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Wolfgang Sachs

# Environment and Human Rights

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## Summary

Globalization has a credible future only if the borderless economy does not overstretch the resilience of the biosphere and frustrate demands for greater justice in the world. But what means environmental justice in a transnational context? In general, justice may have three different senses: justice as fairness, justice as equitable distribution, and justice as human dignity. In the first it is a question of organized procedures for the allocation of advantages and disadvantages that are fair to everyone involved; this is the procedural conception of justice. In the second it is a question of proportionate distribution of goods and rights among individuals or groups; this is the relational conception of justice. And in the third it is a question of the minimum goods or rights necessary for a dignified existence; this is the absolute or substantive conception of justice. This paper develops the theme of international environmental justice in the third sense, as a human rights issue. First, it outlines six typical situations in which patterns of resource use come into conflict with subsistence rights: namely, extraction of raw materials, alteration of ecosystems, reprogramming of organisms, destabilization as a result of climate change, pollution of urban living space, and effects of resource prices. It then introduces the debate on human rights and locates respect for subsistence rights as a component of economic, social and cultural human rights. Finally, it offers some markers for an environmental policy geared to human rights, the aim of which is to guarantee civil rights for all in a world with a finite biosphere. Neither power play between states nor economic competition, but the realization of human rights and respect for the biosphere, should be the defining feature of the emergent world society.

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Translation into English by Patrick Camiller

# 1 Introduction

“Man’s power over nature turns out to be a power exercised by some men  
over other men with nature as its instrument...  
Each new power won by man is a power over man as well.”

C.S.Lewis, *The Abolition of Man*, 1947, p. 48

Prison for the novelist of such delicate beauty! In October 2000, murmurs of horror began to do the rounds of the world’s press when the Indian writer Arundhati Roy, author of *The God of Small Things*, had to serve a day in prison for contempt of court. A few weeks earlier, with righteous anger and a flapping sari, she had appeared before the media and publicly scolded India’s Supreme Court. Her outrage was directed at a judgement which had spelt disaster for the country’s largest ecological movement, India’s holiest river and tens of thousands of small farmers. A green light for the giant Narmada River dam project to go ahead! In the eyes of Roy and large sections of the Indian public, this raised to new heights the state’s arrogant contempt for ordinary people as well as for economic rationality. She wrote: “In India over the last ten years the fight against the Sardar Sarovar Dam has come to represent far more than the fight for one river. This has been its strength as well as its weakness. Some years ago, it became a debate that captured the popular imagination. That’s what raised the stakes and changed the complexion of the battle. From being a fight over the fate of a river valley it began to raise doubts about an entire political system. What is at issue now is the very nature of our democracy. Who owns this land? Who owns its rivers? Its forests? Its fish? These are huge questions. They are being taken hugely seriously by the State. They are being answered in one voice by every institution at its command - the army, the police, the bureaucracy, the courts. And not just answered, but answered unambiguously, in bitter, brutal ways” [Roy 1999].

## 2 Whose Nature?

Thanks to her international reputation, Arundhati Roy was able to place in the public spotlight a conflict that is otherwise waged far from the front pages and the primetime television, not only in India but everywhere in the South where the poor are struggling to defend the natural conditions of their existence. The small farmers and semi-nomads, agricultural workers and small tradesmen who live in the Narmada valley are only one example: fishing people in Andhra Pradesh, indígenas in the Andes, inhabitants of South Africa's old townships or rice planters in Bali might well be involved in struggles of a similar kind. In the case of the Narmada dam, Arundhati Roy could be seen shouting at a line of policemen, side by side with a group of ordinary, often exhausted men and women. In many other cases, however, the resistance is slighter and more subdued.

The central issue in dispute is always: To whom do this land, these forests, these fish belong? And with it comes the most elementary question of democracy: Do we have a right to stay and live in this country? All the conflicts without exception have certain structural features in common. First of all, they seek to defend one or more ecosystems against the destructive claims of non-resident owners to exploit them. The motivation, however, is not the conservation of nature per se but the securing of certain natural expanses – coasts, wetlands, forests, savannah, rivers, hills – as living space for a human community. Economically, such a habitat may provide important resources for subsistence and market production, while culturally it often forms the link between today's local community and the past of its ancestors or the transcendent world of the gods. Major encroachments on the natural area in question therefore have not only an ecological but also a social significance; they threaten the very survival of local communities. Erosion of ecosystems undermines the foundations on which they support themselves, and in extreme cases may drive them out or plunge them into acute poverty. This threat gives rise to "the environmentalism of the poor" [Martinez-Alier 2000], which, at least in the countryside, is often not so much an ecological movement for the defence of natural wealth as a farmers' movement to defend rights essential to life.

A look at the history of colonialism and development tells us that, over the past few centuries, the spread of Western domination over other continents – and not only there – has repeatedly brought in its wake this type of social-environmental conflict; here it is enough to recall the silver mines in Bolivia, the annihilation of the buffalo herds in North America, or the plantation economy in Malaysia. Such conflicts are still with us today, not least due to the new round of overseas

expansion and economic globalization. Yet they are not usually the main focus of discussions concerning the environment, either within the industrialized countries or at a wider international level. One reason for this comes readily to mind: they are tragedies in the West's hinterland. Most of these social-environmental conflicts unfold in the periphery, far from the centres of opinion formation; it is geographical distance that makes them invisible.

The view may also be obscured by the prevailing talk of ecology as the practice of intergenerational justice. Since the Brundtland Commission gave its canonical definition of sustainable development, according to which the point is "to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs" [WCED 1987, p. 8], those in charge of environmental policy have liked to see themselves as taking responsibility for the future. Especially on big issues such as the climate and biodiversity, attention has tended to wander along the temporal axis by focusing on the effects of today's decisions upon the living conditions of future generations. Yet a gaze directed at tomorrow can distract us from today; the quest for intergenerational justice can all too easily make us forget the conflict over intragenerational justice.

Who has the advantages and who the disadvantages in the use of nature? This is the key question for research and policy in the field of environmental justice. Its cognitive importance derives from the fact that often the advantages and disadvantages of environmental use do not accrue to one and the same social player, but are unevenly spread among different players. What economists like to call "the externalization of negative consequences" has not only a biophysical but also a social profile: that is to say, the mechanism whereby advantages are internalized and disadvantages externalized structures societies into winners and losers. The frequently non-random distribution and accumulation of effects among certain groups or in certain geographical areas is the expression of an asymmetry of power. Power relations establish a social differential, which ensures that positive consequences crystallize at the top end and negative consequences at the bottom end. This shifting of costs may take place in a temporal, spatial or social dimension: that is, costs may be shifted temporally from present to future, spatially from centre to periphery, and socially from upper classes to lower classes. Research and policy in the field of environmental justice mainly concentrate on the spatial and social, and therefore intragenerational, dimensions.

The mass demonstrations in the Narmada valley, with Arundhati Roy in the middle, may therefore be conceptualized as a dispute over environmental justice – though, of course, one of exceptional intensity. Its primary aim is not to correct a skewed distribution of environmental burdens, but to prevent a major reduction in people's existential circumstances. This is the case when physical, social and economic conditions which already make a group of people particularly vulnerable are worsened to a point beyond the threshold of what they can



reasonably be expected to endure. At a certain degree of vulnerability, then, burdens tip over into injustice and threaten the basic rights of the people involved. When injustice of this kind arises out of ecological disadvantages, it throws up a number of human rights issues. For resource flows do not come only with an ecological rucksack, in the form of an indirect use of materials. In some circumstances, they also come with social rucksack in the form of human rights violations. The next section will systematically explore these circumstances.

### 3 Resources and Subsistence Rights

Poverty has many faces. A landless peasant and a slum dweller, an agricultural villager and a pedlar, a single woman and a migrant worker: these have little in common with one another, except their lack of means. Poor people, like everyone else, pursue different moral ideals and personal ambitions, and they may also have different religious identities or ethnic affiliations. They are often far from thinking of themselves as poor in a statistical sense. Nevertheless, though the usual employment of dollar values in estimates of world poverty tends to reduce this multilayered complexity, it does sharpen the sense of an order of magnitude when we remember that 1.3 billion people, a quarter of the world's population, have to manage on the purchasing power of one dollar a day or less. If the poverty threshold is set instead at 2 dollars a day – a recently challenged procedure [Pogge 2003] – then the total rises to 2.8 billion, or slightly less than half of the world's population. Roughly 80 per cent of the world's poor defined by the former criterion live on the land (1988 figures), and 24 per cent of these have no land of their own [WRI 2000, p. 38], but the number of city poor has been rapidly increasing. Rural poverty is concentrated in geographical clusters, in South Asia, South-East Asia, central China, Black Africa and a few regions in the South American interior, whereas urban poverty mainly lodges in niches and outskirts of the megacities of each continent.

