of prosecution and imprisonment for drug usage, Portugal has dramatically improved its ability to encourage drug addicts to avail themselves of treatment” (ibid.).



Picture 5

View from Zahle, with snow-covered Mount Lebanon in the background, taken while waiting for one of my clients' court hearings

Photo: Karim Nammour

Adopting similar policies may not be so out of reach in Lebanon. After many years of lobbying and activism, something in the public discourse and societal consciousness has started to change. Media coverage on drug use focuses more on treatment than on repression; a bill is already waiting in Parliament to be adopted; and some politicians have even been calling for the legalization of hemp cultivation (“Lebanon Agriculture Minister Urges Cannabis Cultivation for Export” 2014). Furthermore, the Global Commission on Drug Policy (which includes former United Nations secretary-general Kofi Annan and former presidents of Brazil, Colombia, and Mexico) recently recommended that countries end civil and criminal penalties for drug use and possession. It did this in a report criticizing the United Nations’ lackluster effort to combat drug abuse and highlighting effective decriminalization policies, such as those in Portugal (Holpuch 2016). With a bit more courage, Lebanon could also start loving its residents who use drugs by adopting similar measures. The sooner the better, because the death toll keeps on rising as long as prohibition lives.

Throughout the writing process, I kept going back to Lebanese trumpeter Ibrahim Maalouf’s wonderful musical piece entitled “Hashish,” available at <https://youtu.be/iaQw-yXmN68>



References

Alexander, Bruce. 2010. “Addiction: The View from Rat Park.” <http://www.brucekalexander.com/articles-speeches/rat-park/148-addiction-the-view-from-rat-park>

Alexander, Michelle. 2010. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: New Press.

Greenwald, Glenn. 2009. “Drug Decriminalization in Portugal: Lessons for Creating Fair and Successful Drug Policies.” Cato Institute White Paper. <https://www.cato.org/publications/white-paper/drug-decriminalization-portugal-lessons-creating-fair-successful-drug-policies>

Hari, Johann. 2015. *Chasing the Scream: The First and Last Days of the War on Drugs*. London: Bloomsbury.

Holpuch, Amanda. 2016. “It’s Time to Decriminalize Drugs, Commission Report Says.” *Guardian*, November 21. <https://>

www.theguardian.com/society/2016/nov/21/decriminalize-drugs-un-commission-drug-policy-report?CMP=share_btn_fb

Human Rights Watch. 2013. *"It's Part of the Job": Ill-Treatment and Torture of Vulnerable Groups in Lebanese Police Stations*. New York: Human Rights Watch.

King, Rufus. 1972. *The Drug Hang-Up: America's Fifty-Year Folly*. New York: Norton.

"Lebanon Agriculture Minister Urges Cannabis Cultivation for Export." 2014. *Daily Star*, December 19. <http://www.dailystar.com.lb/News/Lebanon-News/2014/Dec-19/281649-lebanon-agriculture-minister-urges-legalization-export-of-cannabis.ashx>

Maguder, Natasha. 2013. "Addicts Shoot Up in Safe Haven in Canada." CNN, April 12. <https://edition.cnn.com/2013/04/11/world/americas/wus-canada-drug-safe-haven>

Marshall, Jonathan V. 2012. *The Lebanese Connection: Corruption, Civil War, and the International Drug Traffic*. Stanford, CA: Stanford University Press.

Nammour, Karim. 2014. "The Institutionalization of Overdose in Drug Addiction Cases: When the Right to Life Collides with the State's War on Drugs." [In Arabic.] *Legal Agenda*, August 5. <http://legal-agenda.com/article.php?id=810>

———. 2015. "Postponed Treatment: The Ongoing Prosecution of Drug Addicts in Lebanon." *Legal Agenda*, March 13. <http://legal-agenda.com/en/article.php?id=688&folder=articles&lang=en>

Portes, Louis. 1954. *À la recherche d'une éthique médicale*. Paris: Masson.

Saghieh, Nizar. 2011. *Police, Judges and Drug Users: An Analytical Reading of Prosecutions between 2010 and 2011*. [In Arabic.] In collaboration with Skoun.

Salibi, Kamal. 2017. *A House of Many Mansions: The History of Lebanon Reconsidered*. London: I.B. Tauris.

Skoun. 2011. *Situational Needs Assessment 2009*. Beirut: Skoun.

Valentine, Douglas. 2004. *The Strength of the Wolf: The Secret History of America's War on Drugs*. London: Verso.

CHAPTER 9
**The Power behind Numbers:
Statistical Visibility
and Inequality in Colombia and
the Dominican Republic**

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Introduction

This book includes detailed accounts of inequality based on citizenship, gender, sexuality, race, and class. In my work, I also explore these issues, but from a greater distance: my job is to compile statistical information on various countries and evaluate this data vis-à-vis those countries' commitments as outlined in the International Covenant on Economic, Social and Cultural Rights. In other words, I have to analyze inequality (broadly defined) from afar, from a computer, removed from the specific contexts where injustice takes place.

Paradoxically, or at least that is my hunch, inequality is least visible where it is greatest: those who most suffer the consequences of exclusion, exploitation, and abandonment also tend to be the most invisible statistically. But those awash in opulence are also invisible, because they are able to avoid public scrutiny in order to evade taxes and even to profit from corruption and illegal economies.

In this regard, we could look at what has been discussed in this book and find, in each case, a link between inequality and statistical visibility. For example, some years ago, Amartya Sen (1990) noted that at least 100 million women are unaccounted for in the world—women who should appear in the statistics we use but who are simply not there. As Sen argues, this absence is the result of deprivations in health and nutrition, discrimination in access to property, and fewer job opportunities, among other things.

Along these same lines, a report published by Plan International, entitled *Counting the Invisible* (2016), condemns the way that millions of adolescent girls worldwide are being left unprotected

due to the fact that they are statistically invisible.¹ The report shows, among other things, that only three of the fourteen indicators for goal 5 of the Sustainable Development Goals (“achieve gender equality and empower all women and girls”) are regularly measured in most countries. This means at least two things. First, without this kind of information, it is very difficult to evaluate countries’ compliance with their international commitments, and second, the absence of data impedes efforts to effectively eliminate gender inequality.

A Tricky Link: Statistical Visibility and Inequality

There are many reasons for such invisibility. In some cases, weak data is the result of *flawed theories*. Behind every measurement is an implicit or explicit theory regarding what is worth measuring and how to measure it. The conceptual categories that we are most familiar with are unable to shed light on several of the “subterranean trends” described by sociologist Saskia Sassen (2014). One example: in times of economic crisis, we often lose sight of some of the things we most value; and this “losing sight” is quite literal. This is because the classifications that we tend to rely on, such as “unemployment” and “economic growth,” can barely capture the reality of those who lose *everything* (their jobs, their homes, their life projects), who leave the country or are forced into less dignified jobs, and who even end up killing themselves out of desperation.

This critique is somewhat similar to the way in which Colombian economists of the 1970s decried the “disguised unemployment” hidden behind official numbers. They argued that unemployment could rise from 14% to 25% or even 33% by simply including additional criteria in the measurement process (International Labour Organization 1970, 18–21). It also resembles the way in which feminist economists criticize the invisibility—and thus the undervaluation—of “care work,” which falls disproportionately on women. In all of these cases, we are talking about people or activities that are statistically invisible because the concepts that we regularly use fail to do justice to their particular situations.

1 See, for example, the #InvisibleGirls campaign on social media.

In other cases, data deficiencies are the result of the *deliberate actions* of certain state actors who decide to turn a blind eye. This is what some have begun to call the *choice of ignorance* (Simon 2008).² In Colombia, for example, figures on malnutrition-related deaths reported by the National Institute of Health (INS by its Spanish initials) were recently tweaked in such a way that the number of such deaths decreased dramatically overnight. The INS also stopped reporting subnational-level data, essentially embracing a form of intentional invisibilization:

When we called the INS to inquire about the reasons behind this move, we received a surprising reply. “I don’t see the value in having departmental [subnational] data,” said the public official on the other end of the line, “because we should act as a country and not as departments.” The value is clear: without this information, it is impossible to design programs and follow-up for the departments that are most vulnerable. (Rodríguez-Garavito 2016)

The case of ethnic and racial statistics, to which I will refer extensively in this chapter, combines both situations. On the one hand, there are many conceptual difficulties within any attempt to measure “race” or “ethnicity,” since our understanding of both of these categories is shaped by complex historical processes. For example, an Afro-descendant—an increasingly popular classification in Latin America, even if an imprecise one—can identify him or herself as “black” in Colombia or as “Indian” in the Dominican Republic. It is a tricky category that is based on experiences that are subjective and flexible but still fundamental. On the other hand, some governments choose ignorance or even go to the extreme of *imposing* invisibility on certain groups. Harsh Mander refers to this as *imposed invisibilization*: the denial of existence, of the special needs, and of the human rights of a particular group of people. Such denial goes hand in hand with the failure to collect reliable data that reflect this group’s situation and the state’s effort to stigmatize the group in the public eye, portraying these

2 “Equality through invisibility—if we were to summarize the Republican strategy into a slogan—requires that ethnic and racial divisions not be represented. The credo of indifference to differences . . . leads to promoting what I would call the *choice of ignorance* by removing any reference to ethnic or racial origin from policies or laws . . . as well as from statistics” (Simon 2008, 8).

people as morally deficient, unproductive, and illegal, among other things.³

At the other end of the spectrum, the link between statistical visibility and inequality implies something very different: many powerful groups have an interest in remaining under the radar in order to retain certain privileges. This is the case with tax havens, which made international headlines as a result of the Panama Papers at the beginning of 2015. It is also the case, for example, with Colombia, where the absence of an effective and updated cadaster makes land ownership a type of *internal tax haven*. An updated cadaster is nothing more than a complex enumeration exercise, but it has unwelcome consequences for those who have “loot” to defend. In both cases, statistical invisibility can function at the service of illicit economies, corruption, and tax evasion.

