

A COLLECTION
OF EXPERIENCES

STORIES OF VOLUNTARY COOPERATION

LAS Niñas
no se
violan



LAWYERS WITHOUT BORDERS
AVOCATS SANS FRONTIERES
ABOGADOS SIN FRONTERAS
Canada



LEGAL EMPOWERMENT

CAPACITY BUILDING
TRANSITIONAL JUSTICE

STRATEGIC LITIGATION

LEGAL AID AND LEGAL ASSISTANCE

NEXT GENERATION OF HUMAN
RIGHTS DEFENDERS

ADVOCACY

REGIONAL HUMAN
RIGHTS BODIES

PEACE NEGOTIATIONS

SEARCH FOR THE TRUTH

RECONCILIATION

DIALOGUE

GENDER EQUALITY

NON-RECURRENCE
OF HUMAN RIGHTS VIOLATIONS

FIGHTING IMPUNITY

FIGHTING CORRUPTION

SHARING

LESSONS LEARNED

INTERNATIONAL LAW

FIGHTING
DISCRIMINATION

RULE OF LAW

PRIMACY OF THE LAW

EQUALITY BEFORE THE LAW

ACCESS TO INFORMATION

TRAINING

COLLECTIVE MEMORY

PRO HUMAN RIGHTS
CASE LAW

FIGHTING ARBITRARY MEASURES

FREEDOM

GOOD GOVERNANCE

Voluntary cooperation is an integral component of Lawyers Without Borders Canada (LWBC). It is what we do on a daily basis and lies at the heart of our work. That said, we know that voluntary cooperation, as a concept, may appear abstract to some people, and raises a number of questions:

What exactly is voluntary cooperation?

Is it the same as international cooperation?

How does voluntary cooperation serve human rights and justice?

Does it really effect change?

Is it also having a positive impact in Canada?

Who are the volunteers involved in cooperation assignments? Can I become a volunteer, too?

If you've been asking yourself these questions, you've come to the right place.

Lawyers Without Borders Canada (LWBC) is a non-governmental international cooperation organization. Its mission is to contribute to enforcing the human rights of people in vulnerable situations by helping them gain access to justice and obtain legal representation.

It is strictly forbidden to use, reproduce, disseminate, publish, or broadcast the contents of this document, in whole or in part, in whatever form and by whatever medium, without prior written authorization from LWBC, copyright holder. It is, however, authorized to quote and reproduce short extracts of this document without such authorization, provided that the document is referenced correctly, with the title of the document, its author, and year of publication. For authorization requests or other questions, please contact info@asfcanada.ca.

This document was created as part of the Protection of the Rights of Children, Women and Other Vulnerable Communities (PRODEF) project. The PRODEF project is implemented by a consortium between LWBC and the International Bureau for Children's Rights (IBCR) with financial support from the Government of Canada granted through Global Affairs Canada (GAC).

To help you better understand what voluntary cooperation at LWBC is, we've put together a number of blog articles written by volunteers working on international cooperation projects, including the Protection of the Rights of Children, Women and Other Vulnerable Communities project (PRODEF¹).

During their assignment, volunteers are given the opportunity to contribute to LWBC's blog to explain the issues they're working on and share their experiences.

Each of the articles presented here will help you immerse yourself in the world of voluntary cooperation, learn about all the aspects the work involves, and better understand the impact it has on local partners, supported communities, persons in situation of vulnerability, and LWBC volunteers themselves.

Narrowing down our choice to the articles we've selected was not an easy task given the geographic and thematic diversity of the content submitted. Out of the many compelling and incredibly inspiring stories about the work being carried out by our volunteers, we have chosen ten to showcase here.

WANT TO READ MORE STORIES? HEAD OVER TO www.asfcanada.ca/actions/blogue/

¹ For clarity, the rest of this document will refer to the project using PRODEF or the English equivalent of its full name.





This collection of experiences also aims to highlight the tremendous engagement of our volunteers and the contributions they make towards achieving tangible results with regard to access to justice, the realization of human rights, and the fight against impunity.