For some time now, there has been agreement in the international debate that the income indicator does not adequately grasp the extent of poverty. In addition to money, poverty also has something to do with access to nature, to a social community, to basic public services, and to political decision-making. It has been shown that the income-poor do not necessarily live in destitution if they are able to fall back on natural wealth and social networks, and it has also become apparent that higher-income groups may be badly off if no free public goods are available to them, or if a repressive regime is in power. Not only monetary income, but a bundle of customary rights, property entitlements, membership benefits, wage claims, public services and profit-sharing rights are what provide an individual with a living and a sense of dignity. It has thus become established – especially through the annual Human Development Reports – that poverty should be understood as a lack of the basic capabilities needed to secure what is considered important for a decent living and human dignity. Only this approach, which goes beyond the mere category of income, renders visible the set of living conditions that keep men and women in poverty.

If human beings do not have the basic capabilities to support themselves in dignity, their human rights are under threat. Most societies regard as basic the capability to obtain adequate nourishment, to avoid unnecessary illness and premature death, to have adequate housing, to earn one's own livelihood, to be assured of physical safety, to have equal access to justice, to appear in public without feeling ashamed, and to take part in the life of a community [OHCHR 2002, p. 9]. The first four of these in particular – nourishment, health, housing and livelihood – may be thought of as subsistence rights [Shue 1981]: that is, as requirements for a minimum degree of economic security. Subsistence rights, then, are part of human rights; they form the core rights of the International Covenant on Economic, Social and Cultural Rights.

Whatever the personal destiny behind any instance of chronic destitution and humiliation, grinding poverty usually originates in a lack of subsistence rights. Furthermore, it is crucial for a better understanding of environmental human rights that subsistence rights are fitted together with the right to use natural spaces. In addition to income and community services, nature is another important source of livelihood, especially for the third of humanity [UNDP 1998, p. 80] who rely on direct access to its fields, forests, pastures and waters. For people who live in a process of unmediated exchange with nature, the fate of ecosystems in the area they inhabit is a question of truly vital importance. Their subsistence rights depend to a considerable extent upon the availability of natural resources. Therefore, any degradation of the natural spaces on which they depend for a living undermines their subsistence rights.

Again and again, however, the natural living space of the poor comes into the firing line of the international resource economy. The peripheries dotted around the globe, in both rural and urban areas, are not beyond the reach of the world economy, but have many different ties to the core states precisely in respect of natural resources. They may serve as: (1) a hinterland for the extraction of raw materials, (2) a source of agricultural produce, or (3) a deployment area for genetically modified organisms. And they may prove to be: (4) danger zones because of climate change, (5) foci of disease because of pollution, or (6) an arena of marginalization because of the evolution of resource prices. These entanglements grow deeper in the wake of economic globalization, as firms acquire easier access to markets in the South and face fewer state restrictions. Thus, despite the many gains in resource efficiency that come with open markets, conflicts become more frequent between resource industries and subsistence economies. Where frontiers no longer constitute effective barriers, the hinterland of the world economy also becomes more accessible – and its inhabitants more vulnerable.

Normally, geographical distance and/or huge societal differences separate the peripheries from the core states that place their resource situation under strain; the locations of enrichment are mostly at a safe remove from the locations of

impoverishment. And yet investment-flows, atmospheric chemistry or the pull of higher purchasing-power create bonds within a power gradient that ensures a stable asymmetry of advantages and disadvantages. Resource conflicts therefore break out in the poor countries of the periphery, where the struggle centres, if only at local level, on nothing less than rights to the biosphere. By virtue of man's biological nature, some of these rights are inalienable. If they cannot be guaranteed, a conflict over resources turns into a conflict over human rights.

This section will develop a typology of six conflict situations in which the resource claims of core states collide with the subsistence rights of the periphery. A table may be useful here in providing an overview of these six types.

*Table 1: Resources and Subsistence Rights. A Typology of Conflicts*

<b>Causes of Conflict</b>	<b>Manifestations</b>	<b>Locations</b>	<b>Effect of Globalisation</b>	<b>Ecological Consequences</b>	<b>Consequences for Subsistence Rights</b>
Extraction of raw materials	Mining, oil, deforestation, overfishing	Rainforest, mountainous areas, coastal areas	Easier cross-border investment, but also more efficient redundancy procedures, and pressure to export because of debt	Loss of biodiversity, poisoning of soil and water	Displacement from living space, loss of livelihood, pollution of living space
Alteration of ecosystems	Plantations, dams, prawn farms	Farmland, river valleys, coastal areas	Easier foreign investment in agriculture & agribusiness; production of animal food and luxury goods for North	Monoculture, pesticides, loss of biodiversity, increased water consumption	Displacement from living space, loss of livelihood
Reprogramming of nature	Hybrid plants, genetic seeds, optimized livestock	Monoculture	Enforcement of worldwide patent rights via TRIPS	Water consumption, loss of species	Loss of free access to cultivated plants and animals, dependence on money and corporations, concentration in agricultural sector
Destabilization due to climate change	Changes in sea level, precipitation, temperature	Arid and semi-arid regions; low-lying coastal areas	Rising CO <sub>2</sub> emissions due to growth, but also spread of CO <sub>2</sub> -efficient technologies	Decreased fertility, diseases, species loss, floods	Displacement, diseases, loss of livelihood and income
Pollution of urban living space	Harmful chemicals in drinking water, air and soil, unregulated wastewater	Urban slums	Urbanization through growth; competition among cities for investment; greater weight of elites and lesser weight of social policies	Poisoning of environment	Diseases, especially among women and children
Changing prices of natural resources	Falling producer prices; rising consumer prices	Small-scale agriculture, urban slums	Easier agricultural exports to South; privatization of services, water and electricity	Species loss	Decline of small farmers, less food security, disconnection of water and electricity

## **Conflicts over the extraction of raw materials**

Ever since the age of Pizarro, the “New World” has been combed for valuable raw materials. But today the exploration and exploitation of new sources stretches into the remotest parts of the world’s sea and land masses. Oil is extracted from deep inside the tropical forest and deep beneath the ocean waves; timber is carried from faraway Patagonia and Siberia; and floating fish factories plough the seas from the Arctic to the Antarctic. The opening of frontiers to foreign corporations has intensified the pressure to move forward the front line of exploitation. In mining, for example, whereas the period between 1985 and 1995 saw new investment worth \$3.5 billion in the developing countries, the corresponding figure for 1995-1997 was \$8 billion [IFG 2002, p. 120]. A similar trend was observable for other resources such as wood and fish: world trade in timber products nearly doubled between 1985 and 1995 [IFG 2002, p. 85], and fish exports from developing countries increased fourfold between 1974 and 1987 [IFG 2002, p. 133]. It cannot be said, then, that conflicts over raw materials belong to a vanishing industrial epoch; for even the IBMs and Starbucks of the post-industrial age would get nowhere without massive consumption of natural resources.

Most in demand are energy sources, especially oil and gas, followed by copper, gold, tin, silver, cobalt and other metals, and biotic raw materials such as timber and fish. The extraction processes can affect the most diverse ecosystems: desert and primeval forest, high mountains and ocean depths, coastal waters and river systems. In the case of biotic materials the ecological and social problems come from the loss of resources, but in the case of abiotic materials they are due to the actual processes of extraction and transportation.

Mining projects, for example, move huge quantities of rock and leave behind masses of overburden, all to obtain relatively small amounts of useful material. Highly toxic chemicals are often used to separate metals from the ore, and at the end of operations the resulting waste may threaten to poison the nearby soil, waterways and wildlife. Oil extraction, when occurring within a human biotope, has a considerable toxic and polluting effect, for the technology and the pipelines not only reshape the countryside but produce toxic waste. Although oil and mineral extraction mostly takes place in remote parts of the world, its effects are often damaging not only to plant and animal biotopes but to human ones as well, especially those of indigenous peoples. In the very areas into which the frontline of raw material extraction is extending for the first time, it is the lands of the original inhabitants that are now being caught up in the worldwide flow of resources. Their landscapes are degraded, ravaged and desacralized. Gold mines in Romania, Ghana or South Africa, as well as silver and tin mines in Peru or Chile, have extensively poisoned the rivers. And the development of oil fields has come at a price for the forest biotopes of Colombia, Brazil, Peru and Ecuador, in the Niger delta as well as the Siberian tundra. Since natural resources are often not

located in no-man's-land, the exploitation proceeds at the expense of the local population, especially in the peripheries of the South.

### **Oil from Ecuador's Tropical Forest**

Since 1974, when the Texaco-Gulf consortium opened the first wells, the oil age has come to Ecuador's Amazon region, the so-called Oriente. Over the past thirty years, in an area covering roughly a third of the country, the oil corporations have advanced step by step drilling new holes and deploying an extensive infrastructure.