Lastly, the invisibilization of entire populations can also be a reflection of nothing more than *weak state institutions* that are unable to exercise a legitimate and effective presence throughout the national territory. For example, we can expect very little from measurements produced by national statistical agencies that lack sufficient budgets and qualified personnel (Jerven 2013).

In summary, the connection between statistical visibility and inequality is a complex one. Sometimes it is merely a reflection of the fragility of state institutions tasked with quantifying certain facets of the national territory. Other times it is a reflection of shortcomings in the concepts to which we are traditionally accustomed. It can also be the result of the decisions of state officials or the efforts of powerful groups to remain invisible and thus cling to certain privileges. In the worst-case scenario, the link between statistical visibility and inequality reflects a combination of all of these factors.

The Politics of Numbers and the Struggle against Inequality

In this chapter, I wish to highlight two issues in particular. First, the problem of statistical visibility has to do with the empowerment of the state in its quest to exercise rational control over the

³ I am grateful to Harsh Mander for sharing some of these ideas with me.

national territory, but also, more recently, it has to do with the state's compliance with its international human rights commitments. Second, it concerns the empowerment of historically marginalized populations who seek a sound statistical underpinning to frame and legitimize their claims before the state.

The argument concerning the empowerment of historically marginalized populations was eloquently put forth by the African Canadian Legal Clinic in a recent report submitted to the United Nations Committee on Economic, Social and Cultural Rights. The clinic notes that the absence of statistical data hinders the realization of the African Canadian community's right to self-determination:

Without this data, the African Canadian community is significantly compromised in its ability to successfully organize itself around a firm statistically-grounded foundation that accurately captures the state of African Canadian life . . . Being without this data also poses considerable challenges to the community's ability to set benchmarks or meet goals for the betterment of the community's economic, social and cultural well-being. By not providing or facilitating the development of an adequate statistical picture of African Canadian life, the Government of Canada impedes rather than promotes the African Canadian community's right of self-determination. (African Canadian Legal Clinic 2016, 9–10)

Nevertheless, the collection of ethnic and racial data will always be surrounded by controversy and paradoxes. The visibility that has been achieved by indigenous and Afro-descendant movements has provoked backlash. It is still common to hear state agencies argue that *they cannot collect* ethnic and racial data because doing so would constitute a discriminatory act. This encapsulates one of the great paradoxes of the liberal state: unable to achieve the political equality that has been so sought after, the state refuses to introduce categorical variables into its institutional discourse and dealings. And without these numbers, it is difficult for historically excluded populations to frame their demands for restorative justice. In this way, liberal states embrace both recognition and disregard, and end up playing a part in the struggle around the legitimization and delegitimization of certain categories over others (Fourcade 2016).

This tension can be seen in the evolution of ethnic and racial statistics in the Dominican Republic and Colombia. Although they are very different countries, both of them exhibit power relations behind racial inequality that intertwine with the issue of statistical visibility. More importantly, these two cases offer more general lessons about how we can align the politics of numbers with the struggle against inequality.

Ethnic and Racial Statistics in the Dominican Republic and Colombia: Between Recognition and the Choice of Ignorance

At first glance, the collection of ethnic and racial data engenders a certain level of distrust. This distrust seems justified considering the horrific experiences of South Africa's apartheid, Nazi Germany, and European colonialism throughout the world. In all of these cases, people were classified—usually according to arbitrary criteria—in order to be placed within exclusionary, extractive, and repressive hierarchies (Loveman 2014, 4).⁴ But the journey toward a new political order based on liberal institutions means erasing—at least at a rhetorical level—the hierarchical and immutable distinctions of the past. It calls for recognition of the fact that justice is blind and that, therefore, we need to be indifferent toward differences.

According to sociologist Mara Loveman (2014), in the 1800s Latin American elites adopted a practice of postcolonial color-blindness to distance their countries from the vilified Spanish racial system, while also ensuring that this did not threaten their privileges gained during colonialism. At the same time, in many of these countries it was still important to collect ethnic and racial data that would allow them to pursue a eugenic vision of “the nation's development.” In other words, they wanted to ensure that nation-building projects (in which the nation was imagined

4 There is an abundant literature on these cases that goes beyond what I am able to write here. The collection of articles in María Eugenia Chaves Maldonado (2009), as well as the book by Mara Loveman (2014), provide a detailed account of the origins and effects of racial classification systems during colonialism in Latin America. Charles Tilly (1998) offers a general analysis of the functioning of “systems of categorical inequality” and discusses the racial categories promoted by the South African government during apartheid.

as an integrated, homogenous, and *mestizo* unit) were going in the right direction.

This is one of the main sources of distrust, even among those who welcome a progressive vision of development. In the past, the collection of ethnic and racial data was done for the purposes of the “science” of eugenics, whose basic aim was to erase “inferior races” responsible for these nations’ underdevelopment. For many years, the gathering of ethnic and racial statistics was used to monitor and promote the *mestizaje* (miscegenation) of Latin American countries (Zuberi 2001).

This situation changed in the mid-1900s with the discrediting of Nazism and the scientific pretenses behind eugenics. The conceptual shift was a huge one that could be seen in the collection of ethnic and racial data: now, differences within the population were not explained in “biological” (racial) terms but rather in “cultural” (ethnic) ones. While the consequences for Latin America were hard to foresee, in retrospect they make sense. According to Loveman, indigenous populations began to gain visibility because countries’ questions around ethnic and racial diversity began to be formulated solely in terms of traits such as language and dress. *But at the same time, Afro-descendant populations began to lose visibility.* This change, incidentally, continued to be compatible with the notion of *mestizaje* as a marker of national progress that many Latin American countries maintain today.

That is why it is remarkable that the situation has changed again so drastically in such a short period. While for the 1980 census, the Afro-descendant population was statistically visible in just two countries (Brazil and Cuba), for the 2010 census, all of the countries in the region save for the Dominican Republic had gone back to include questions that made their populations’ racial and ethnic diversity visible. This transformation was due in large part to the effective transnational mobilization of ethnic and racial groups, who demanded justice in the face of conditions of structural discrimination to which they had historically been subjected. Equally important was the support secured by these groups within the international human rights system (Loveman 2014).

Books such as the *Atlas sociolingüístico de pueblos indígenas en América Latina (Sociolinguistic Atlas of Indigenous Peoples in Latin America)* (UNICEF 2009), which includes contributions by

researchers from throughout the region, reveal this historical transformation. This is due not just to the coordinated effort to highlight the region's ethnic and racial diversity while condemning the "statistical ethnocide" of the past, but also to the explicit criticism of how things used to be. The atlas concludes with a *new* narrative that is diametrically opposed to that promoted in previous years:

[N]obody in their right mind will be able to continue to put forth the idea of Latin America as the most culturally homogeneous region on the planet, a uniformity that Latin American powers tried to fabricate within and for themselves. The collection and analysis of subaltern voices has shown the extent to which it has survived nonetheless, and how much it could have persisted if an ethnocidal system had not been imposed in Latin America that, under the pretext of equality before the law, discarded not just difference but also dignity. (UNICEF 2009, 1077)

This publication highlights not only how distrust toward the collection of ethnic and racial statistics tends to be unfounded but also how it can cause us to lose sight of the important link between recognition and dignity.

Two Divergent Experiences

The cases of Colombia and the Dominican Republic offer a useful contrast to the general panorama described above. Both countries embraced distinct visions of the construction of national identity during the twentieth century: while the Colombian narrative centered around *mestizaje* and assimilation, the Dominican one revolved around an exclusive claim to Spanish and indigenous heritage. In the latter country, African culture and "blackness" in general ended up being associated with neighboring Haiti, making these traits incompatible with Dominican identity (Telles and Paschel 2014). As a result, in the Dominican Republic, national identity overlapped with racial identity in a manner quite different from other countries in the region.

These enormous differences can perhaps be best demonstrated by the statements of the two presidents in office around the same time in the 1960s: Guillermo León Valencia (Colombia) and Joaquín Balaguer (Dominican Republic). During that time, as the

civil rights movement was underway in the United States, it is said that US president John F. Kennedy asked Valencia for advice on how to solve the “racial problem.” Valencia answered by pouring some milk in his coffee, which he then used as a metaphor for racial miscegenation: “I believe this is the only solution.”⁵ Balaguer, for his part, referred on several occasions to the Dominican Republic’s “race problem,” warning of the danger posed by the country’s proximity to Haiti. Many times he talked about the “Haitian race” as a genuine threat against which the Dominican Republic had to defend itself:

Our racial origin and our tradition as a Hispanic people must not prevent us from recognizing that our nationality is in danger of disintegrating if we do not take drastic measures against the menace posed by neighboring Haiti. (Balaguer, cited in Rodríguez 2004, 484)

These divergent historical processes have meant that race is lived and understood differently in each country (Telles and Paschel 2014). While the Colombian government embraced a message of *mestizaje*-as-national-identity that was not disputed until the 1990s, the Dominican state promoted the idea of *blackness* as constitutive of neighboring Haiti and as something from which the country needed to distance itself. As a result, in Colombia, a person’s possession of certain traits (such as dark skin) is connected to their racial self-identification as expressed through labels such as *black*, *moreno*, *mulato*, and *mestizo*. But in the Dominican Republic, the relationship among these same physical traits is rather weak, and people use a set of distinct labels such as *indio* (Native American), *indio claro* (light-skinned Native American), and *indio oscuro* (dark-skinned Native American), which are sometimes qualified with the (problematic) daily distinction between *pelo malo* (bad hair, or curly hair) and *pelo bueno* (good hair, or straight hair).