As we apply the finishing touches to this publication, voluntary cooperation as we know it is being put to the test by the COVID-19 pandemic that is shaking up the world. We don't know when or how voluntary cooperation will be resuming on the ground. That said, LWBC's volunteers haven't put their assignments on hold. They continue, albeit remotely, to contribute to making the law an instrument of change and development. These experiences are a precious testimony to a whole era, and serve as a reminder of how strong and impactful voluntary cooperation has become as it has taken root within organizations and communities on the front line.

Before diving into the world of voluntary cooperation at LWBC, we will first provide some contextual information about voluntary cooperation, its value for LWBC and all stakeholders, and the PRODEF project mentioned previously—one of the main drivers of voluntary cooperation at LWBC over the past years.

In these trying times when solidarity has never been so important, we hope this document will allow you to experience some of the historic victories, moments of joy, great hopes, but also challenges and moments of doubt that voluntary cooperation brings. Above all, we hope the stories will inspire you to become an actor of change yourself.

HAPPY READING!

A Malian woman shares, "A jihadist blew himself up here not so long ago but their madness doesn't frighten us anymore." © King Massassy

TABLE
OF CONTENTS

08

Voluntary Cooperation

08

Voluntary Cooperation
The Cornerstone of LWBC

14

Voluntary Cooperation
Experiences Built on Mutual Exchange

09

Voluntary Cooperation,
Acting at a Local Level

17

Voluntary Cooperation
Strengthening Capacities Through Action

10

Voluntary Cooperation – Who, How, What?

18

The PRODEF Project
The Driving Force Behind
Voluntary Cooperation

12

Voluntary Cooperation
A Powerful Tool for Women's Rights

20

Voluntary Cooperation
A Unique Human Experience

21

Strategic Litigation

DEVELOPING AND INFLUENCING PRO-HUMAN RIGHTS CASE LAW

24

The Contribution of LWBC
Volunteers to a Historic Ruling
in Guatemala

28

Guilty Verdict for the First Eight
Accused of the Assassination
of Berta Cáceres

31

Transitional Justice

POSITIONING VICTIMS AT THE HEART OF THE PEACE AND JUSTICE PROCESS

34

My New Name is BAH Willy

39

Legal Aid and Legal Assistance

THE ROLE OF LEGAL AID AND LEGAL
ASSISTANCE IN MAKING JUSTICE ACCESSIBLE
AND COMPREHENSIBLE

42

Breaking the Deadlock of Arbitrary
and Illegal Detentions in Haiti

47

Generational Handover

NURTURING THE NEW GENERATION
OF HUMAN RIGHTS DEFENDERS

50

Behind the Scenes

54

Developing the Next Generation in Mali: the Key
to Success for an International Cooperation Project

57

Human Rights Advocacy

CIVIC ENGAGEMENT AS A MEANS
FOR ADVANCING SOCIETY

60

The Sinister Price to Pay for Defending Human Rights:
a Presentation of Human Rights Defenders and Community
Leaders in Colombia