Oil brings in money to the Ecuadorian state, and more important still the money is dollars. Not only does Ecuador suffer from a chronic shortage of funds; it has for some time, in common with many other Latin American countries, had a large external debt. Oil exploration seemed to offer a way out: revenue would flow into the state coffers, and higher exports would bring the promise of foreign currency. For oil, like all other mineral resources in Ecuador, belongs to the state. The profits from oil were indeed quite considerable: it accounted for 37 per cent of revenue in 1997 (against 29 per cent in 1974) and 27 per cent of total exports (61 per cent in 1974). Some three hundred sources produce an annual output of roughly 20 million tonnes – which is only 0.4 per cent of total world output. Most of this oil goes to the United States. The concessions awarded to multinationals such as AGIP, Mobil, Amoco, Elf Aquitaine, Petrobras and Texaco cover approximately 1.2 million hectares of rainforest (out of a total of 13 million), and much of this is on indigenous land.

The indigenous peoples in Oriente – the largest being the Quichua, Huarani and Shuar - mainly live in subsistence societies, with their own different languages and cultural traditions. The total population of these indigenous groups is around 125,000, in an area of low population density. The interplay of forest and water makes the region one of the richest in species anywhere in the world. The indigenous groups depend on the natural space of the forests, river banks and floodplain. Traditionally they practised slash and burn agriculture, in combination with hunting, gathering and fishing. Now, however, their economy is going through a transition. After a few decades in which missionaries and the government kept urging them to take up commercial production, they have partially switched to cash crops and especially livestock farming, with the result that they are being ever faster integrated into national society and the market economy.

Oil extraction requires blasting processes, pumping systems, pipelines and refineries, as well as the clearing of forest tracks, highways, landing-strips, heavy machinery and workers' camps. Everywhere the first step was to clear the forest of trees, so that today the country's forest area is only 30 per cent of the 1970s total, and only 8 per cent of that total still belongs to the indigenous communities. Then oil residue and gas were flared off, tracks and craters formed, without sparing the holy places of the indigenous inhabitants. Especially drastic consequences have followed the pollution of the water: toxic waste and effluent have contaminated streams and rivers that local people use for drinking, cooking and washing. Illnesses are on the rise, and the threat extends to remote areas upstream in the Amazonian interior. Oil leaks into the soil and water through numerous small holes in the pipes; it is said that, over the past twenty years, more than half a million barrels of oil have seeped into Ecuador's waterways through thirty breaks in the pipeline system. The disappearance of plants, fish and wildlife through deforestation and contamination has undermined the foundations of life for the indigenous groups. A defective diet, social decomposition and eventual expulsion have been the result.

Laws and regulations to limit the effects on the environment were widely ignored. But this began to change when a number of indigenous farmers' organizations sprang up as a reaction to the encroachments of the oil industry. These organizations, some of them with international links, continue to wage struggles over issues such as the right to information, participation in decision-making, compensation payments, a share in the profits and, above all, a moratorium on further oil exploration. The actions best known to the German public are those against the Westdeutsche Landesbank, which is trying to get a stake in a \$900 million loan for the construction of a pipeline right across Ecuador.

*(Haller et al. 2000)*

The reservation of special areas for timber and fish production gives rise to similar patterns of conflict. In fact, both in timber and cellulose as well as industrial fishing, the frontline has been advancing into remoter and hitherto inaccessible stretches of land and sea. Most foreign investment by international timber corporations has recently been going to countries with the last expanses of primeval forest: Indonesia, Brazil, Chile and Mexico. What makes them so attractive is their combination of large reserves of forest with weak environmental legislation and cheap labour costs. But again and again the forest is a living space for human beings – for nomadic hunters and gatherers, or for settled villagers and farmers who use it as their local hinterland. At present some 350 million people around the world live in forests [WCFS 1999]: this "forest nation" has a larger population than the United States and Canada together. Already in colonial times,

the timber interests of outside states and corporations clashed with the existential interests of local communities. Use of the forest as a “commons” stands directly opposed to its use as an “asset” for the making of profit. The need for firewood, honey or meat stands directly opposed to the need for pulp magazines, paper napkins and high-grade furniture. Subsistence needs compete with luxury needs. Not infrequently, therefore, deforestation or enclosure – perhaps intended only as a source of supplementary profits or a buffer reserve – gives rise to resistance on the part of local inhabitants who see part of their livelihood under threat.

Things are not very different in the case of fishing. Huge fleets equipped with sonar and mega-dragnets travel down from north to south, passing overfished seas on their way. Local communities along many of the earth’s coasts often have to compete with high-tech industrial ships for a dwindling supply of fish. The consequences are predictable, as falling quotas threaten the food base and sources of income for numerous fishing communities, especially in the impoverished and poorly fed countries of Africa, Asia and the Pacific islands. After all, some 30 million people around the world (95 per cent of them in the southern hemisphere) depend on fishing for a living [IFG 2002, p. 139]. Since the effects often make themselves felt over a relatively long period of time, it is more difficult to protest against fish loss than deforestation or oil exploration. But the human drama is the same: the poor are robbed of their resources, so that the rich can enjoy a lifestyle out of all proportion to their numbers.

### **Asian Fisherfolk Conference: Cut Away the Net of Globalization**

#### **Hat Yai, Thailand, 25 to 29 January 2002**

“Policies of liberalization, deregulation and privatization are being promoted by the three major global powers—the United States, Japan and the European Union (EU) - and by multilateral agencies, including the World Bank, International Monetary Fund, the World Trade Organization (WTO) and the Asian Development Bank. The main beneficiaries are transnational corporations along with local elites, at the expense of fisherfolk, workers, peasants, indigenous peoples, women, the urban poor and other vulnerable sections.

“These policies have had devastating consequences for artisanal fishing communities within subsistence economies. They have led to loss of income and livelihood, break-up of communities, social problems, loss of traditional knowledge, wisdom and systems, dislocation from fishing grounds, denial of access rights, degradation and destruction of aquatic resources, and violations of human rights.



“[...] We reaffirm our call for the sustainable and non-destructive management and use of the resources of the seas, rivers and lakes by all humankind. We assert that the rights of artisanal fishing communities to use, manage and benefit from these water bodies must be protected and accepted, as they are their guardians.

“We demand an immediate halt to:

- The use of destructive fishing technologies, methods and gear like trawlers, push nets, anchovy purse seines (using lights), fine-meshed nets and others that are similarly destructive, that deplete aquatic resources, and destroy the very livelihood of artisanal fishers;
- The privatization of fisheries resources through Individual Transferable Quota (ITQ) systems;
- Fisheries access agreements between countries, joint ventures and other similar arrangements for harvesting and utilizing aquatic resources, that deplete these resources and deprive local fishers of their livelihoods;
- Investment, subsidies and other forms of support to the industrial and large-scale sector and to non-owner-operated mechanized vessels that has led to overcapacity and overcapitalization;
- Further growth in capacity of domestic industrial fleets in several countries of the Asian region and the export of this overcapacity (through formal and informal means) to waters of neighbouring countries, impacting negatively on artisanal fishers, both of the home country and of the country they fish in;
- Imports of fish and fish products, especially of products harvested/processed locally, pushing down prices and impacting negatively on incomes and livelihoods of local fishers/ processors, including women processors;
- Export-oriented policies of our governments, often under the compulsion of repaying foreign debts, even as domestic fish supplies stagnate, and sections of the population are malnourished, endangering local food security and sovereignty;

“[...] Accepting that fishing communities are guardians of the seas, rivers and lakes, we commit to:

- Protecting the rights to life and livelihood of fishing communities;
- Protecting and conserving our aquatic resources, indigenous species and ecosystems, and demonstrating concrete alternatives towards a truly people-centred development;
- Strengthening fisherfolk organizations, networks and leadership at all levels;

“[...] While fisherfolk in Asia have been meeting since 1974 and reiterating several of the above concerns, our situation has continued to worsen and our resources have continued to decline. This speaks volumes about the failure of governments and international organizations to deal effectively with these issues. This also strengthens our resolve to work collectively towards improving our life and livelihood.”

## **Conflicts over the alteration of ecosystems**

Agriculture and forestry, as well as animal and fish farming, place the natural processes of fertilization, growth and decay in the service of humanity, in order to produce systematic results from selected strains. Whether cornfield or vegetable garden, vineyard or coffee plantation, fish-pond or chicken battery, a humanly constructed ecosystem takes the place of a naturally evolved ecosystem. In the end, the extraction of raw materials is only one of the ways in which people help themselves to resources from the biosphere; the conversion of ecosystems into production machines is the other. For this, the land, climate and range of species in the southern hemisphere often provide a combination of local conditions that are scarcely to be found anywhere in the North. The history of colonization, up to and including the age of globalization, is therefore also a history of the occupation and settlement of land. From tea and sugar cane through cotton and eucalyptus trees to kiwi fruit and prawns, agrarian systems have been constructed to cover the tables of distant consumers. The resource conflict between subsistence economies and market economics is one of the roots of the present clashes over the modification of nature for plantations, aquaculture and water reservoirs.