This shows that racial distinctions within each country are not only fluid but also, above all, overwhelmingly influenced by politics. And this politics is translated to the more “technical” world of data collection, ultimately determining who will be invisible and why. Censuses, according to a growing literature on the topic, play a critical role in nation building: they transform different

5 This anecdote is described in Aristizábal (2004, 513).

characteristics into a common metric that remains stable in the minds of politicians, state officials, and the public at large (Espeland and Stevens 2008).

In Colombia, the Afro-descendant population disappeared from population censuses early on and began to reappear only in the 1990s thanks to domestic and international pressure. First, the 1991 Constitution recast the country's narrative from one of a *mestizo* nation to one of a pluriethnic and multicultural nation, as noted at the beginning of the Constitution's fundamental principles. Second, various international bodies began to support the voices of Afro-descendant movements and pressured Colombia to make the fight against racial discrimination a priority. Meanwhile, in the Dominican Republic, the visibility of the Afro-descendant population remained alive until 1960; and even more importantly, despite strong domestic and international criticism, it remains today the only country in Latin America that does not collect this type of information.

The Colombian Case

Between 1990 and 2010, the collection of ethnic and racial data in Colombia entered a third phase. Initially, the cataloging of ethnic and racial groups had served to promote colonial control. During the second phase, these groups began to become invisible under the national ideology of integration and *mestizaje* (Urrea, Viáfara, and Viveros 2014). The third phase represented a return to the past, but this time with democratic aims: the generation of ethnic and racial statistics began to be seen as necessary in the struggle against structural racism and the protection of historically marginalized groups.

Indigenous and Afro-Colombian organizations, inspired by the success of Brazilian activists, successfully lobbied the National Department of Statistics (DANE by its Spanish initials) to include a question that would allow it to gather ethnic and racial information during the 1993 census. For these organizations, including this question in the national census meant securing the recognition needed to frame their internationally supported claims before the state. The census became a focal point in the fight for better living conditions among indigenous and Afro-descendant communities; official recognition began to be viewed as one of the

most promising paths for putting an end to the symbolic violence of the past and opening new advocacy opportunities in the future (Loveman 2014; Paschel 2010).

These efforts gained enormous momentum in part because the Colombian state needed to increase its institutional capacities if it hoped to comply with the mandates of the 1991 Constitution, but also because that same year the country became a signatory to the International Labour Organization's Convention 169, and collecting such information was one of the commitments outlined in the treaty. As a result, for the first time in more than seventy years, the census included a question that allowed the country's ethnic and racial diversity to come to light. But the question was formulated in purely "cultural" terms, which meant that a large number of Afro-Colombians, particularly those living in cities, responded "no" to the question asking if they belonged to "any ethnic group, indigenous group or black community." Very few Afro-descendants had a cultural tradition that enabled them to self-identify as part of a *community*. Thus, according to the census, Afro-descendants made up no more than 1.5% of the Colombian population.

Afro-Colombian activists did not hesitate in criticizing the inadequacy of these figures. Thanks to their advocacy efforts, three years later the United Nations Committee on the Elimination of Racial Discrimination included the following observation among its "principal subjects of concern":

The lack of reliable statistical and qualitative data on the demographic composition of the Colombian population and on the enjoyment of political, economic, social and cultural rights by the indigenous and the Afro-Colombian people makes it difficult to evaluate the results of different measures and policies.⁶

Two years later, the Colombian government, in its periodic report to this United Nations treaty body, acknowledged that "the status of the Black communities of Colombia is only just beginning to be a subject of systematic study by the Colombian State" and that "the population of these communities is much larger and

6 United Nations Committee on the Elimination of Racial Discrimination, *Concluding Observations: Colombia*, UN Doc. CERD/C/304/Add. 1 (1996), para. 6.

geographically more representative than previously thought.”⁷ This unleashed a heated controversy among the Colombian government, the international community, and civil society regarding how to answer a seemingly innocent question: *What is the size of the Afro-Colombian population?*

Keenly aware of the material and symbolic consequences that the answer to this question could yield, the Afro-Colombian movement launched a campaign entitled “The Beautiful Faces of My Black People” with the aim of encouraging Afro-Colombians to proudly self-identify as such, with slogans such as “You count! Let yourself be counted!” The movement was even able to convince the DANE to pay for the television and radio spots needed to mass produce their campaign. It was a decisive moment in which diverse social movements had to come to an agreement about the notion of race, which was no longer tied to questions like culture and geographic location and began to mean something broader, understood in terms of a shared history.⁸ As a result, the 2005 census included both “culture” and “phenotype” among the self-identification criteria, reflecting the tension over whether race should be understood exclusively in either “cultural” or “biological” terms or whether it was a combination of the two.

The process of formulating this new question involved a dialogue among DANE representatives, academics, and members of social movements. These actors began a permanent debate with regard to the conceptual and operational obstacles that could impede the “adequate characterization” of the population. Spaces for dialogue and consensus-setting were also sponsored by international bodies such as the World Bank, the Inter-American Development Bank, and the United Nations Population Fund: the first international “Everyone Counts” (“Todos Contamos”) convening in 2000 in Cartagena marked a milestone in the collection of ethnic and racial statistics in the region. Thus, the following census, conducted in 2005, was the product of a long process of

7 United Nations Committee on the Elimination of Racial Discrimination, *Ninth Periodic Report of States Parties Due in 1998: Addendum; Colombia*, UN Doc. CERD/C/332/Add. 1 (1998), para. 81.

8 The campaign was successfully replicated in Panama for the census of May 2010. For an exhaustive analysis of the campaign, see Paschel (2013).

dialogue, seminars, workshops, focus groups, experimental censuses, and pilot tests.

The new census, however, did not resolve the dispute between the Colombian government and Afro-Colombian activists. A last-minute adjustment to the survey question and reports of a series of technical and logistical errors in the census collection rekindled the fight (Rodríguez-Garavito et al. 2009). The decision to remove *moreno* (brown) as a possible response—which likely led to the underrecording of the number of Afro-Colombians in the Caribbean Coast—was perhaps what most frustrated the Afro-Colombian movement. The DANE confined its response to pointing to the “technical inconvenience that would be caused by including [the *moreno*] category within the question on ethnic self-identification, as it would run the risk of overcounting due to the imprecision of the concept, which is not of specific use for Afro-descendants” (Estupiñán 2006). Some were worried about undercounting while others feared overcounting. And while the new figure recorded in this census (10.6%) was seven times larger than the 1993 figure, it continued to be much lower than what Afro-Colombian activists had been anticipating.

There are many reasons for the enormous variation in attempts to measure the Afro-Colombian population: from various ways of making the concept of “Afro-Colombianness” (in itself a disputed concept) measurable, to difficulties experienced by the Colombian state in trying to ensure that its institutions reached some of the country’s most remote areas. As Tianna Paschel (2013) explains, behind each of these estimates exists complex and contentious political processes, and statistics reflect not just an attempt to “objectively” capture a population but also a range of public *interventions* that seek to redefine what counts and what does not: from the state’s century-old campaign around *mestizaje* to “the beautiful faces of my black people.”

And while it is true that Afro-Colombian activists were able to increase the Afro-Colombian population’s visibility in the 2005 census, it is also true that much remains to be done. After this long and arduous process, some public officials continue to deny the existence of racism. Additionally, beyond the DANE, many public agencies refuse to produce ethnic and racial statistics (under the argument that doing so would be discriminatory), which

complicates the implementation of public policies necessary for correcting the historical inequalities suffered by these populations. Even in the wake of the long process that led to the 2005 census, it appears that the fight against racial discrimination in Colombia still needs “to begin by documenting and acknowledging the problem’s existence” (Rodríguez-Garavito et al. 2009, 14–15).

The Dominican Case

The Dominican Republic has a very different history. As of today, it is the only country in the region that does not have an “ethnic-racial variable” in its population census. (The last census took place in 2010). It also appears to be the site of the most tragic setbacks in the struggle against racial discrimination in Latin America, having stripped thousands of Dominicans of Haitian descent of their nationality through a series of legislative and judicial measures.⁹ The origin of this crisis—and of the Afro-descendant population’s invisibility in general—goes back decades.

Since the second term of President Joaquín Balaguer (1966–1978)—the same person who deemed the “Haitian race” a threat to Dominican culture—conversations began around the need to draft a law classifying migrant workers as “foreigners in transit.” The constitution in force at the time established that the children of foreigners in transit were not guaranteed birthright citizenship (under the principle of *jus soli*), thus preventing the children of Haitian workers from automatically becoming Dominican citizens. These ideas gradually began to materialize. In the 1990s, the Inter-American Commission on Human Rights began reporting that certain hospital personnel were refusing to provide live birth records for the children of immigrants and that civil registry officials were refusing to register these children and issue birth certificates.

The pretext used as far back as 1991 was that the parents were only in possession of a document identifying them as temporary workers, which meant that they were classified as foreigners in transit, despite the fact that they had lived in the Dominican Republic for years. (Inter-American Commission on Human Rights 2015, para. 83)

9 See chapter by Ana Belique in this volume.

The commission continued to observe such occurrences in 1997 and in 2001. Then, in 2004, a new migration law in the Dominican Republic established that the children of irregular migrants could not become Dominican citizens simply by being born on Dominican soil. In 2007, the country's Central Electoral Board issued a circular making it more difficult for the children of migrants to renew the documents they already had in their possession. Then, in 2010, the country's constitutional reform established that individuals born on Dominican territory had the right to acquire citizenship but excluded "the children of foreign members of diplomatic and consular delegations, and of foreigners in transit or residing illegally in the Dominican territory. Any foreigner defined as such in Dominican law is considered a person in transit."¹⁰ This situation reached its climax in 2013, when the Constitutional Court, through Sentence 168-13, held that the children born to irregular migrants after 1929 *had actually never possessed the right to Dominican citizenship*. This ruling has had a disproportionate impact on Dominicans of Haitian descent who have lived their entire lives in the Dominican Republic, who identify as Dominicans, and who have no emotional ties with any other country. These individuals have been denied, to use the words of Hannah Arendt, "the right to have rights" (Arendt 1951).