64

When Hatred Kills: Daily Violence Against LGBTI
Persons in Honduras

69

Regional Human Rights

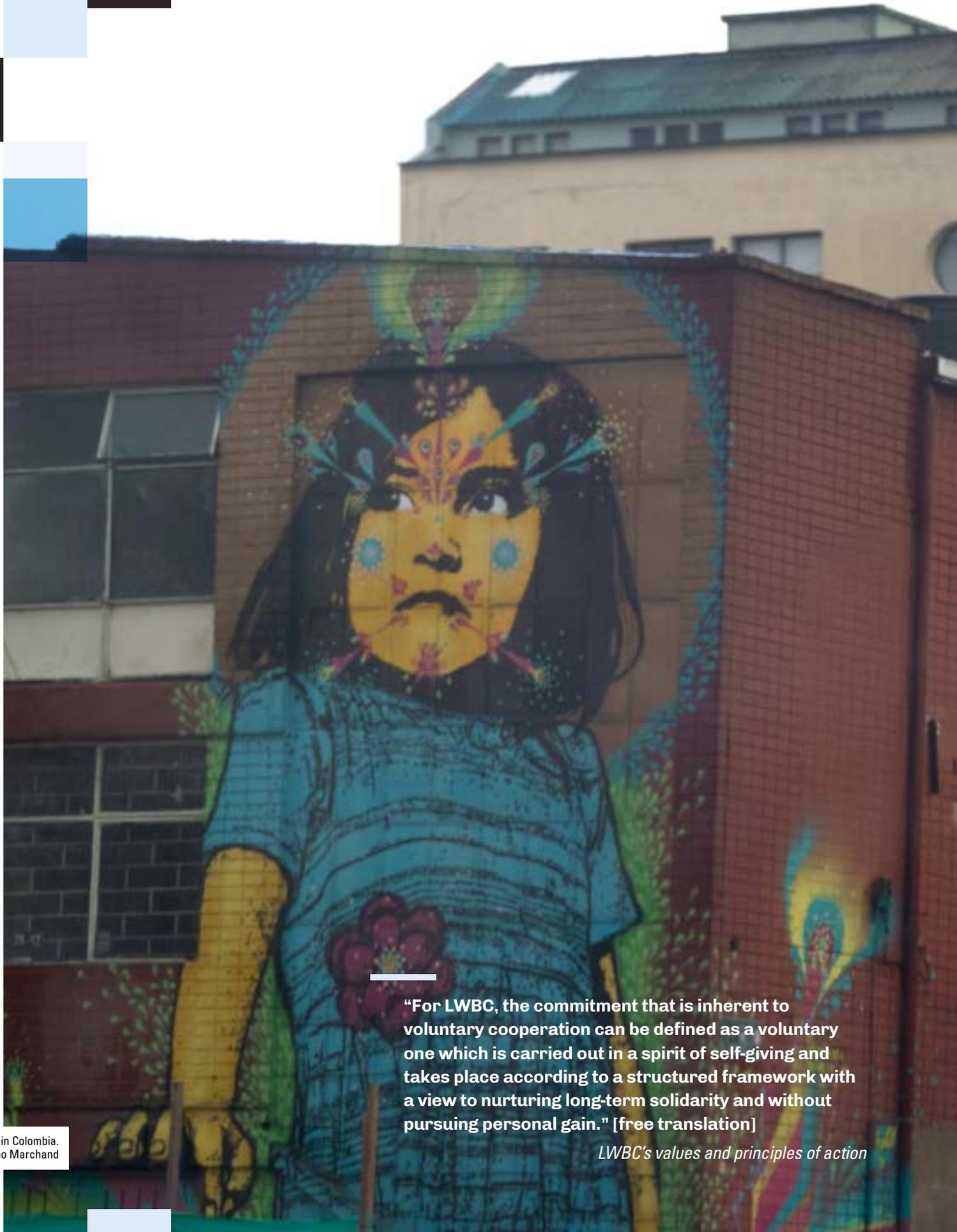
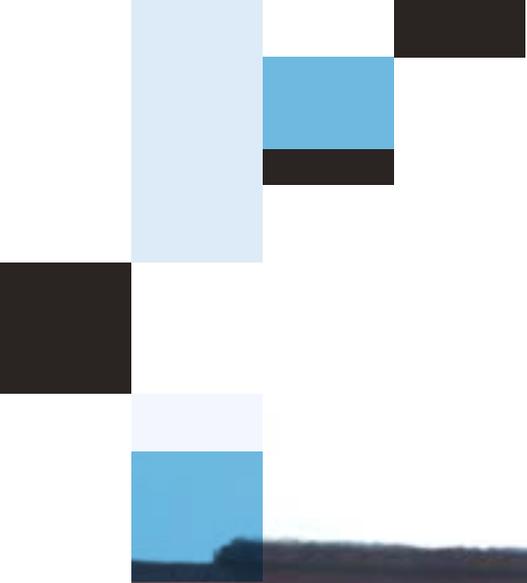
THE IMPORTANCE OF REGIONAL HUMAN RIGHTS
BODIES IN ACHIEVING LARGE-SCALE IMPACT