Plantations evidently require land, and a lot of it. They are the expression of a monoculture mentality that is determined to create homogeneous conditions without much concern for local biodiversity, so that the output of mostly highly refined strains can be maximized at minimum cost. The type of industry resulting from this structure of production is associated with large landholdings, high investment and, in most cases, major damage to the environment. A further characteristic is that the products are not meant for the local food supply – and, in the case of coffee, timber or flowers, not for the food supply anywhere – but are exported to various national and international centres. The industrial export structure is therefore often in latent or open competition with subsistence-oriented agriculture. Indeed, the history of plantation economics displays a long trail of repression of small farmers and villagers for the benefit of exports and cash crops. The same kind of social consequences are visible today, when agricultural exports are being encouraged by the world trade system or imposed by the world finance system. Farmers are driven onto marginal land, water siphoned off into irrigation

they also lead to greater marginalization. Spirals of prosperity and impoverishment are often the two ends of a single axis, twisted upward by the same torque.

### **Pineapple versus Rice on Mindanao**

Agricultural corporations are hungry for land – not only in their regions of origin, such as California, but above all in the warm, productive countries mostly located in the world's subtropical or tropical belt. Conversely, countries in the South are hungry for foreign currency. They long for foreign capital that will valorize the advantages given them by nature and improve their trade balance through agricultural exports.

Take pineapples, for example. Over the past fifteen years a couple of US corporations, Del Monte and Dole, have quadrupled their pineapple production on the Philippine island of Mindanao. Enormous plantations, with row upon row of pineapples as the only crop, occupy large areas of good land. Major investment in pesticides and machinery ensure output for mainly American and Japanese supermarkets. It is estimated that today as much as 50 per cent of the island's cultivable surface is controlled by foreign companies. In addition to pineapples and bananas, the holdings range from Nestlé's coffee plantation through Japanese timber concessions and Guthrie's British-Malaysian oil palm plantations to the coconut production of Henkel and Mars.

Where rice or corn used to be cultivated for subsistence needs and the national market, now desert fruits grow for distant consumers. Over the years small farmers have been driven out, and the methods used to achieve this have often been anything but courteous. Those who leased their little bit of land to the corporations soon discovered that the rent, and possibly also a wage for work in the canning factories, were not enough to provide a living. Other sources of livelihood that they had not taken into consideration—the growing of food for subsistence needs, the keeping of animals or hunting and fishing on land of their own - were no longer available. Moreover, pineapple wears out the soil, so that a reversion to rice and corn would now be difficult to envisage. Even those who have found employment in the factories or plantations have to accept all kinds of things, as the provincial government for a long time helped put a stop to the activity of free trade unions. Poverty and export wealth have been growing side by side on Mindanao.

*(Brassel/Windführ 1995, Raina et al. 1999)*

A similar pattern of conflict may be seen in relation to prawn farms. In many coastal regions of the tropics – for example, in Ecuador, Honduras, Sri Lanka,

India, Bangladesh or the Philippines – local fishing communities have been resisting the introduction and spread of these farms. Since the 1970s, world production of prawns has risen thirtyfold, and within the next few years nearly half of this will come from prawn farms located almost exclusively in the South [Stonich-De La Torre 2002]. More or less the whole of this output is exported to the OECD countries, and indeed that is what was intended: prawn farming, the “blue revolution” in aquaculture, was meant to generate income and foreign currency. Yet it is usually firms based outside the region that rake in the profits, while the local population is left with the social and ecological costs. For the farms tend to lie – or, rather, to move about from place to place – in shallow bays or lagoons just off the coast. They all too easily lead to the loss of common goods such as mangrove forests (with their supply of seafood and wood), and to pesticide contamination of fresh water as well as offshore fishing grounds. As in other cases where the natural basis of people’s livelihood is destroyed, it is first and foremost women who are in the firing line. When access to the “commons” is taken away, sources of food and income that have traditionally been the special concern of women are lost in the process [Martinez-Alier 2002, p. 85].

The transformation of nature through dam-building can be truly dramatic. Dams alter the course of rivers, wipe away valleys, change biotopes. In 1949 some five thousand large dams had been built, three-quarters of them in the industrial countries. By the end of the century there were a total of 45,000 dams in the world, two-thirds of them in China, India and other developing countries [WCD 2000, pp. 8 ff.]. Their chief purpose is to provide irrigation for industrial agriculture, but others are to produce electricity and to collect drinking water for cities. Again, competition for land and water is the major social conflict that ensues.

Social conflicts firstly centre on the displacement of families and village communities. It is estimated that, from 1986 to 1993 alone, an average of four million people a year were displaced by 300 new building projects, and that the total figure over the decades is between 40 and 80 million [WCD 2000, p. 17]. Furthermore, the redirection of watercourses can undermine the livelihood of riverside communities: productive resources such as water, forest and pasture, as well as fishing grounds, may simply disappear downstream as a result of flooding. Resettlement programmes, where they exist at all, leave much to be desired and often put people in worse places than before. Case studies conducted by the World Commission on Dams speak a uniform language: the negative effects associated with dams mainly hit rural inhabitants, subsistence farmers, indigenous groups, ethnic minorities and women, whereas the positive effects mainly favour city-dwellers, big landowners and industrial companies [WCD 2000, pp. 124 f.]. Winners and losers are defined through the use of nature.

## **Dammed in the Narmada Valley**

“Then we’ll just drown.” For years the world’s press has been showing pictures of ordinary men and women standing in waist-high water, determined to prevent the construction of the Sardar Sarovar dam in the Narmada valley. Activists threatened to stand fast and place themselves at the mercy of the incoming waters, rather than accept that the barrage should be completed. Their protest movement has since become famous around the world, but in the actual area there is no talk of its being a success. The dam wall has grown high, the water level has been slowly rising, and even the most dogged local inhabitants are packing up their possessions and becoming displaced persons. Yet one lost battle is not the same as a lost war: the struggles are moving upriver to the Maheshwar dam.

For the Sardar Sarovar dam is only the central section of a megaproject for the Narmada river system, which is planned to comprise 30 large, 135 medium and 3,000 small dams. The Narmada, whose 1,300 kilometres make it India’s longest west-flowing river, would then be transformed into a cascade of power stations and reservoirs.

In the late 1980s, resistance began to take shape against the displacement and the completely inadequate resettlement plans. Some 250,000 people in several hundred villages, most of them “tribals”, faced the threat of losing not only their homes but also the fields, watercourses, pastures and forests from which they draw their livelihood. There was no question of compensation, and the new settlements offered at best some shelter but nothing in the way of a living environment. Mass demonstrations, road blockades, hunger strikes, protest marches, court cases: scarcely a single non-violent method has not been tried in the past ten years, to attract public attention to the victims of the project and to bring the Caterpillar tractors to a halt. More and more, the opposition forces have questioned the usefulness of the project for the national economy. Who and how many in faraway Gujarat would enjoy the benefits of artificial irrigation? How long will it take for the reservoir to silt up? How many fields will be lost for cultivation? What advantages are expected tomorrow and somewhere else, against the real costs here and now? The development paradigm underlying the project – dispossessing the poor to kick-start the economy - has also come under increasing attack, and alternative visions of a flourishing India have to some extent been articulated.

When the Supreme Court, in October 2000, gave the green light for construction to go ahead, the “national interest” emerged victorious for the time being. But this does not mean that the Narmada Satyagraha, the non-violent resistance movement, has been stifled.

*(Mehta 1993, Roy 1999, Wagle 2002)*

## Conflicts over genetic engineering

Along with extraction and colonization, a third way of using nature as a resource has recently made its appearance: namely, the reprogramming of nature itself. Changes in the hereditary stock of plants and animals represent a new historical phase in the putting of nature to work, where the purposes do not remain external to nature but are themselves included in the process of its reproduction. As in the case of crossbreeding in industrial agriculture, the aim of these operations is to produce high-performing strains that will allow special maximum yields to be obtained. Herbicide-resistant cotton, Vitamin A-intensive rice, pest-resistant potatoes, infection-free fish: the point of all these developments is to optimize a characteristic that is important for output or consumption. In other words, a momentary constellation of economic interests is fixed in genetic material with potentially long-term effects; human history becomes the pacemaker for natural history.

### Protection of National Potato Strains in Bolivia

The Altiplano is the homeland of the potato; it was from there in the Andes that it began its triumphal march around the world. Hundreds of varieties are grown there today: in Bolivia, for example, 235 kinds of wild or cultivated potato have been identified. Dozens of these, ranging from bitter to sweet, are used by village communities in accordance with the soil and altitude as well as the harvest time, the crop mix and the consumption purpose. A highly diversified small-scale agriculture, adapted to various ecological niches from subtropical valley to permafrost, provide a subsistence base even under poor conditions.