The following year, the Dominican government—recognizing the severe impact that the ruling was having on the lives of many people—began to take measures to rectify the situation, through a complex and convoluted process in which affected individuals should go before the very entities that, years earlier, had refused to renew their identity documents, and request that they restore their citizenship. This is where the issue of statistics arises. There is no way to know the total number of affected persons. According to the 2012 National Immigrant Survey (a rare kind of survey in the region), there are an estimated 210,000 affected people. But this figure "does not include the second, third or later generations of descendants of Haitian immigrants" (Inter-American Commission on Human Rights 2015, para. 265).

For the most part, affected persons are *invisible*; it is hard to believe, but nobody currently knows how many people in the

10 Constitution, art. 18(3).

Dominican Republic lack citizenship. And here, underregistration not only invisibilizes but also facilitates *impunity*.

This invisibility is a problem not just for those affected by the citizenship crisis but for Afro-descendants in general. The depth of racism in the Dominican Republic is a source of significant controversy. On multiple occasions, the government has denied the existence of racism and discrimination, pointing out the *formal* guarantees of equality that appear in domestic laws: “The Dominican State wishes to reiterate that there are no provisions in Dominican society for discrimination on racial or any other grounds. Exclusionist discrimination is not practised and is not tolerated as a State policy.”¹¹ But statements such as this one are increasingly indefensible in light of the pressure coming from national and international organizations.

The United Nations Committee on the Elimination of Racial Discrimination recently voiced its strong criticism in this regard:

The Committee is concerned about the State party’s firm denial — reiterated in its dialogue with the Committee — that racial discrimination exists, especially in respect of dark-skinned people of African descent, which is in itself an obstacle to the State party’s commitment to combating racism and racial discrimination. The Committee notes that the terms *indio-claro* (light-skinned Indian) and *indio-oscuro* (dark-skinned Indian), which continue to be used, fail to reflect the ethnic situation in the country and render invisible the dark-skinned population of African descent.¹²

Moreover, the Inter-American Commission on Human Rights has found evidence of Dominican authorities using racial profiling to discriminate against people of Haitian descent given that that such profiling is based on “discriminatory criteria, such as physical appearance, the way of talking, skin color, language, surnames or origin of parents” (Inter-American Commission on Human Rights 2015, para. 258).

11 United Nations Committee on Economic, Social and Cultural Rights, *List of Issues in Relation to the Fourth Periodic Report of the Dominican Republic: Addendum; Replies of the Dominican Republic to the List of Issues*, UN Doc. E/C.12/DOM/Q/4/Add.1 (2016), para. 30.

12 United Nations Committee on the Elimination of Racial Discrimination, *Concluding Observations: Dominican Republic*, UN Doc. CERD/C/DOM/CO/13-14 (2013), para. 7.

Institutional settings such as these have been essential, though insufficient, for allowing Dominican civil society organizations to make their voices heard and to challenge the dominant narratives promoted by the country's establishment.

The [Inter-American Commission on Human Rights] received extensive information about the existence of prejudice and racial discrimination against blacks in the Dominican Republic, whether of Haitian origin or not, which is deeply rooted in Dominican society and is seen in such areas as language, interpersonal relations, and prototypes of social aesthetics and physical beauty, among others. This is reflected in the intersection of various forms of discrimination against the Dominican population of Haitian descent, on the one hand based on the resistance to the "negritude" inherent in Dominican society and, on the other hand, based on a rejection of the Haitian population owing to the ideology of anti-Haitianism. (Inter-American Commission on Human Rights 2015, para. 363)

These political pressures are naturally transposed onto the controversy concerning the collection of ethnic and racial statistics. The "ethnic-racial variable" has not been included in the Dominican Republic's censuses since 1960 (Oficina Nacional de Estadística).¹³ For the 2010 population census, international pressures were again unsuccessful. At the time, the census director, Francisco Cáceres, claimed that it was impossible for Dominicans to self-identify in racial terms. He argued that Dominicans tend to assume that anyone with an education or a prestigious job *cannot* be black and that anti-Haitianism causes Dominicans to identify with whatever classification puts more distance between themselves and their neighboring country (Loveman 2014, 296).¹⁴ For Cáceres, including this kind of question in the census would yield a "fictitious" image of the country, and attempts to cast more light on the Afro-descendant population would have the opposite

13 Another example of how racial identity is intermingled with national identity in the Dominican Republic can be seen in the census of 1981, where census takers had to note whether the respondent was Dominican, Haitian, or another nationality "according to their physical characteristics and accent" (Oficina Nacional de Estadística 2013, 17).

14 Nonetheless, there is evidence that in recent years, many young middle-class Dominicans are increasingly self-identifying as *mulatos* (Telles and Paschel 2014, 888).

effect of making them even more *invisible*. Cáceres—who himself identifies as “black”—thus preferred that the Afro-descendant population remain invisible because attempting to do otherwise would produce “incorrect” statistics.¹⁵

Meanwhile, domestic and international groups continue to push to increase the visibility of the Afro-descendant population, and it is uncertain what will happen for the next census. The United Nations Committee on the Elimination of Racial Discrimination, for example, “regrets that the most recent census carried out by the National Office of Statistics in 2010 did not gather information on the ethnicity or colour of the population,”¹⁶ a concern reiterated by the Inter-American Commission on Human Rights in 2015 and the Committee on Economic, Social and Cultural Rights in 2016. And at the domestic level, even the National Statistics Office has begun to acknowledge the problem.

Not having this tool represents a danger to the improvements in human and social development, as the particular characteristics of certain ethnic groups are made statistically invisible. This results in the inequitable distribution of social benefits and a reduced quality of life of people who, furthermore, on account of being Afro-descendants or members of some other ethnic group, are subject to racial discrimination and prejudice. (Oficina Nacional de Estadística 2013, 7)

These Dominican authorities are beginning to feel left behind in light of the region’s steady progress, which is why they are warning of the need to “bridge the gap with regard to other countries, as well as the drawbacks created by societies that have been characterized by their historical denial of their ethnic and racial diversity” (Oficina Nacional de Estadística 2013, 22). It is therefore possible that the steady pressure of Afro-Dominican activists and international bodies will lead to change. Perhaps in the near future the country will begin to acknowledge the invisible populations it has tried so hard to hide.

15 Advocates of “The Beautiful Faces of My Black People” campaign in Colombia shared this same concern, but they also saw the importance of achieving a certain level of visibility, as imperfect as it might be.

16 United Nations Committee on the Elimination of Racial Discrimination, *Concluding Observations: Dominican Republic*, UN Doc. CERD/C/DOM/CO/13-14 (2013), para. 13.

Some Inequalities More Visible Than Others: How to Align the Politics of Numbers with the Fight against Inequality

The examples of Colombia and the Dominican Republic allow us to begin to respond to a wider question about the relationship between inequality and statistical visibility. Why are some inequalities more visible than others? Why are Afro-descendants in Colombia in some ways visible while those in the Dominican Republic are not? Perhaps the answer is brazenly simple: *visibility depends on power relationships*. Racial inequality in both countries reflects unique processes of racial oppression. Colombian Afro-descendants are now more visible precisely because they have been able to tilt the scales of power a bit more in their favor by pressuring the Colombian state to make certain commitments and deconstructing the twentieth-century narrative of *mestizaje* and postcolonial colorblindness. Meanwhile, Dominican Afro-descendants remain invisible because they have had a more difficult time tipping the scales.

When states *choose ignorance*—when they explicitly deny the existence of racism and refuse to collect data that make their Afro-descendant populations visible—we have a situation that some call the “zero level” in the realization of the right to be free from discrimination (Rodríguez-Garavito et al. 2009). In these cases, civil society is tasked with pressuring their government to acknowledge and document the problem; and to do this, civil society must rely on legal and media tools at the domestic and international levels. The struggle for the collection of ethnic and racial data has been critical for the symbolic and material empowerment of marginalized populations.

After reading this chapter, some may be tempted to conclude that statistics are *just* a power game: a political instrument used (or not) in a strategic fashion by governments and certain social groups. And there is some truth to this. Quantitative measures *intervene* in the social world they depict; they cause people to think and act differently (Stevens and Mitchell 2008). It is thus impossible for us to “correctly” portray the social world through numbers, as these numbers are already part of that world. We cannot take the photograph and at the same time not be in it. The best we can hope for, then, is to create an image in which these

interventions are also shown: something along the lines of a reflection of a reflection of a reflection.

The task of “correctly measuring” ethnic and racial groups in a given country is one that dramatically blurs the boundaries between the technical and the political. The number of Afro-Colombians registered in the 2005 census was influenced by the historical narrative of a *mestizo* nation but also by many other actions, including “The Beautiful Faces of My Black People” campaign. For those of us who work with numbers, these things splash on our faces like a bucket of cold water. We could conclude, as Cáceres in the Dominican Republic did, that these figures are plagued by methodological weaknesses and that it is preferable not to have them at all. But in doing so, we would be adopting a very narrow view of what is meant by “objectivity” in numbers.

The objectivity of numbers does not rest entirely in their ability to authoritatively capture a reality *out there*. It means following a process with highly structured rules that are shared around the world. For those who produce or use these numbers, abiding by these rules means relinquishing control over what one can or cannot say. I can *rely on* numbers produced on the other side of the world because while they may be imperfect, I know that they are far from being entirely arbitrary.¹⁷ It may be conceptually challenging to agree on the best way to measure race, but once we have performed the measurement, it is difficult to call someone out and accuse them of inventing numbers.

This idea of objectivity is the best we can hope for. It also allows us to think critically about the numbers we use. And thanks to this idea, we can understand that part of the task of fighting against inequality requires a constant effort to question the validity of statistical data, why we decide to collect (or not) certain statistics, and how we do so.