72

A Unique Experience Pleading Before the African
Commission on Human and Peoples' Rights

76

Terrones Silva et al. v. Peru: Arguing a Case before the
Inter-American Court of Human Rights



“For LWBC, the commitment that is inherent to voluntary cooperation can be defined as a voluntary one which is carried out in a spirit of self-giving and takes place according to a structured framework with a view to nurturing long-term solidarity and without pursuing personal gain.” [free translation]

LWBC’s values and principles of action

VOLUNTARY COOPERATION

The Cornerstone of LWBC

Voluntary cooperation is part of LWBC's DNA. It constitutes the very foundation of our organization and is the fruit of a voluntary movement driven by legal professionals, lawyers, experts and legal advisers deployed among local partners in a number of countries to support them.

Developing voluntary cooperation was one of LWBC's main objectives from the outset. The organization aspired to develop a network of lawyers and legal experts who were willing to take their experience abroad and defend human rights beyond borders. Ever since, the network has continued to expand, so much so that it now constitutes the backbone of LWBC.

In nearly 18 years, voluntary cooperation has not only gained in professional credibility, it has also become much more diversified. The duration of assignments, the nature of the responsibilities and work carried out, the types of partners and beneficiaries involved, the extent of the social and legal challenges at stake, the impact of our interventions, and the backgrounds of our volunteers have never been as diverse as they are today.

To date, nearly **300 volunteers** have carried out over **450 voluntary cooperation assignments** in **22 countries**, representing approximately **37,000 days** of deployment, based on a conservative estimate.

Voluntary cooperation at LWBC particularly stands out as a result of its highly specialized nature. Our actions build on a unique guiding thread: making the law a powerful instrument of change by adopting a process that empowers people in situation of vulnerability and strengthens their legal capacity to take action. This process allows persons in situation of vulnerability and victims of human rights violations (including crimes against humanity and war crimes) to be the main actors in transforming their lives and the society they live in. This is why LWBC, in every action it undertakes, always makes a point of acting in a secondary role with regard to local partners in supporting these people in situation of vulnerability and victims of human rights violations.

Voluntary Cooperation – Acting at a Local Level

In the wider context of international cooperation, voluntary cooperation stands out in that it takes pride in building close relationships between the actors involved. Whether directly within the local organizations hosting them, or remotely from LWBC offices around the world, our volunteers are more than just competent human resources that we "hand over" to partners. They immerse themselves in the daily lives of the communities and organizations they intervene in and fully invest their efforts in the work undertaken on the ground.

Voluntary Cooperation – Who, How, What?

Who are LWBC volunteers?

The individuals who volunteer with LWBC are generally lawyers, legal professionals, articling students, or law students at university. On an occasional basis, LWBC also seeks volunteers with specializations in monitoring & evaluation, gender equality, project management, and communications.

How long do assignments generally last?

Assignments can last for as long as our partners require our support. Most assignments are undertaken for at least eight months and can be renewed. For customized training or occasional or urgent needs, LWBC sometimes organizes short assignments that may last one to three weeks.

What type of partners do LWBC volunteers work with?

Most of the time, volunteers work with lawyers' collectives and civil society organizations that defend human rights. Volunteers can also be deployed to public and parapublic institutions such as national human rights institutions, truth and justice commissions, and specialized prosecutor and judge units.

What exactly do volunteers do?

All the work that LWBC volunteers undertake aims to strengthen partner capacities. Volunteers are not deployed to replace partner staff but rather to contribute to partner activities based on their identified needs.