In April 2000 the government gave permission for outdoor tests with genetically modified potatoes, whereby changes in the hereditary stock of plants were supposed to increase their resistance to worms. Farmers' organizations and NGOs opposed this project and threatened to destroy the fields where it was being carried out. In the end the project was called off, although a year later a provisional ban on the introduction of genetically modified organisms was again rescinded.

The opposition movement was concerned about the well-being of the many different varieties of native potato. The release of new genetic strains holds the risk of unintended dispersion, and in the long term traditional varieties might fall to the competition. Natural fertilization processes might spread the genetic contamination, and the worm resistance might also eliminate other micro-organisms in the soil that are important for the food chain of frogs or birds, for example. If the variety of potato strains is nevertheless reduced, the food security and independence of Bolivian farmers would be exchanged for a one-sidedly productive, high-risk and expensive technology.

*(Ramos 2000)*

The spread of biotech corporations into the agricultural regions of the South poses a new threat to subsistence rights. From now on, certain kinds of seeds and economically useful plants and animals may come with a hefty price-tag attached, since patent-protected property rights cover genetically modified life-forms. In the case of bio-patents, then, economic globalization leads not to deregulation but to regulation for the first time in history, the aim of the WTO agreement on patents being to assert a uniform legal system on intellectual property rights. Once, however, a growing number of economically useful life-forms come under the ownership of corporations, access to the means of gaining a livelihood becomes restricted: farmers who previously exchanged seeds, collected shoots or reproduced livestock free of charge now have to pay licence fees to use the patrimony of nature. The possible effects of genetic technology on biodiversity further strengthen this tendency: both the diffusion of monocultures and the uncontrolled spread of transgenetic organisms threaten further to reduce the range of species [Lohman 2000]. And, of course, when loss of diversity is combined with commercialization of the remaining species, small farms end up in a situation of dependence [VV 2000]. Food sources as well as medicinal plants either disappear or become costly – which restricts the subsistence rights of groups of farmers who lack sufficient purchasing power.

### **Climate change and livelihood rights**

The vulnerability of the poor is intensified by their lack of power. Nowhere is this as conspicuous as in the bitter knock-on effects of climate change. For the poor come under pressure not only because they stand in the way of the extraction of natural inputs, but also because they suffer the brunt of harmful outputs. It is they above all who are exposed to the consequences of atmospheric pollution, whose effective causes may be unknown to them and are anyway beyond their possible control. Far from being simply a conservation issue, climate change is pretty certain to become the invisible hand behind agricultural decline, social erosion and the displacement of people from their native region. Meanwhile, the anger of its victims lacks a clear focus on which it can be directed.

For this time, colonial destruction comes without imperial power and without an army of occupation. Instead it advances through the air, invisible and insidious, transported over long distances by the chemistry of the atmosphere. When the earth's atmosphere grows warmer, nature becomes unstable. Suddenly it is no longer possible to depend upon rainfall, groundwater levels, temperature, wind or seasons – all factors which, since time immemorial, have made the biotope hospitable for plants, animals and humans. Many biotopes thus become less inhabitable or, in extreme cases, actually uninhabitable for certain kinds of plants, animals and even humans. Obviously, a rise in sea level will make some of the

most densely populated areas of the globe impossible to live in. Less evident is the fact that changes in humidity and temperature will trigger changes in vegetation, species diversity, soil fertility and water deposits – not to speak of possible natural disasters. It is also likely that the environment will become unhealthier: that more harvests will be stricken by vermin and weeds, and that more people will fall ill with malaria, dengue fever or infectious diseases [IPCC 2001]. Studies have shown that, if uncontrolled emissions result in a global temperature rise of 2 degrees, by the year 2050 some 25 million additional people will be threatened by coastal flooding, 180 to 250 million by malaria, and 200 to 300 million by water shortages [Parry et al. 2001]. In short, climate change throws life out of equilibrium, especially in arid and semi-arid regions that are less resistant to climatic or economic shocks.

### **Environmental Refugees in Polynesia**

Tulun and Takuu, two tiny islands off the coast of Papua New Guinea, are close to being swallowed up by the Pacific Ocean. Because of the danger, their 2,400 inhabitants have been asked to agree to immediate evacuation. The two islands, which are also known by the names Carteret and Mortlock, may become victims of global climate change. It is assumed that climate change lies behind the rising sea level that threatens the islands. The government of Papua New Guinea has sent emergency food supplies to the islands, where the inhabitants have had to live on fish and coconut since salt water flooded their fields. Government representatives are encouraging the residents to move to the nearby island of Bougainville, but this advice has led to problems of a different kind. For the islanders are Polynesian, whereas those in Bougainville are Melanesian. Many fear that a distinctive culture will vanish if the people of Tulun and Takuu are forced to give up their native land.

*(Agence France-Presse, 28 May 2003)*

The dangers are greatest for those who are most vulnerable. Not all of the earth's citizens are equally affected by climatic turbulence. It certainly threatens the livelihood of rice farmers in the Mekong Delta, fisherfolk along the coasts of Senegal, livestock farmers in the Ethiopian highlands or slum-dwellers on the slopes of La Paz. Many are being forced to abandon house and home. Changes in agricultural production and productivity are affecting the economic foundations of countless villages and towns. Migration from the land will probably become a growing phenomenon. Shanty towns will be exposed to the danger of mudslides and destruction. And illness will strike those with the least physical and economic capacity to fight it off. The risks from global warming are by no means evenly distributed across the world's population; they disproportionately affect the



socially weak and powerless, who already scrape a bare existence in shanty towns and impoverished city outskirts. The excessive burning of fuel by prosperous sections of the population undermines the physical well-being of the poor and the state of their living environment.

### **Environmental degradation in cities**

It is by no means the case, of course, that city-dwellers emerge unscathed in the drama of ecological burden-shifting. Often marginalization in the cities is intertwined with ecological disadvantaging, and almost nowhere else is the prosperity gap greater than in the large metropolitan centres. Rich and poor, jet-setters and slum-dwellers, superconsumers and nil consumers all live together within the same urban space – and yet live in different worlds. Everywhere inequality holds sway, and the social division of the city leaps to the eye in the distance between villa neighbourhood and shanty town.

As in rural areas, most of the marginal layers in the city suffer as a result of environmental loss. But whereas the rural poor are often denied access to the natural resources needed for their survival, urban slum-dwellers are more physically threatened by the decay of their immediate environment. They cannot rely upon the services of nature which are essential to them as biological beings. Non-monetary goods such as clean air, water, shelter and security are less available in cities than in the countryside. Along with their lack of money, the urban poor have to contend with polluted water, unsafe housing, dirty air and a high crime-rate. Their private poverty is thus intensified by a lack of natural (and partly also social) capital.

The water may contain toxic substances, the air may be damaging to respiratory tracts, excrement may lead to infections, and even the earth may turn out to be unstable. Environmental problems in the cities of the South (and increasingly also of the East) are the result of water shortages, pathogens or toxins present in the air, water or food, and the location of housing in unsuitable places [Hardoy et al. 2001]. More than 200 million urban dwellers – 13 per cent of the world's urban population - have no access to safe drinking water; and more than double that number no access to even a communal toilet. Often there is no sewerage system or refuse collection service, and overpopulation in crowded areas makes it easier for diseases to be passed on. Chronic air pollution means that a choking cough appears normal in many inner-city areas of Asia and Latin America. Thus, environmental problems in the cities primarily involve an assault on the physical organism; they threaten not only social but even physical survival. For this reason, the urban poor are especially prone to avoidable diseases such as diarrhoea, infections and intoxications. And one scarcely need add that these make the burden of poverty completely unbearable, above all for women and children.

### **Contaminated Living Space in Katmandu**

Katmandu, a destination much in demand among tourists from all over the world, is surpassing even Mexico City in its levels of environmental pollution. First there is the water. The Bagmati, the main river in the valley and the most important source of water for drinking, household use and irrigation, is already so dirty as to be an actual health hazard. A number of factories along its banks have turned the river into a sewer for untreated waste and toxic effluent from the carpet, leather, cement and plastics industries. It goes without saying that domestic sewage also finds its way into the river. More than half the city's inhabitants have neither mains water nor a toilet. Bacterial contamination has become an acute danger to health, diarrhoea accounting for nearly half the incidence of infant mortality.

Then there is the air. As Katmandu lies in a basin-shaped valley, it is especially susceptible to air pollution. In the 1990s the number of cars increased by nearly 93 per cent, and motor-cycles and scooters by 118 per cent. Petrol containing lead, obsolete vehicles and congested streets do the rest. Not a few children have high levels of lead in their blood, which can result in such conditions as anaemia and retarded development of the brain. The brick and cement industry, in particular, helps to enrich the air with sulphur dioxide, carbon monoxide and dust particles. Respiratory tract diseases have shot up as result. Doctors say that half of the disease in Katmandu is connected with pollution.