But I wish to close this chapter by pointing out that the *struggle against inequality* is necessary to improve the objectivity of the numbers we use. I know this to be true because it is something that, to a certain extent, we are already doing. Information from surveys and population censuses is no longer used (at least in

17 This is what Theodore Porter (1996) calls the “mechanical objectivity” of quantification, which supposedly generates trust in numbers.

most of the world) to exercise exclusionary and repressive control over societies; it is no longer the exclusive realm of states but rather part of the public domain. It is *ours*, and we must continually use it to ensure that it stays this way. From a historical perspective, this reflects a momentous shift in the balance of power: civil society organizations, backed by international bodies, use this information to exert a certain level of control themselves.

Furthermore, not only has the use of this data been democratized, but so has its *production*. Statistical agencies around the world have begun to realize that in order to produce “valid” information, they need to ensure greater citizen participation. And this is not just because such participatory settings are needed to remedy the balance of power that makes the poorest populations invisible. In Colombia, for example, we have come to realize that it can become a valuable local tool for combatting the state’s traditional weakness and lack of legitimacy in many parts of the country.¹⁸

In other words, it is clear that behind the production of statistics there is a whole set of stakeholders, which is why the best way to unify the agendas of numbers and the fight for equality is to ensure the implementation of a solid institutional architecture that underpins and provides legitimacy to the entire measurement process. The production of statistical information thus becomes an issue of institutional design and coordination in such a way that stakeholders can impose limitations on the desires of others. In this way, a system of checks and balances is created in order to help correct the balance of power.

18 In the words of the DANE: “It would not be possible to carry out a census in Colombia in which the ethnic population does not participate in the design, outreach, training, and collection of information. This is due not just to the entity’s obligation to collaborate with these groups on the situations that concern and involve them, but also because the geographical situation of indigenous reserves and Afro-descendant collective territories . . . make these areas inaccessible due to their isolation from populated centers, and because many times they are in jungle and other inhospitable areas of the country marked by the presence of armed groups and which can be reached only with the accompaniment of community members. Another issue is language, given that in communities where Spanish is not spoken, it is necessary to have bilingual interpreters to help carry out the census” (Hernández Romero 2005, 14–15).

The link between inequality and statistical visibility—complex though it may be—can be summed up simply: these issues represent two sides of the same coin and are both rooted in historically asymmetrical power relations. We will thus have to advocate, among other things, for national statistical agencies to strengthen their capacity and commitment to shedding light on marginalized groups. And to do this, we must continue to rely on social movements and international mechanisms to ensure that new participatory settings are created.

References

African Canadian Legal Clinic. 2016. *The Blackening Margins of Multiculturalism: The African Canadian Experience of Exclusion*. (Report submitted for the 57th session of the Committee on Economic, Social and Cultural Rights). https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/CAN/INT_CESCR_CSS_CAN_22907_E.pdf

Arendt, Hannah. 1951. *The Origins of Totalitarianism*. New York: Harcourt Brace.

Aristizábal, Luis H. 2004. *Diccionario Aristizábal de citas o frases colombianas*. Bogotá: Biblioteca Virtual del Banco de la República. <http://babel.banrepcultural.org/cdm/ref/collection/p17054coll18/id/408>

Chaves Maldonado, María Eugenia, ed. 2009. *Genealogías de la diferencia: Tecnologías de la salvación y representación de los africanos esclavizados en Iberoamérica colonial*. Bogotá: Editorial Pontificia Universidad Javeriana.

Departamento Administrativo Nacional de Estadística. 2012. "La visibilización estadística de los grupos étnicos colombianos." www.dane.gov.co/files/censo2005/etnia/sys/visibilidad_estadistica_etnicos.pdf

England, Paula. 2005. "Emerging theories of care work." *Annual Review of Sociology* 31: 381–99.

Espeland, Wendy, and Stevens, Mitchell. 2008. "A Sociology of Quantification." *European Journal of Sociology* 49(3): 401–36.

Estupiñán, Juan Pablo. 2006. "Afrocolombianos y el Censo 2005." *Revista de la Información Básica* 1(1).

Fourcade, Marion. 2016. "Ordinalization: Lewis A. Coser Memorial Award for Theoretical Agenda Setting 2014." *Sociological Theory* 34(3): 175–95.

Inter-American Commission on Human Rights. 2015. *Situation of Human Rights in the Dominican Republic*. OEA/Ser.L/V/II. Doc. 45/15.

Jerven, Morten. 2013. *Poor Numbers: How We Are Misled by African Development Statistics and What to Do About It*. Ithaca, NY: Cornell University Press.

Loveman, Mara. 2014. *National Colors: Racial Classification and the State in Latin America*. New York: Oxford University Press.

Oficina Nacional de Estadística. 2013. "La variable étnico-racial en los censos de población en la República Dominicana."

International Labour Organization. 1970. *Hacia el pleno empleo: Un programa para Colombia, preparado por una Misión Internacional organizada por la Oficina Internacional del Trabajo*. Geneva: International Labour Organization.

———. 2013. "The Beautiful Faces of My Black People: Race, Ethnicity and the Politics of Colombia's 2005 Census." *Ethnic and Racial Studies* 36(10): 1544–63.

Plan International. 2016. *Counting the Invisible: Using Data to Transform the Lives of Girls and Women by 2030*. Woking, UK: Plan International.

Porter, Theodore. 1996. *Trust in Numbers: The Pursuit of Objectivity in Science and Public Life*. Princeton, NJ: Princeton University Press.

Rodríguez, Néstor. 2004. "El rasero de la raza en la ensayística dominicana." *Revista Iberoamericana* 70(207): 473–90.

Rodríguez-Garavito, César. "Opacando las cifras del hambre." *El Espectador*, August 4. <http://www.elespectador.com/opinion/opacando-cifras-del-hambre>

Rodríguez-Garavito, César, Tatiana Alfonso, and Isabel Cavellier. 2009. *Raza y derechos humanos en Colombia: Informe sobre la discriminación racial y derechos de la población afrocolombiana*. Bogotá: Ediciones Unidandes.

Sassen, Saskia. 2014. *Expulsions*. Cambridge, MA: Harvard University Press.

Sen, Amartya. 1990. "More Than 100 Million Women Are Missing." *New York Review of Books*, December 20. <http://www.nybooks.com/articles/1990/12/20/more-than-100-million-women-are-missing>

Simon, Patrick. 2008. "The Choice of Ignorance: The Debate on Ethnic and Racial Statistics in France." *French Politics, Culture and Society* 26(1): 7–31.

Telles, Edward, and Tianna Paschel. 2014. "Who Is Black, White, or Mixed Race? How Skin Color, Status, and Nation Shape Racial Classification in Latin America." *American Journal of Sociology* 120(3): 864–907.

Tilly, Charles. 1998. *Durable Inequality*. Berkeley: University of California Press.

UNICEF. 2009. *Atlas sociolingüístico de pueblos indígenas de América Latina*. Cochabamba: UNICEF and FUNPROEIB Andes.

Urrea Giraldo, Fernando, and Carlos Viáfara López. 2007. *Pobreza y grupos étnicos en Colombia: Análisis de sus factores determinantes y lineamientos de políticas para su reducción*. Bogotá: Departamento Nacional de Planeación.

Urrea Giraldo, Fernando, Carlos Viáfara López, and Mara Viveros Vigoya. 2014. "From Whitened Miscegenation to Tri-Ethnic Multiculturalism: Race and Ethnicity in Colombia." In *Pigmentocracies: Ethnicity, Race, and Color in Latin America*, edited by Edward Telles. Chapel Hill: University of North Carolina Press.

Zuberi, Tukufu. 2001. *Thicker Than Blood: How Racial Statistics Lie*. Minneapolis: University of Minnesota Press.

CHAPTER 10

Human Rights, Ethics, and Love: Dilemmas of Practice

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* Portions of this chapter draw from my book *Looking Away: Inequality, Prejudice and Indifference in New India* (2016, Speaking Tiger Books).

Friends sometimes ask me how I would describe my political beliefs. I clear my throat, embarrassed for many reasons, including that I cannot offer a concise answer. I am a secular-democratic-feminist-humanist-socialist, I sometimes venture.

I add that there have been many influences on my politics. The earliest influence, in my college days, was Karl Marx, and from reading and discussing him I have absorbed class analysis, a firm belief in an egalitarian society and a redistributive state, and a passion for the rights of workers and the oppressed. In my years in government, where I served as the district collector (the administrative head of the district), I was sometimes called—both mockingly and, at times, I like to think, affectionately—Comrade Collector by my colleagues. But I think Marxists never know quite where to place me, because I speak of social and economic equality but also, in the same breath, of egalitarian compassion.

From Mahatma Gandhi, too, I have learned much, but perhaps foremost is the importance of seeking to bring conformity between means and ends (and that no end, however lofty, justifies violent, unjust, or untruthful means). I am deeply influenced by his idea of secularism, understood as equal respect for all faiths rather than simply a denial of faith. I am drawn to his idea of an alternate development economics “as if people matter”¹; to nonviolence; and to the importance of struggling—even if hopelessly failing, as I have often done—for greater ethical consistency

1 This phrase is taken from E. F. Schumacher’s *Small Is Beautiful*, a collection of essays published in 1973. One of the major themes he discusses is the dehumanization of work as a result of the replacement of craft- or skill-based work with techniques of mass production and the development of economies based on profit rather than need.

between a person's beliefs and the way she lives her life. From feminist philosophers, I have learned that biology does not—and cannot be allowed to—determine a person's potential, rights, dignity, or destiny; about interlocking systems of inequality and privilege; and about assertion, nurturing, caring, and solidarities.