-
- Monitoring trials;
 - Organizing trainings and workshops;
 - Assisting victims;
 - Sharing experiences during seminars and conferences;
 - Developing legal strategies and arguments;
 - Holding meetings and negotiating with public authorities, stakeholders, victims, international agencies, governments, partners, etc.;
 - Drafting arguments to present before national courts and regional human rights bodies;
 - Preparing evidence and witnesses for trials;
 - Taking part in trials and thematic hearings before regional human rights bodies;
 - Building partners' institutional capacities and participating in their institutional activities;
 - Developing tools that are accessible and adapted to partner and beneficiary needs;
 - Undertaking frontline legal work within communities.



1



2

- 1. Exhibit of banners bearing the image of the victims of the conflict in Guatemala.
- 2. Public demonstration to seek justice for girls in Guatemala.
- 3. Appreciation night for the next generation of actors for justice in Mali.



3



“The volunteers demonstrated great empathy towards the victims during the trial. They succeeded in establishing a relationship based on trust. With time, that sense of trust turned into friendship which enabled the volunteers to prepare the victims for hearings and to face the judiciary process in the best conditions. Such relationships are often tough to establish, but LWBC’s volunteers managed brilliantly.” [free translation]

Asociación Pro Derechos Humanos (APRODEH), Peru

The volunteer legal advisor Liza Yelle outside the *Casa del Terror* where several people were executed and others tortured, Honduras.

VOLUNTARY COOPERATION

A Powerful Tool for Women's Rights

Most of the societies LWBC intervenes in have very high levels of gender inequality, and women and girls are often exposed to violence, including sexual and domestic violence. As they are more likely to face situations of injustice and have reduced access to legal instruments to defend themselves, women and girls are a particularly vulnerable segment of the population. Only on an exceptional basis are women and girls able to turn towards the justice system—still largely in the hands of men—to seek punishment for perpetrators and obtain reparation.



36 women from Rabinal in Guatemala participating in a workshop to learn how to use judicial procedures for themselves in Guatemala.

To address these issues, LWBC uses legal empowerment, an approach that positions the law as a tool to give women more control over their lives. This approach is both a process and a goal in itself. It involves raising awareness and training to increase victims' knowledge and appropriation of the law, legal aid and legal assistance, and strategic litigation in human rights matters. All the mandates our volunteers are entrusted with build on this legal empowerment approach.

As such, our volunteers sometimes play a decisive role in providing direct support to victims of human rights violations. They help victims become the main decision makers and protagonists in effecting change in their lives and in their society. To achieve this, our volunteers make the law understandable to victims who can then use it for themselves. In supporting victims through complex and often emotionally distressing legal and judicial processes, LWBC volunteers develop unique, privileged, and often long-lasting relationships.

VOLUNTARY COOPERATION

Experiences Built on Mutual Exchange



The volunteer legal adviser Elizabeth España during an awareness-raising workshop for women victims and community leaders in the region of Santander, Colombia.

Volunteers provide practical assistance to partner efforts to achieve remarkable results with regard to access to justice, the realization of human rights, the fight against impunity, and peacebuilding.

All over the world, Canadian legal experts are particularly valued for their open mindedness, cohesive attitude, quality training, respect for ethical rules and code of conduct, knowledge of both civil law and the common law system, etc. Furthermore, their strong methodological, analytical, and drafting capabilities make them precious recruits for host organizations.

“What we appreciate the most about the work our volunteer undertakes is her technical expertise, the solid knowledge she has not only of domestic law but also of international law, and her capacity for analysis and synthesis.” [free translation]

Bufete Jurídico de Derechos Humanos (BDH), Guatemala

Thanks to their sound knowledge of international conventions, their skills in analyzing case law, and their understanding of international procedures, our volunteers play an active role in developing legal strategies for partners to implement not only in regard to emblematic cases of human rights violations, but also in regard to advocacy activities and frontline legal support.

“Our volunteer analyzes and systematizes information to draft documents that demonstrate in-depth analysis. This has had a big impact on the work we do.”
[free translation]

Corporación Humanas, Colombia



The volunteer legal adviser Liza Yelle with LWBC partner *Comité de familiares de detenidos y desaparecidos en Honduras* (COFADEH) at the Inter-American Court of Human Rights for the Ángel Pacheco León case involving a political assassination.