*(Raina 1999, pp. 271 ff.)*

Urban infrastructure and housing policy is often unable to grapple with the accommodation, water, sewage and transport problems. Recently this failure has grown worse as multinational corporations, seeking globalized business locations, put pressure on the various city authorities. It has been shown that factories with toxic waste are happily allowed to start production in areas inhabited by the poor and by ethnic minorities. Competing with one another for corporate location, city halls may oppose less strongly tendencies that are damaging to society and the environment. This reinforces the poverty, social segregation, violence and uneven distribution of risks.

To some extent, pollution also affects the well-to-do. But it hits hardest at low-income groups, which have to suffer disease, injury, premature death and the other costs of degradation. They almost never have access to safe, healthy and spacious accommodation, to legally watertight rental contracts or property deeds, or to dependable services and facilities; they frequently live in parts of town where the first cloudburst may trigger a mudslide. It is therefore not surprising that a close correlation may be established between income level and environmental risk [Hordoy et al. 2001]. For its part, the marginal majority does little to

add to the degradation of the environment: its per capita consumption of fossil fuels, water or land, as well as its production of waste and greenhouse gases, is much smaller than those of the middle classes and higher-income groups. Moreover, the reasons for the pollution and the land shortage are to be located in the consumption patterns of the well-off and the infrastructure that services them. As to their share of the limited urban space, the rich run rings round economically weaker sections of the population.

## **Conflicts over resource prices**

Not all the poor make a living only from the subsistence economy. On the contrary, it is quite usual to find any number of hybrids of independent production and market income. The more market-oriented the poor are, the more their fate depends upon the movement of market prices. This means that the character of poverty has changed: it is neither subsistence poverty (which can at least count on natural or communal resources), nor the kind of poverty that has to manage without such resources and without money either. Rather, we are speaking of people who are money-poor - permanently caught in the scissors of excessive expenditure and insufficient income. Such a pattern is common enough in market economies, of course, but there is obviously a difference of level between having too little and being poor. Actual poverty sets in when the balance between income and expenditure is so great that the subsistence threshold is crossed. This is the classical type of poverty in industrial societies, but in the wake of marketization it has been spreading to the cities of the South and among farmers with little or no land.

The fate of a household with too little money may be related to natural resources in one of two ways: either through production prices or through consumption prices. In the first case, very small-scale farmers are only just able to scrape a living by selling their produce on the local or national market. Their vulnerability is based on the instability of market prices, so that an unexpected collapse of the price for their beans, oil crops, nuts etc. (perhaps due to cheaper imports from abroad) may plunge them into an existential crisis. In fact, foreign competition has repeatedly triggered a dramatic rise in poverty in the South, at least since the British government forced India to import cloth from England in the nineteenth century. But the latest WTO round of liberalization designed to enforce the opening of agrarian markets in the South has seen the drama repeat itself over and over again. Cheap imports, often assisted by all manner of subsidies in the exporting countries of the North, often drive the smallest farmers into ruin. Market-induced changes may lead whole classes of producers to lose their livelihood and even to sink into destitution.

### **The Lima Beans Collapse in Uruguay**

In the province of Canelones in southern Uruguay, lima beans had been a favourite crop for smallfarmers since the late nineteenth century. Well suited to poor conditions, the plant grows in thin soil, does not require expensive inputs, reproduces from its own seeds, provides animal fodder as a by-product, and can rely on consumer demand in Montevideo.

In the past few decades, however, the number of producers fell from 3,789 to 305. Liberalization policies put a few large firms in a position where they felt compelled to import cheaper beans from Peru, Burma and the United States. Prices then went through the floor, sales of lima beans declined, farmers stopped growing them, and another indigenous strain disappeared from Uruguay – together with a little more of the country's food security. Numerous farming families lost their livelihood, and even the resistance waged by a special action group could achieve nothing against the privileges that free trade had given to agribusiness.

*Sánchez et al.*

In the second case, price rises cut off poor sections of the population (mostly living in shanty towns) from a number of essential environmental goods. Recent conflicts in this field have mainly centred on water or electricity, since the privatization of public services in the big cities of the South means that these goods too have become commodities to be sold at a profit. If a customer is unable to pay, then the service comes up for disconnection. Here the commercialization requirement for public goods, so clearly set out in the talks under WTO aegis leading to an agreement on services, comes into conflict with human rights demands. For the poor usually do not have the room for manoeuvre to meet price increases by altering the structure of their demand; higher consumer prices therefore tend to exclude them from any effective demand. This threatens their subsistence rights - especially in relation to water, which is necessary to survival in a purely biological sense. Hence the fury of the protests on the issue. As events in Cochabamba, Soweto and Jakarta have shown, a huge potential for conflict builds up when unjust access to resources deprives sections of the population of the source of all life: water.

## 4 Subsistence Rights and Human Rights

There has been injustice in the world ever since Cain killed his brother Abel. Similarly, the driving of men and women from the land, the assault on their physical well-being and the withdrawal of their means of subsistence have always been standard instruments in the repressive exercise of power. But only since the last few decades of the twentieth century have such ways of holding others cheap been thought to involve contempt for human rights. In the past, according to the age and the local circumstances, they might be seen as violations of the ruler's duties, as infringements of rights and customs, as sins against God or as evidence of oppression. Today, however, a new interpretation is coming to the fore, which lays the stress on the inalienable rights of those under attack. Poverty and humiliation, especially where they are chronic and on a large scale, are considered incompatible with the demands of human rights. Thus, in the age of globalization, it is increasingly the discourse of human rights that sets the terms of reference within which disputes over power and its victims are fought out.

In the human-rights view of the world, people are born with equal rights and these must be recognized and guaranteed by the community. At least in the Western tradition, this conception rests upon an idea of human dignity which demands that individuals should never be treated merely as a means to someone else's end, but should be in a position to decide for themselves how to act. Human rights, then, have an absolute character: they cannot be suspended through some political trade-off or some economic cost-benefit calculation. Nor can they be submitted to a vote, even for the greater happiness of society as a whole. It follows that human rights should have priority over all other moral, political and economic claims. This maxim is addressed to anyone in a position of power. The purpose of human rights is to ensure that people have an elementary capacity for action in the face of power.

As regards international law, the situation before the Second World War was that only states could claim any rights. The rights of individuals were first recognized at international level only with the Universal Declaration of Human Rights, in 1948. This may be seen as the juridical revolution in human rights [Ignatieff 2001, pp. 5 ff.], which went together with a revolution in their advocacy and enforcement. The legal breakthrough came after Nazi crimes and horrors—the worst imaginable disaster for the rule of law—had shown the depths to which a totalitarian *raison d'État* can lead. That experience gave rise to a codification of the basic political rights of each and every individual in the world vis-à-vis state power.

The juridical revolution then made further progress with the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (in force since 1976), and with the world conference on human rights held in Vienna in 1993. Although symbolic politics have often seemed to be dictating the course of things, it has become clear over the years that even rhetorical affirmations can be a political weapon in the hands of the powerless. For these reasons what Ignatieff calls an “advocacy revolution” [Ignatieff 2001] has become visible in the field of human rights. Groups belonging to international civil society – the best-known being Amnesty International and Human Rights Watch – have put various states in the dock for their violations of basic rights. In the name of human rights, numerous campaigns have begun to interfere in the hitherto internal affairs of states – interference which has crucially helped to ensure that the legal revolution does not take place only on paper. With its appointment in 1993 of a High Commissioner on Human Rights, the United Nations gave itself an instrument of its own to investigate excessive internal sovereignty claims on the part of various states. Ignatieff’s “enforcement revolution” [Ignatieff 2001], however, cannot be considered to have happened on a wide scale or to apply in anything other than exceptional cases. Nevertheless, such institutions as the International Courts of Justice in Arusha and The Hague, which tried crimes in Rwanda and the former Yugoslavia respectively, or the International Criminal Court set up in March 2003, demonstrate that a trend is under way which might make human rights violations justiciable, over and beyond the principle of state sovereignty. The above three revolutions have combined to give human rights greater prominence throughout the world. This raises the question of the extent to which human rights can and should provide the legal canon for transnational society.

## **Principal Human Rights Instruments**

### **International Bill of Rights**

The International Bill of Rights consists of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and its two optional protocols and the International Covenant on Economic, Social and Cultural Rights. The Universal Declaration of Human Rights recognizes the indivisibility of human rights. Nevertheless, separate covenants evolved on civil and political rights and economic, social and cultural rights, reflecting the legacy of the cold war.

### **Universal Declaration of Human Rights**

Building on the principles of the UN Charter, the Universal Declaration of Human Rights, adopted by the United Nations on 10 December 1948, is the primary document proclaiming human rights standards and norms. The declaration recognizes the universality, indivisibility and inalienability of the rights of all people as the foundation of equality, freedom, justice and peace in the world.