My personal faith choice is that of agnosticism, the acknowledgement that I do not know if god exists or if there is life after death. I find this position more scientific than atheism, because even atheism is based on certainty, whereas truly we do not know. But more than scientific rationality, what is more important to me are the social *ethics* of my agnosticism. It is not just that I do not know if there is a god. I do not even care to know, because this knowledge should not be the driving force of my life choices. I love the Sufi story of Rabia, who feverishly runs up and down the streets of the twelfth-century Iraqi town of Basra, her hair flying, with a bucket of water in one hand and a flaming torch in the other. Asked why she carries the bucket of water, she says she wishes to douse the fires of hell. Then why the flaming torch? She wants to set heaven on fire, she says. I should struggle to lead the good life neither out of fear of the fires of hell nor out of a desire for heaven, but only because I am convinced that it is the right thing to do. This knowledge alone should be enough for me.

I recognize, and not just from Mahatma Gandhi, that our understanding of secularism in India—now powerfully contested by ascendant Hindu supremacist leaders such as India's Prime Minister Narendra Modi—is not the denial of faith but equal respect for every faith, including the absence of faith. This is the secularism of ancient emperor Ashok, of Sufis such as Kabir and Chishti, of Guru Nanak, of medieval emperor Akbar, and of Gandhi, the ascetic leader of India's freedom struggle. Many argue that we should not describe this principle as one of secularism and should find another name for it. I am content to call it secularism, as long as we agree on what it entails. If a person's faith leads them into oppressing women, people of "lower" castes, people of color, and sexual minorities; into hating people of other faiths; and into superstition and unreason, then by all means that faith should be opposed resolutely. But if it leads people to greater compassion or gives them solace in moments of bereavement, then why should it be opposed? It may not work for me, but why should I object if

it works for someone else? How can I be so convinced that I am right and the other is wrong?

But, increasingly, as the years pass, I am influenced—and challenged—more and more by Babasaheb Ambedkar, who was born to a formerly untouchable caste and who led a lifelong fight for equality and fraternity. Ambedkar, who is still known too little outside India, insisted—and I believe accurately—that far from being an aberration of caste (as Gandhi claimed it was), the cruel system of untouchability was intrinsic to the caste system. In 1927, he led a movement, known as the Mahad Satyagraha, to assert the rights of traditionally “untouchable” castes to draw water from public tanks and wells and to enter Hindu places of worship. In Mahad, more than a thousand people marched to the Chavadar Lake and drank water from the tank in the center of the town.

My other debt to Ambedkar is for leading the writing of India’s Constitution, one of the finest such documents in the world, designed to illuminate for governments pathways and precepts of just governance. He negotiated painfully and resolutely this document, which in its substantive guarantees and even more in its directive principles lays out the blueprint for a just and equal state and society.

He was acutely conscious, right up until his death, that political equality as offered by India’s Constitution did not in itself guarantee social and economic equality—for this, a much longer struggle would have to be waged. These lines, taken from his speech “My Personal Philosophy,” broadcast throughout India on October 3, 1954, remain prophetic today: “Indians today are governed by two different ideologies. Their political ideal set out in the preamble to the Constitution affirms a life of liberty, equality and fraternity. Their social ideal embodied in their religion denies them” (Keer 1990, 459).

And Ambedkar places as much stress on fraternity as he does on liberty and equality. Fraternity, he says, nothing other than “fellow feeling,” is an essential element of a just society (Sarkar 2013, 39). It is the “disposition of an individual” to treat others “as the object of reverence and love,” and the “desire to be in unity with fellow beings.” He also declares that “I and my neighbours are all brothers” (*ibid.*). He should surely have added “and sisters.”

But the philosophical lifeblood of fraternity as our common sisterhood and brotherhood is the aspect most forgotten in our practice, both in India and all over our turbulent planet. It is forgotten not just by those chosen to uphold our constitutions. It is lost even in our public and social life, in which the aggressive use of oppositional identities remains for most political parties a reliable instrument for harvesting votes, and in which prejudice and inequality are produced and reproduced in our hearts and homes. The idea of fraternity is closely linked to that of social solidarity, which is impossible to accomplish without public empathy—in other words, the daily, lived realization that human beings who look different, wear different clothes, worship different gods, speak different languages, and have different political persuasions actually have the exact same intrinsic human dignity and experience the same emotions (dreams, hopes, despair, pain, happiness, anger, love, triumphs, and defeats) that we do.

Means and Ends of Human Rights

Mahatma Gandhi, as I noted at the start, often reminded us that the means we deploy must be compatible with the ends we seek. If they do not correspond, then the outcomes might be compromised, diluted, abridged, even subverted. He also left the luminous message to “be the change that you wish to see in the world.” As human rights workers, we set high standards for the world, and this obliges us to set at least the same, if not higher, standards for ourselves

Therefore, in the human rights work that I have engaged in, I have always tried to remember (imperfectly) to periodically step back from the heat and dust of the battle at hand and to spend time and effort defining and reviewing our adherence to values rather than just to outcomes. This also requires different ways of defining and evaluating success in human rights work. What in literal terms may be a failure or an underwhelming “just pass” performance may appear a shining success if we choose to review not just the results of our work but also the pathways we took to accomplish those results. The reverse may be equally true.

In all work for the defense or advancement of human rights, advocates, activists, and communities often set themselves up to battle enormous and unconscionable injustices, usually against

very powerful adversaries. These adversaries include the formidable state; big and powerful global corporations with deep pockets and vast influence; and dominant social groups or commanding social and cultural practices, such as patriarchy, caste, race, and heteronormativity.

Given the urgent need to redress unconscionable and often horrifying injustices and to end avoidable suffering, it is natural for human rights workers to be driven and to be impatient to see outcomes, sometimes at any cost. But even more important than *what* we accomplish as human rights workers is *how* we accomplish this.

Each team of human rights workers should, first, be mindful of the values that underline their work. They should sit together and identify what these fundamental defining values are. In case they encounter difficulties in this task, they should articulate for themselves what are the wrongs that they seek to set right through their work. If we accept Gandhi's maxim that we must try to be the change that we want to see in the world, human rights workers should be able to derive their foundational values from the harms, the wrongs, and the injustices that they seek to correct.

I will illustrate this with the cornerstone values that my colleagues and I identified as fundamental to the mission of the peace and human rights organization that we founded, called Aman Biradari, or, literally, the Peace Collective. These four foundational values are truth, justice, peace, and fraternity. In Hindi—*sachai*, *insaaf*, *aman*, and *insaniyat*—these words resonate even more with my colleagues. Truth is unpacked to include both financial and moral integrity, as well as the courage of one's convictions. Justice includes social and economic justice, legal justice, and political, social, and economic equality. Peace includes pluralism, secular values, and respect for difference. Finally, fraternity embraces the ideas of sisterhood and brotherhood, solidarity, humanism, and compassion.

We call the peace and justice workers of Aman Biradari *aman pathiks*, or those who walk the path of peace, and *nyaya pathiks*, or those who walk the path of justice. The *aman pathiks* and *nyaya pathiks* acknowledge the importance of stepping back at least once a year, preferably more often, to turn their gaze away from the strategies and results of their efforts to secure peace and justice and to introspect instead on the ways that they have managed

to adhere to their foundational values. They assess themselves against these values separately as individuals, teams, and the organization as a whole. They identify and debate the diverse ways that they have slipped and what they must do to correct these shortcomings. They also evaluate “success” in ways that often depart significantly (and occasionally even turn on its head) the literal understanding of the term.

None of this is simple. Evaluating success in adhering to values is infinitely more complex than assessing success in results. This is complicated further when adherence to values often seems to compromise, even enfeeble, the possibilities of successful outcomes. These lead to enormous dilemmas of practice.

Dilemmas of Practice: Winning or Fighting Righteously?

I will illustrate some of these confusing prickly dilemmas using the four cornerstone values identified by Aman Biradari (but also drawing on the experiences of other human rights organizations in India).

I begin with the values of truth and justice. The context in which the greatest dilemmas arose for Aman Biradari was in the organization’s efforts to fight for legal justice for survivors of the communal carnage of 2002 in the state of Gujarat in western India. A storm of hate violence had engulfed twenty out of Gujarat’s twenty-five districts for several weeks, persisting in some places for months, with state authorities doing little to stem or control it. More than 1,000 people (unofficial estimates are as high as 2,000), the large majority of whom were from the minority Muslim community, were slaughtered. The killings were exceptional for their brutality and the ruthless targeting of women and children. Mass rape, public sexual humiliation of women, and the battering and burning alive of girls, boys, women, and men marked those dark days. Tens of thousands of homes and small business establishments—petty shops, wooden carts, auto rickshaws, taxi jeeps, eateries, and garages—were set aflame, and cattle and lifetime savings were looted.

In the months after the carnage, I spent a lot of time in the relief camps, trying to reach out in some way to the survivors.

During those months, a band of peace workers came together, mostly young, working-class women and men drawn from among the survivors. We also invited Dalits and Hindus from the wounded and ravaged communities to volunteer to work shoulder to shoulder with those who had been felled and pauperized by the storms of communal violence. These peace workers, whom we called *aman pathiks*, tried to help survivors come to terms with their suffering and loss and to bring the estranged communities together. There was much that they could accomplish in these deeply fractured communities.

But in the first two years of our work for peace and reconciliation, we recognized that in the absence of justice, authentic healing was impossible. From among the *aman pathiks*, some volunteered to work as *nyaya pathiks*, or those who walk the path of justice. We approached thousands of survivors, saying that in case they chose to fight their cases in court, we would support them steadily. But we emphasized that what was critical for us was not winning the lawsuits at all costs. What was crucial was standing with the survivors as they battled for truth and justice, with means that were true and just.

This became a central premise of our campaign: if we were fighting for justice and truth, the means that we chose for our battle must also be just and truthful. In practical terms, this meant that we would resolve never to pay a bribe to a court clerk or anyone else in ways that are otherwise routine in the criminal justice system. We would also never give false evidence, even if this meant losing a criminal case. If we were not present when the mob attacked, we would not claim that we were present.