In addition to strengthening partner capacities through, among other things, mentoring programs and work and training sessions, our volunteers also help their host organization develop durable tools to carry out their work. These contributions

not only better equip LWBC partners for the future, they also enable them to share their newly acquired knowledge and tools with their network, effecting widespread change in practices and behaviours.

“To help victims’ representatives work on cases more effectively, our volunteer set up systems to categorize and methodically organize cases, manage communications, and monitor petitions on an individual basis. She also developed tools that explain the various procedures and ways of communicating with the COPREDEH (Comisión Presidencial coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos, Guatemala’s presidential human rights policy commission) and with victims. This has had a positive impact on the monitoring processes as well as the efficiency of the work our organization carries out.” [free translation]

Fundación Myrna Mack, Guatemala



Workshop on the right to land in the Petén community in Guatemala.

“All the skills I acquired during my assignment in Côte d’Ivoire are still useful to me today in the performance of my functions as an articling fellow at the Canadian Centre for International Justice. Having acquired adaptation skills, learned how to better manage priorities, optimized my legal research abilities, and much more, I now feel more empowered.”

Marilynn Rubayika, volunteer at Mouvement ivoirien des droits humains (MIDH), Côte d’Ivoire

It is also important to note that LWBC volunteers are never left to their own devices. Managed by an entire team and supported by an LWBC legal adviser and sometimes by partner mentors working in the legal community, volunteers receive continuous support and play a key role in sharing and exchanging best practices between countries.

Our volunteers often point out how fulfilling the experience is, as much on a personal level as on a professional level. The skills they acquire working with experienced partners—at high-level meetings; in unique situations and on notable cases; in dispensing training; in playing an active role in historic trial hearings, peace negotiations, conflict resolutions that make the headlines; in researching and writing about high-profile legal issues; or in communicating on legal matters in a clear and efficient way—turn out to be highly competitive assets which LWBC volunteers can leverage in their future jobs at the end of their voluntary cooperation assignment. Other competencies that are acquired on the ground, such as the capacity to adapt to a situation and the ability to implement innovative solutions, also prove to be extremely valuable when volunteers position themselves in the job market.

“The great responsibility [that was given to me] to draw up the theory of the case for a petition to be submitted to the [Inter-American Commission on Human Rights] was an excellent opportunity for me to develop my ability to work on my own and to grow my knowledge of human rights, of the inter-American legal system and of international law.”

Diana Carvajal, volunteer and articling student with the Barreau du Québec at Asociación Pro Derechos Humanos (APRODEH), Peru

VOLUNTARY COOPERATION

Strengthening Capacities Through Action



Workshop on litigation and oral communication techniques, Colombia. © Fernando Daza Riveros

Legal empowerment—of women in particular—involves making sure that those who are the subjects of rights acquire legal knowledge about their rights and learn how the various informal, administrative, judicial, and alternative mechanisms work so that they can use them to obtain justice and reparation.

This is achieved through awareness raising, training, and the promotion and exercise of their rights, including the right to take part in public life and make their own decisions. LWBC’s role consists of making sure that once the legal tools have been made comprehensible for end users, they are made available to them. LWBC also ensures that legal professionals are adequately trained and ready to tackle the obstacles on the path towards the realization of human rights.

LWBC’s training programs on making legal information accessible to the public empower our partners to contribute to raising awareness by using time-tested participatory approaches to knowledge sharing. In the long run, this provides the beneficiaries of LWBC and partner interventions with a set of tools that enables them to effectively exercise their rights, in addition to being empowered to respond to violations of their rights.

THE PRODEF PROJECT

The Driving Force Behind

Although voluntary cooperation has been at the heart of LWBC's actions since the very beginning, the PRODEF project (Protection of the Rights of Children, Women and Other Vulnerable Communities project) largely accelerated its development between 2015 and 2020.