Adopted in 1966 and entered into force in 1976, the ICCPR defines a broad range of civil and political rights for all people. This major codification of human rights and fundamental freedoms in civil and political areas has been ratified by 144 states parties.

**International Covenant on Economic, Social and Cultural Rights (ICESCR)**

Also adopted in 1966 and entered into force in 1976, the ICESCR defines the economic, social and cultural rights of people. It introduced a new way of looking at development, the rights-based perspective. There are 142 states parties to this covenant.

**International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)**

The ICERD was adopted in 1965 and entered into force in 1969, in the aftermath of decolonization, a period characterized by apartheid and racial and ethnic conflicts. It deals with a particular form of discrimination - that based on race, colour, descent or national or ethnic origin. The convention has been ratified by 155 countries.

**Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

Adopted in 1979 and entered into force in 1981, CEDAW represents the first comprehensive, legally binding international instrument prohibiting discrimination against women and obligating governments to take affirmative action to advance gender equality. The convention, ratified by 165 countries, is often referred to as the International Bill of Rights for Women.

**Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**

The CAT, adopted in 1984 and entered into force in 1989, added an important pillar to the international protection of human rights. The convention, which deals with the right not to be subjected to torture, lays out the steps to be taken by states to prevent torture and other cruel, inhuman or degrading treatment or punishment. It has been ratified by 119 countries.

**Convention on the Rights of the Child (CRC)**

Adopted in 1989 and entered into force in 1990, the CRC recognizes the need for specific attention to protecting and promoting the rights of children, to support their growth, development and becoming worthy citizens of the world. It has been ratified by 191 countries, making it almost universal.

*(UNDP 2000, p. 44)*

For a long time, of course, people's economic, social and cultural rights played a subordinate role in this growing legal awareness. This was also due to the Cold War: for the Western bloc inscribed civil and political rights on its banner, while the Eastern bloc did the same with economic and social rights. The two sets of human rights were ritually played off against each other, with the result that social rights were taken no more seriously in the West than democratic rights were in the East. Meanwhile this confrontation has resolved itself, and the inseparability and interdependence of human rights has been largely accepted [Steiner/Alson 1996, Onuma 1998]. Indeed, it would be hard to understand why disease or inadequate nourishment should be less important than press censorship or religious persecution in affecting people's ability to act. Without social and economic rights, the minimum basis is lacking for equality of civil and political rights – and, conversely, social and economic rights without civil and political rights are robbed of the motive power of freedom. A minimalist conception of human rights that refers only to negative freedoms therefore discriminates against the have-nots and those whose livelihood is threatened; recognition of their dignity requires the protection of subsistence rights. Every human being – more: every human collective – also has a basic right to a living, for the rights to freedom and self-determination cannot gain a foothold without physical and social well-being. Subsistence rights therefore encompass what individuals need to develop as living beings: clean air and drinkable water, elementary health provision, adequate nourishment and clothing, and a roof over one's head [Shue 1980, p. 23].

### **International Covenant on Economic, Social and Cultural Rights**

#### **Article 1:**

(1) All peoples have the right to self-determination, by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

(2) All peoples may, for their own ends, freely dispose of their natural wealth and resources... In no case may a people be deprived of its own means of subsistence.

#### **Article 11:**

(1) The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.



Now and then it has been claimed that civil and political rights only create a duty to refrain from certain actions, whereas economic and social rights require positive action with the help of appropriate resources. This distinction between negative and positive rights also finds expression in the International Covenant on Economic, Social and Cultural Rights, where it is admitted that the duty to implement economic and social rights may depend on the maximum amount of resources available at any given time. But this distinction too may be overcome [Steiner/Alston 1996, p. 282]. For negative rights also sometimes require positive action if their validity is to be ensured: for example, freedom from censorship is meaningful only if press pluralism is guaranteed. Conversely, a policy of refraining from certain actions is important in relation to positive rights: for example, the right to adequate food implies that action will not be taken that leads to the expropriation of land on which the food is grown. In the case of all rights, therefore, it is meaningful to distinguish three levels of obligation on a scale from negative to positive: the obligation to respect, to protect and to guarantee.

It would appear, then, that subsistence rights require the state not only to abstain from restrictions but also to make provision for the realization of those rights; that a human rights policy involves not only negative but also positive rights, not only checks on the state but also deployment of the state; and that human rights may be not only violated but also withheld. On the other hand, of course, a maximalist conception of human rights is also misleading. Everyone has a right to drinking water, but not to a heart operation. The desirable must be distinguished from the necessary, and the successful from the legally recoverable. "Human rights is an account of what is right, not of what is good" [Ignatieff 2001, p. 55]. Political goals do not constitute rights; one may have no obligation to the former but a definite obligation to the latter. But the more that political goals are claimed to be obligations, the closer becomes a collision between everyone's right to a living and everyone's right to freedom and cultural diversity. For this reason it is advisable, as in the liberal tradition, to formulate respect for subsistence rights first of all in terms of negative right: social institutions should be shaped in such a way that they do not structurally and permanently undermine fundamental rights [Pogge 2002]. Secondly, moving beyond respect, the aim should be to protect rights through such measures as legislation relating to trade or monopolies. Only thirdly is it a question of realizing certain rights, through such measures as land reform, so that people are in a position to guarantee their own livelihood. Thus, subsistence rights give rise to three levels of obligation for states and other powerful actors: to refrain from withdrawing such rights, to guarantee their protection, and in the event of loss to ensure that they are restored [Shue 1980, pp. 52 ff.].

The rise of human rights discourse is altering the development debate. The perception of poverty is changing, and so too are the strategies to overcome it; the needs-centred approach is being replaced by a rights-centred approach. Whereas,

in the classical development politics of the 1970s and 1980s [Sachs 1992], the poor were still understood as bearers of needs, they are today seen [e.g. UNDP 2001] as bearers of rights. For a rights-centred approach, poverty stems not so much from lack of money as from lack of power. Instead of figuring only as people in need waiting for handouts, the poor become citizens who are marginalized because of their lack of rights, property, income and political influence. This applies especially to women, who are often worst placed in terms of rights even though they bear the heaviest everyday burdens and often have to support a family on their own. With the changed perception comes a shift in strategic orientation, so that the overcoming of poverty requires a greater focus on basic rights than on basic needs. It is here that ecological subsistence rights are central. For in rural areas conflicts often break out over access to land, water, forest and healthy biotopes, while in the cities they tend to revolve around housing rights, clean air and water, and the supply of electricity. The reference to rights – even human rights – strengthens the position of the poor, since rights can be claimed before courts and are not chargeable. Rights generate duties, needs and – in the best of cases – active solidarity. Anyone who speaks of rights asserts that certain institutions and authorities have an obligation to give an account of themselves; the language of rights strengthens the power of the marginalized. Besides, rights cannot be so easily suspended, whereas the needs of some can always be thrown into the balance with the needs of others. Human rights, in particular, are inalienable; they cannot be set off against the greatest utility for the greatest number. In an age when the poor are often casually sacrificed for tomorrow's hypothetical utility, a rights-centred approach definitely strikes a nerve. In fact, it is the only approach that allows us to derive the claim to a dignified life here and now – and not only in the future.

## 5 Human Rights and Environmental Policy

The claim to equality should by no means count as the heart of justice. Because the ideal of justice encompasses the claim to human dignity as well. The two do not, however, have the same profile: they differ both in their starting-point and in their conclusion. Whereas the demand for equality focuses on relations among people and presses for the evening out of inequality, the demand for human dignity starts from the absolute human necessity of certain living standards and insists that these must be achieved for all. Poverty and oppression are terrible conditions as such for anyone to live in – not, for example, only because others live better. In other words, the distributive conception of justice rests upon a comparative approach that looks at the proportional distribution of various goods and rights; the dignity conception of justice rests upon a non-comparative approach that looks at the provision of certain fundamental goods and rights [Krebs 2002, pp. 95-189]. To use the example of the cake-distributing mother so dear to the hearts of justice theorists, we might say that she acts in the spirit of distributive justice when she gives every guest at a birthday party an equal slice of cake or else measures it out according to age or achievement, but that she acts in the spirit of a dignity conception of justice when she ensures above all else that everyone present will have a sufficient piece of cake. Equality is ensured in the latter case as well, at the level of a sufficient share, but instead of being the goal equality is here a by-product of the dignity conception of justice. On the other hand, the equality of the pieces of cake would count for little if they were not of a minimum size; dignity, beyond a certain size of cake, is a by-product of distributive justice. The conclusion is that both equality and dignity go to make up the ideal of justice; and that a policy for justice will keep in mind both human rights issues and distributive issues.