We called our campaign Nyayagrah, or the demand for justice. Like Gandhi's Satyagrah, or nonviolent resistance, Nyayagrah tried to draw up a set of ethical rules, and the *nyaya pathiks* strived to live up to these rules, each of which had been passionately debated by the Nyayagrah team. The ethical principle that attracted the most searching challenge from members of the team was the resolve never to pay even a rupee as a bribe at any stage of the legal process. Many senior human rights colleagues have argued that this is an utterly impractical way of binding of our hands in what is already such an unequal fight, because even in normal circumstances, it is impossible to extract a copy of a legal

document without bribing officials. Justice workers and lawyers cannot even begin to assist victims who are in the stage of police investigation without copies of the police complaint; likewise, the victim's watching counsel (who observes the work of the public prosecutor to ensure that the victim's interests are being protected), when the case is taken to trial, is helpless without copies of the charge-sheet, statements, and court proceedings. These difficulties are compounded several times over when the state itself, and many police functionaries and magistrates, are openly biased. These substantial barriers are further fortified when many of the justice workers are young, working-class Muslim men and women.

I recall an evening when a deeply frustrated justice worker telephoned me, reporting that in a crucial case in which court statements were to begin the next morning, the court clerk had demanded 600 rupees for copies of the relevant court papers. Without these documents, it was impossible to help the witnesses prepare for their statements. The justice worker wanted to make an exception just once and pay the clerk the bribe that he demanded. I demurred, reminding him about our consensus to never pay a bribe, irrespective of the circumstances, and he was furious with me. The statements, as it turned out, went well, based on our standard legal advice: *sach bolo, saaf bolo* (speak the truth and speak it clearly). However, the dispute was carried over to our next review meeting, and after several memorable hours of debate and philosophical dialectics among my colleagues, who had learned to differentiate between right and wrong not from books but from life, the principle that we cannot fight for truth by untruth was emphatically affirmed by almost all, including the *nyaya pathik* who had initially wanted to pay the bribe.

Today, in hindsight, most justice workers are happy that they follow this rule. It confirms in their own eyes the righteousness of their arduous battle for justice through "right" means. But even at a practical level, they report that their stubborn refusal to pay bribes for papers from the police, combined with their courteous persistence, have contributed to radical changes in the attitudes of many police personnel. Earlier, the young, working-class justice workers, many of them Muslim and Dalits, were rudely turned away when they asked for the papers

in police stations, often with open or veiled threats. Today, they testify that they are usually offered a seat, and tea, along with the papers. There are occasions that I have witnessed when the policemen have personally delivered the papers to the Aman Biradari office. These workers also report a change in the body language of many police personnel, from one of undisguised hostility to a grudging respect, and even possibly (I would like to believe) an unstated acknowledgement that they are fighting a just and brave battle.

There has been relatively greater ready acceptance of the other rule that also challenges “common sense” practices of the legal profession: the rule that all evidence will be based strictly on truth, with no construction of evidence. This makes legal advice to witnesses very simple and stark: *sach bolo, saaf bolo!* This guidance involves making sure that victims name the accused and the witnesses and that they recount the actual events as they saw them. But the fact is that in many instances—such as in cases of arson and the looting of their properties during riots—they fled before the crimes were committed and have learned the names of their tormentors only second hand. In other circumstances, lawyers may have advised them to claim to be eye witnesses in order to secure a conviction. But this was ruled out by the standards that Aman Biradari had set for itself.

Many lawyer friends were skeptical about, even amused by, these two rules. They asked the *nyaya pathiks* pertinently, “Shouldn’t winning the case be your biggest and only goal? Are you not trying to get a conviction and send the accused to jail? Then why should you tie up your hands in ways that make winning even more difficult?” To this, the *nyaya pathiks* smiled and said, “Of course we fight to win. But even more important than winning the fight is *how* we fight.”

We explained these principles of truth carefully to the survivors and witnesses, and, again, contrary to conventional expectations, these rules tended to draw survivors to Aman Biradari rather than drive them away. In cramped segregated Muslim ghettos, amidst frolicking children and goats, we explained to an attentive gathering the philosophy and objectives of Aman Biradari. The *nyaya pathiks* explained that the only thing they wanted was an assurance of uncompromising adherence to truth at every

stage of the evidence. We found consistently, especially in rural gatherings, that this ethically illuminated discourse, presented in homespun and direct language by the young justice workers, far from discouraging them instead consistently energized the community of survivors, particularly women and youth. It tended to draw them into bonds of warm and enduring solidarities with the Aman Biradari team, much more robust than any offer of financial support and more credible assurances of eventual legal victory by any means could, I like to think, possibly achieve.

The survivors saw in this battle a restoration of their sense of humanity and citizenship. From the start, both the justice workers and the survivors defined success not simply in terms of winning their cases in court. They saw their battle as one against the despair, fear, and settled sadness that typically characterize the lives of survivors of hate violence. The court is just one of the sites of this battle. The battle is fought in village squares and teashops, in schools and worksites, and, most powerfully, in hearts and minds.

Dilemmas of Practice: To Be Strategic or Ethical?

There are many other dilemmas of human rights practice as well—tensions between what may be seen as strategic and what is perceived to be ethical. One prominent dilemma is whether to speak out against large injustices that occur outside the direct sphere and scope of the work of the organization, or whether instead to fall back on “strategic silences.” In moments such as the Gujarat carnage of 2002, even internationally reputed organizations chose to not publicly condemn the violence, and especially the role of the state in enabling, even allegedly stirring, the hatred that led to the massacre. They did this because they feared state retribution against their organizations. Their work was critically dependent on state support, and they believed that poor people, many of them Muslim women, who were dependent on their work would suffer if the state withdrew this support as a result of their public criticism.

Sometimes, these silences are simply to enable the organization to pursue its human rights goals. For instance, there are organizations that offer legal aid to impoverished prisoners who

would otherwise languish sometimes for years in jails only because they could not afford legal representation. But they can undertake this work only if they are given access inside prison walls. The condition that governments often lay down is that they will permit legal aid to be extended to prisoners only if the organization will not publicly report or criticize any failings that they observe inside the prison.

Such dilemmas do not always involve the state or other adversaries. Sometimes, they can involve the contravention of values by staff or supporters. For example, many organizations, at one point or another, are confronted by situations in which one of their most competent staff members—on whose shoulders a great part of the progressive outcomes of the human rights organization rests—turns out to be, say, a wife beater or an employer of domestic child labor. Should such events be treated simply as a personal matter, or should the organization accept the perils of its reduced performance by letting go of an employee who violates some of its most fundamental ethical beliefs?

I have also seen cases in which large swaths of an organization's supporters passionately support the human rights objectives of the organization but are otherwise socially regressive in their beliefs. These groups may include sections of the peasantry and even of workers. They may believe in caste inequalities and even practice untouchability; they may hold prejudices against Muslim minorities; or they may not believe in equal rights for women or LGBT people. Should we still accept their support and not confront them for their repressive beliefs, even at the risk of weakening support for the movement that we lead?

There are no simple solutions to any of these dilemmas. But for me, I fall back in the end on the fundamental precept that to fight for justice, truth, peace, and humanism, it remains an obligation to struggle, however imperfectly, to remain just, truthful, nonviolent, and compassionate, whatever the costs may be to the final outcomes of our work. Because if we achieve successful outcomes by compromising the very values that we fight for, in the end these outcomes will be void of meaning and worth. The struggle is difficult, and I often slip and get lost; but what is important is that I should struggle each time not only for the right but to do it right.

Dilemmas of Practice: The Possibilities of “Altruistic Violence”?

There are also dilemmas surrounding the use of violence. Is violence justified against the structural violence of poverty and oppressive state power, or the power of big corporations and large landlords? Indeed, is altruistic violence even a possibility? While resistance to injustice is widely endorsed as the highest human duty in most cultures, one debate that has raged through the centuries—and has enormous resonance in contemporary times—is about the legitimacy of deploying violence in resisting and combatting injustice. In all of known human history, and in every society in every corner of the globe, some human beings have always been unjust to others. Those who oppress others variously wield the power of wealth; of ownership of land and capital; of claims of superiority of a specific gender, race, caste, ethnicity, or sexuality; of greater physical strength and brute force; of weapons and state authority; and of claims of superior knowledge and religious sanction. This superior power is deployed against those who have less muscle, resources, social standing, and influence in order to extract submission and fear; cheap or free labor; political, cultural, or social domination; and physical or sexual control. By the same token, all of human history is also the story of resistance to injustice.

The right to choose violence as a last resort to protect oneself against violence is a relatively well-settled ethical and political principle, except among a small minority who advocate pacifism as an absolute fundamental. Much more under debate is the right to use violent means, including the taking of life, to fight injustice by powerful agents who are usually backed by the state or who *are* the state. In a stark sense, the question is whether murder is licit when committed in the name of justice. This is a paramount ethical and political dilemma in today’s world because violence—including armed mass resistance, but much more terrorist violence, guerrilla warfare, and strategies of individual annihilation—is being used by bands of people who style themselves as representatives of the oppressed to achieve their political ambitions. A much greater number of men and women—thinkers, writers, poets, artists, students, and working people—endorse the righteousness of such violence, even if they do not actively pick up arms themselves.

I am convinced of the impossibility of disinterested, humane, “altruistic” violence. It is self-evident to me, once again, that it is impossible to build a just and humane society by means that are unjust and inhuman. The outcomes of strategies built around bloodshed, vengeance, repression, and hate will always ultimately be brutal and unjust, even if the violence is undertaken for the loftiest ideals.

Detachment or Engaged Human Rights?

Then there are practical dilemmas of compassion fatigue. A human rights or peace worker may encounter such monumental and horrific levels of human suffering that detachment is recommended as an emotional shield to protect the worker from emotional burnout. Some go further and suggest that detachment is necessary for effective human rights work.