28 partners supported in **9 countries**: Colombia, Costa Rica, Côte d'Ivoire, Guatemala, Haiti, Honduras, Morocco, Peru, and Tunisia.

A total of **110 voluntary cooperation assignments**, representing **13,284 days** of engagement, have been undertaken by **74 volunteers**.

13 law students from Quebec have become qualified lawyers since their assignment, thanks to the school of the Barreau du Québec recognizing LWBC assignments as international internships.

Voluntary Cooperation – A Powerful Component in Legal Training and Access to Legal Practice

Thanks to its partnership with the Barreau du Québec, LWBC has contributed to training law students, facilitating access to the legal profession and, more generally, to the labour market. Some of the voluntary cooperation assignments LWBC offers count towards the mandatory internships that articling students need to complete in order to become licensed lawyers. Over the years, LWBC experience has shown that voluntary cooperation internships are particularly effective in

that both volunteers and partners gain something from the professional training LWBC and the school of the Barreau du Québec offer. These internships also represent a unique opportunity for young legal scholars in Quebec to put into practice their commitment to human rights, right at the start of their career and alongside renowned senior human rights lawyers and legal experts. As key partners in offering international internships, LWBC and the Barreau du Québec contribute to opening the legal profession out onto the world, to facilitating more inclusion and diversity, and to developing solidarity beyond borders.



The PRODEF project is carried out by LWBC in consortium with the International Bureau for Children's Rights and in collaboration with the Barreau du Québec.

and Voluntary Cooperation

264 strategic litigation cases have received support, with over a third involving women and girls' rights.

4,186 victims of human rights violations have been represented or have received support.

Significant improvements have been achieved with regard to **protecting and defending the rights of people in vulnerable situations** and **strengthening democracy** and the **rule of law**.
For example:

- In a historic judgment, two army commanders were convicted of the enforced disappearance of a child, Marco Antonio Molina Theissen in 1981 during the armed conflict in Guatemala, and for sexual crimes perpetrated against his sister, Emma Guadalupe. LWBC volunteers contributed to systematization of evidence processes and developing the legal strategy that led to these convictions.
- A former soldier was sentenced to 5,160 years of imprisonment for crimes against humanity over the massacre of more than 200 people belonging to the Las Dos Erres community in 1982 during the armed conflict in Guatemala. Several volunteers assisted the victims and lawyers throughout the process that led to this historic victory.
- The Inter-American Court of Human Rights recognized the responsibility of the State of Peru in crimes of torture and the enforced disappearances of five people more than 25 years ago, in the emblematic *Wilfredo Terrones Silva et al.* case. The LWBC volunteer directly contributed to this victory in helping prepare witnesses and submitting questions to them during the trial.
- Statements from 55 women who were victims of sexual violence are being gathered and analyzed by a volunteer to inform the work being carried out by the Truth Commission and the Special Jurisdiction for Peace in Colombia.
- A dialogue was established between the State of Peru and civil society organizations to secure better protection for the rights of girls who were victims of sexual violence. The LWBC volunteer was as much involved in everything leading up to the dialogue that took place as she was in the dialogue itself.



The PRODEF project was implemented with the support of the Government of Canada, provided through Global Affairs Canada.

VOLUNTARY COOPERATION

A Unique Human Experience

Accompanying human rights defenders in their atypical and sometimes surreal daily lives; experiencing the reality of civil society organizations out on the front line fighting injustice, poverty, exclusion, and discrimination; supporting victims of war crimes, crimes against humanity or other serious human rights violations in their laborious and often frustrating experience with the judicial system; participating in historic trials; helping to implement peace agreements, etc.—voluntary cooperation provides extraordinary opportunities that inevitably leave a permanent mark on the careers and, more generally, on the lives of our volunteers.