There can be no question, however, that the safeguarding of human rights is more urgent than the achievement of fairer distribution – especially at the level of the world. Survival comes before a better life. The unconditionality of human rights may therefore serve as the basis for the setting of priorities: the realization of fundamental rights must take precedence over all other activities, including the realization of one's own non-fundamental rights [Shue 1980, p. 118]. Applied to ecological subsistence rights, this means that the right to a living must take precedence over the non-fundamental resource needs of other agents. Subsistence needs come before luxury needs. This formula indicates the basic duty that a recognition of subsistence rights implies for national and international institutions. If we bear in mind that lack of rights is the result of persistent differences in power, then it becomes clear that more rights can be achieved only through

changes (cautious or sweeping) in the power structure. Since everything depends on progress in closing the power scissors, we might speak here of a dual strategy: to increase the room for manoeuvre available to the poor, and to limit the power of the well-to-do.

For the poor to achieve greater room for manoeuvre, local community rights over resources must be recognized and strengthened in cases of conflict. After all, pasture and forest, fields and seeds, fresh water and clean air are valuable sources of nourishment, health, materials and medicine. This is why a policy that protects livelihood rights overlaps with the interest in environmental conservation. Since intact ecosystems mean that the poor are less vulnerable, conservation of nature and the environment is the core of any serious policy to overcome poverty. And, conversely, since effective rights for local inhabitants are the best guarantee that the resources of the poor will not be easily diverted to the rich, a policy of protecting people's right to a decent living is a central plank of natural and environmental conservation. Ecology and subsistence rights are very closely intertwined. Without a doubt, this has been the inspiration for numerous environmental conflicts in the South, but it has also led to the adoption of institutional and legislative measures. Recently the world's indigenous peoples – some 220 million people all told – have gained a greater degree of legal recognition; their demand for territory and resources of their own has several times been upheld in international law [MacKay 2002]. One thinks also of the panchayat forms of village democracy in India, whose strengthening has had something to do with the preservation of local resources [Agarwal-Narain 1991]; or Article 8 (j) of the International Convention on Biodiversity, which emphasizes the role of indigenous communities in protecting biodiversity and calls for equitable sharing of the benefits arising from the use of local resources by outsiders. Perhaps the most convincing example so far, however, is the proposal by the World Commission on Dams that the framework for decisions in major infrastructural projects should be based on respect for human rights. This moves away from aggregated cost-benefit analysis and promotes consideration for the rights and risks of the powerless [WCD 2002].

The aim of limiting the power of the well-off may be based upon elementary principles of fairness. We should not think here of redistribution between rich and poor, but rather of what we might call the minimum principle of justice: that is, all national and international regulations should be crafted in such a way that they do not worsen the lot of the most disadvantaged [Pogge 2002, p. 23; Müller-Plantenberg 1999]. It appears to be a modest principle but is actually quite tough. For the cross-border economic and ecological consequences of production processes, foreign investment, protectionist measures or financial transactions are so enormous that such a principle would bring about a major change of priorities in economics and politics. Both investment decisions and multilateral policy negotiations are characterized by efforts to gain an advantage over rivals –

without much heed to the costs for the most disadvantaged sections of the population, who usually have no place at all at the decision-making table. Examples are not hard to find. Multilateral talks on agricultural issues have mainly been about struggles for competitive advantage between exporting countries, and have ignored the situation of small farmers. World climate talks focus on emission levels that would minimize the loss of well-being in industrial countries, but make light of the loss of subsistence rights for fisherfolk, farmers or delta-dwellers in the southern hemisphere. In terms of international law, however, there is no doubt that human rights are higher than trading or environmental rights; they require that other advantages should be set aside if their realization would put the weak at an even worse disadvantage.

Finally, a transition to sustainability in the more prosperous economies, in both the North and South, is a necessary condition for the safeguarding of the subsistence rights of those whose livelihood depends on direct access to nature. In the short term, more efficient fuel use and agricultural production can ease the pressure on life-serving ecosystems and local communities; greater bargaining-power can also enable local communities to get more compensation and a larger share of the profits. In the longer term, however, the conflicts over environmental human rights can only become sharper if the global class of high consumers is able to maintain its demand for natural resources. Only if demand for oil falls will it no longer be worth opening mines in the primeval forest. Only if the thirst of agriculture and industry abates will enough ground water remain to supply the village wells. Only if the burning of fossil fuels is restricted will insidious climate change no longer threaten the existential rights of the poor. This means no less than that resource-light models of production and consumption in the prosperous economies should serve as the basis for a world resource economy capable of safeguarding human rights. For the statistical fact that a minority of prosperous countries overburden the global environment is now becoming a palpable reality as it leads to the degradation of other societies. Far from conserving only whales and yellow water-lilies, ecological protection is the one way of ensuring that our finite world remains hospitable to a growing human population.

## 6 On the Way Towards World Citizenship?

On 14 October 2001 an endless procession, half family outing, half agitprop, wound its way down from the heights of Perugia through the kilometer-wide valley and back up to the basilica of Assisi. Neither start nor end was in sight, as more than 200,000 people joined the annual peace march. Today's worried men and women who formed its ranks had painted a succinct demand on their banners: "Food, Water and Work" – three words that condensed their alternative to unregulated globalization. Food, water and work are means of subsistence; they are prerequisites of a life fit for human beings. Every citizen of this world, by virtue of his or her existence, has the right to a share in nature and society. The peace march banners thus summarized the core of transnational justice. Without the right to a decent living for all, it is impossible to conceive of a world civil society. At most there would a federation of welfare fortresses living in a permanent state of alert.

The "Food, Water, Work" formula was first introduced by "Tavola della pace", an alliance of civil society organizations that sees itself as part of the critical movement on globalization. In fact, one does not have to be especially perceptive to detect, behind the movement associated with the names Seattle and Porto Alegre, a sense of unease about the fate of human rights in the new century. For the protest essentially grows out of a realization that the future will remain blocked as long as half of humanity has no right to hospitality on this planet. Small wonder that the anti-globalization movement organizes its rallies under the banner of human rights.

Of course, there is also a paradox here: the sensitivity to human rights is itself a product of globalization; the tendency to see men and women first of all as "human beings" is a part of cultural globalization. In the context of the revolutionary constitutions that began to emerge from the late eighteenth century onward, human rights gradually came to encompass everyone living inside a given country. At first, political rights were restricted to male property-owners, but struggles associated with such figures as Ferdinand Lassalle, Clara Zetkin and Martin Luther King successively extended them to workers, women and coloured people. The definition of people as "human beings" gained the upper hand over definitions in terms of class, gender or race. And, since the end of the Cold War, the ground has been crumbling even beneath definitions in terms of national citizenship; men and women acquire rights and duties not in their capacity as citizens of a particular state, but as human beings. Pinochet, despite his former position as Chilean head of state, was detained on charges of human rights violations, and Kosovo Albanians gained international support not as citizens of Serbia but as an oppressed people.

Human rights claims, then, are increasingly asserting their precedence over claims based on a particular country; they apply across national frontiers. Human rights have changed from being universal rights upheld by a national state to being fundamental rights of a transnational world. At the same time, the space of empathy and responsibility has been expanding. The suffering of people living far away is increasingly given the same importance as the suffering of people close to home, and the same value attaches to responsibility for the one as for the other. Human rights in country A also concern citizens in country B; their force is not diminished by distance. Can one imagine stronger evidence of globalization? In its powers of ethical imagination, the Porto Alegre movement is therefore anything but anti-global. The fact is that it attacks the globalized economy in the name of a global morality.

Human rights have changed their locus in the social imagination. Once the legal core of the post-war community of nations, they have now become the utopian horizon of international civil society. In the North as well as the South and the East, civil society refers to the human rights canon like to a constitution for world society. Governments and corporations, trade agreements and investment decisions, all players active in transnational space are increasingly measured by the yardstick of human rights. Not power play between states or economic competition but the realization of human rights (along with respect for the biosphere) should be the defining feature of the emergent world society. For this, civil society can profit from the codifications of human rights that various states agree with one another, and which thereby gain legitimacy as well as indisputable legal force. From this point of view, world society is by no means a space devoid of law; it has a constitution. Yet world society is far from being a republic, and it knows neither democratic representation nor a transnational penal authority. It has a constitution but not a state [Brunkhorst 2002]. This accounts for the yawning gap between rhetoric and reality. For human rights are a constitution without the necessary foundation in laws, procedures and scrutiny. The power of ethical imagination in civil society thus runs on ahead of the political condition of world society. This tension between ideal and reality is the motive force behind conflicts over the shape of globalization.

In the absence of transnational state institutions, all that is left for civil society is ethical mobilization to demand fundamental civil rights in the world; the appeal for human rights steps into transnational space where democracy is lacking. It is scarcely an exaggeration to say that NGOs are here guided by an insight that Kant already formulated in his essay on perpetual peace: “The peoples of the earth have thus entered ... into a universal community, and it has developed to the point where a violation of rights in one part of the world is felt everywhere. The idea of a cosmopolitan right is therefore not fantastic and overstrained; it is a necessary complement to the unwritten code of political and international right, transforming it into a universal right of humanity” [Kant 1991, pp. 107–108].

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