I do not agree. I recognize the emotional burdens of such work. In my own work with survivors of hate violence, starvation, homelessness, and discrimination, I carry more suffering in my soul than I sometimes feel I can bear. I cannot say that I do not sometimes feel desperately weighed down. And yet I am convinced that human rights and peace workers do not have the ethical option of detaching themselves from the suffering of those with whom they stand in solidarity. Even at its worst, the suffering that we might carry vicariously is far outweighed by the burden of those who endure human rights abuses. We have exit options, while those who suffer directly mostly do not. A human rights worker, as I see it, must learn to become like a lightning rod for the suffering of those we stand in solidarity with, letting them heal as we still stand erect.

Even at a practical level, I have found that it is only by caring intensely that I have been able to be of use to survivors of great violations to rebuild their lives. For instance, the street children with whom I work have seen more suffering in their short lives than many of us will during our entire lifetimes. I have found that it is only with intense and unconditional love that these children are able to heal, forgive, rebuild, and hope again.

Human Rights with Love, and as Love

In the end, what am I saying? For human rights work (and life in general), we must try to work (and battle) with love, with an adherence to truth, and with the resolute pursuit of justice. And this is not a destination that we will ever reach. It is a journey that we need to travel through all the years of our work.

This brings me to the imperative of acting out fraternity in human rights work. For me, there are many sibling ideas to fraternity—sisterhood and brotherhood, solidarity, egalitarian compassion, caring, empathy, belonging to and with one another, and love. How do we act out all of this as we fight for human rights?

Conventionally, we see a dichotomy between human rights work for advancing justice and “service” work related to compassion. One more time, I disagree. One of independent India’s bravest and most charismatic trade-union leaders, Shankar Guha Niyogi, who was shot in his sleep in 1991, always spoke of the need for *sangharsh* (struggle) and *nirmaan* (constructive work) to go together. He worked among impoverished mine workers in Chhattisgarh. He fought many epic battles for the rights of these impoverished miners, battles that probably cost him his life. But at the same time, he helped establish one of the best hospitals for miners and their families.

For me, my human rights work is inseparable from my work assisting survivors of mass violence in rebuilding their lives, or running residential schools for street children, shelters for homeless men and women, and recovery shelters for destitute homeless persons with tuberculosis. As I watch each battered street child whom we have taken into our care heal, blossom, and hope, I learn afresh the intrinsic equality and worth of every human being. When I see a homeless woman or man retake control over their shattered life, I affirm to myself the intrinsic equal dignity and worth of every human being. It is only through the bonds of solidarity and love that I build and renew continuously through this work that I am able to authentically reaffirm my commitment to the ideas of justice and equality that underpin my human rights and peace work. Without my direct ongoing work with those children, young people, women, and men who most suffer human rights abuses, I worry that my human rights and peace work might get hollowed into a technical, professional enterprise,

worthy in itself but not driven by solidarity and love in the way that I would choose.

I recall one modest, offbeat, homespun enterprise of nonviolent resistance by the *aman pathiks*. The year was 2003, the location Godhra in Gujarat. It was the first anniversary of the fire on the Sabarmati Express that had killed fifty-eight Hindus and set off the orgies of retributive violence in Gujarat. Praveen Togadia, an inflammatory Hindu nationalist leader, scheduled a program of *trishul diksha* (an initiation through *trishuls*, or Hindu tridents) in which he proposed to publicly distribute *trishuls*, which can stab and kill, as symbols of continued warfare against the Muslims. The openly sympathetic right-wing state government refused to prohibit the meeting. The Muslims of the small town of Godhra once again cowered in their ghettos and even began to flee. In this climate of fear, in which a mere matchstick could have set the city ablaze again, a unique idea of resistance was propounded. The plan arose from the ranks of the *aman pathiks*, or peace activists, of the Aman Biradari, who were working-class survivors of the carnage in relief camps. The scheme was not to try to block the *trishul* distribution but, instead, to organize an alternate program the same day. While Togadia would hand out *trishuls*, the peace activists, in another part of town, would hand out roses. They called it *gulaab diksha*, or an “initiation through roses.” Both sets of organizers strenuously canvassed participation for their respective meetings. In the end, fewer than 200 young men assembled to receive the *trishuls* from Togadia. More than a thousand people, both Muslim and Hindu, gathered to collect roses.

For acting out solidarity, Aman Biradari, as in its human rights work, drew up its own rules in its peace work too. The most important of these was that peace workers must be drawn not just from the community that suffered from the violence but also from the community that perpetrated the violence. My colleagues and I observed that in work after any conflict, the almost unconscious practice is for peace workers to not include persons from the community that is perceived to have caused harm and suffering to people of another community. There is rarely an official or even conscious bar on such intervention across communities. However, it is perceived to be “common sense” that relief workers from the “other” community would not be welcomed

in efforts to heal and rebuild the lives of people who have suffered, even if they do not have any sense of ill will against these people.

Therefore, the one group that tends to be missing from most postconflict work is members of the community that is seen by the victims to have caused harm and perpetrated violence. But the heart of the strategy of Aman Biradari is to refuse to accept this postconflict “common sense” and to instead resolve that *all* work in the aftermath of mass violence—for dialogue, relief, reconstruction, development, welfare, and caring—will be done only in diverse and pluralist mixed groups of participants, which must include members of all estranged and warring communities and groups.

Most such proposals are rejected as “impractical,” even dangerous, and sometimes as pointless in postconflict situations. Our experience has been that such efforts are none of these. On the contrary, in Gujarat—and later in our work in several other sites of recent conflict in India, such as Assam, Bhagalpur, and Muzaffarnagar—many people from the estranged communities are found to welcome efforts in which caring women and men from warring communities join hands to help one another rebuild after the consequences of hate violence. Yusuf, one of our senior *aman pathiks* from Gujarat, volunteered to work in the Bodo camps in Assam’s Kokrajhar District after the massive bloodletting between tribal Bodos and Bengali Muslims in 2012. He announced that he was a Muslim, and the Bodos were initially both astounded and enraged to see a Muslim in their midst. As they asked him angrily to leave, he answered steadily, “You cannot take away my right to take care of you in your hour of suffering.” He stayed on and found love and acceptance.

In Gujarat in 2002–2003, we developed a somewhat audacious reconciliation plan by making an appeal to people from both communities to contribute voluntary labor, or *shramdaan*, to help rebuild the houses damaged on both sides of the conflict. Godhra was the epicenter of this mass violence, and we made this appeal in the district in which Godhra is located. Many people came forward for this voluntary labor, which proved to be a very healing activity that gave communities a chance to demonstrate both remorse and caring.

I recall travelling through Godhra during the hot summer months as this joint *shramdaan* was underway. In one village, there was a Hindu widow who was so destitute that when her husband died, there was no money for his funeral, so she set her hut on fire, cremating her husband's body with it. She was now homeless. When the Aman Biradari youth group of the village met to plan the joint voluntary labor to rebuild homes of those whose houses had been destroyed in the carnage, they decided that they would also rebuild the house of this Hindu widow. As I was walking through the village, I spotted a Muslim boy in a skull-cap working to rebuild the widow's home. I took him aside to ask him why he chose to work there. He said, "I was very depressed after my neighbors had attacked and destroyed my home. I felt there was no hope in the world. And then this plan came of rebuilding homes together, and I found my hope coming back." As I was leaving, he called me back to thank me for the chance we gave him to work in this joint enterprise. And I marveled that a Muslim youth whose home had been destroyed by Hindu mobs was thanking me for the opportunity to work for free on a hot summer afternoon to rebuild a Hindu widow's home.

I walked away in wonder.

I am reminded of Paulo Freire's words:

The oppressor is in solidarity with the oppressed only when he [or she] stops regarding the oppressed as an abstract category and sees them as persons who have been unjustly dealt with, deprived of their voice, cheated in the sale of their labour—when he [or she] stops making pious, sentimental, and individualistic gestures and risks an act of love. True solidarity is found only in the plenitude of this act of love, in its existentiality in its praxis. (Freiere [1970] 2005, 49–50)

My *aman pathiks* risked this act of love, in all its plenitude, in the praxis of every day of their work.

References

- Freire, Paulo. (1970) 2005. *Pedagogy of the Oppressed*. New York: Continuum International Publishing.
- Keer, Dhananjay. 1990. *Dr. Ambedkar: Life and Mission*. Mumbai: Popular Prakashan.
- Sarkar, Badal. 2013. "Dr. B.R. Ambedkar's Theory of State Socialism." *International Research Journal of Social Sciences* 2(8): 38–41.

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Addressing Inequality from a Human Rights Perspective:

Social and Economic Justice in the Global South

Numerous countries around the globe are witnessing a similar experience in their modern political contexts: democratic tools and human rights instruments—which have facilitated undeniable improvements in the lives of millions—are proving largely insufficient for preventing extreme forms of exclusion. In other words, while human rights have played a fundamental role in highlighting inequalities based on factors such as gender and ethnic and racial identity, they have coexisted alongside persistent socioeconomic injustices and the rise of authoritarian populist governments that are jeopardizing human rights institutions and principles worldwide.

Against this panorama, some are arguing that the human rights movement is incapable of warding off social injustice, while others are calling for a separation of the human rights and social justice movements. This book offers a third way: it points to an emerging set of ideas and practices being developed by activists, scholars, and courts from a range of countries that reveals the potential of human rights to resolve other radical injustices and to build more robust civil society movements against inequality and deregulation.

The contributors to this volume are activist-researchers who belong to human rights organizations from a range of countries throughout the global South and who write from a geographic and personal angle to enrich global dialogue on the future of the human rights field. Their chapters address multiple issues that center on inequality, including barriers to nationality for the children of migrants, violence against women in rural settings, indigenous migration to the city, the citizenship status of refugees, empathy as a key ingredient of public policy, the social impact of radical market reforms, and the war on drugs—and in doing so, offer valuable contributions to the construction of a more effective, horizontal, and creative human rights movement.

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