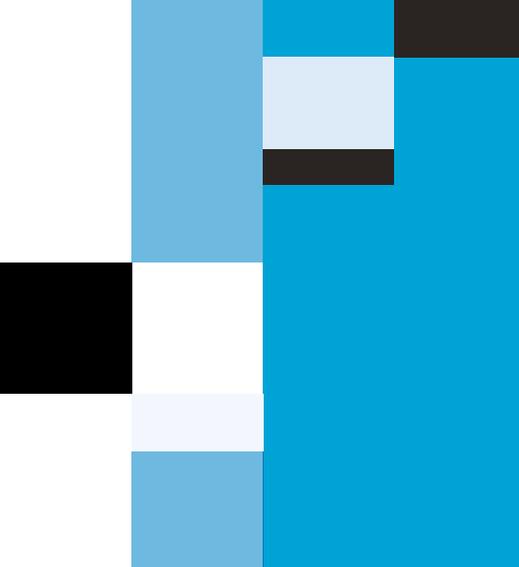
Despite being very well prepared and trained, in accepting to be deployed abroad, our volunteers are aware that they are taking on a different, exceptional, unexpected and unfamiliar challenge. In exchange for this investment, volunteers meet

exceptional human beings, engage in a completely new learning experience, grow with cultural discoveries, become involved in opportunities that bring out their full potential, and more. In short, a truly unique experience.

“Nine months. It’s been nine months since I first arrived in Honduras. I will be leaving this country tomorrow, and only one word springs to mind: thank you. Thank you to this country, thank you to the people I met along the way, thank you for such a unique professional experience... Thank you for everything!”

Aliénor Évreux, LWBC volunteer legal advisor in Honduras

READ ON TO DISCOVER THEIR STORIES.



STRATEGIC LITIGATION

DEVELOPING AND INFLUENCING PRO-HUMAN RIGHTS CASE LAW

The Contribution of LWBC Volunteers
to a Historic Ruling in Guatemala

Author: Dominic Voisard

Guilty Verdict for the First Eight Accused
of the Assassination of Berta Cáceres

Author: Liza Yelle, Lawyer



Public demonstration to pay tribute to those who disappeared during the armed conflict in Colombia.

STRATEGIC LITIGATION

Developing and Influencing Pro-Human Rights Case Law

Strategic litigation in the field of human rights is one of LWBC's main areas of focus. It involves supporting human rights defenders who help bring emblematic cases of human rights violations before national, regional, and international courts in order to enforce the rights of people in vulnerable situations and establish positive legal precedents for human rights.

Challenging the constitutionality of laws and regulations, calling into question discriminatory governmental policies, bringing criminal or civil proceedings for war crimes, crimes against humanity or human rights violations such as torture, extrajudicial killings or sexual and gender-based violence are all examples of strategic litigation cases.

When is litigation “strategic”?

Strategic litigation cases are selected based on criteria such as the nature of the alleged human rights violations, the identity or status of the perpetrators of the alleged crimes, the identity or status of the victims, the extent and seriousness of the violations, or the structural impact that the litigation process could potentially generate.

What purpose does strategic litigation serve?

We use the term “strategic” because this type of litigation aims to bring social impact using the law and by challenging the existing judicial system. Strategic litigation also aims to encourage change with regard to social, institutional, and cultural attitudes for enforcing human rights.

For example, in strengthening the capacities of victims and their legal representatives to obtain recognition by the courts of the responsibility of former dictators in genocides, war crimes, or crimes against humanity, we contribute to making history and counteracting revisionism, fighting impunity among high officials, and bringing about major changes, including within the judicial system, in the way authorities operate, and within society. LWBC has been carrying out such capacity building activities in Haiti and Guatemala.

What role do LWBC volunteers play in this?

LWBC dedicates much of its work to supporting people in situation of vulnerability and their representatives (lawyers, civil society organizations, public or parapublic institutions) seeking to obtain justice through strategic litigation in leading cases. This work is carried out by our volunteers directly alongside LWBC's partners, which means volunteers have the chance to become involved in some of the most high-profile cases on an international scale.



The Contribution of LWBC Volunteers to a Historic Ruling in Guatemala

Author:

Dominic Voisard

Country of deployment:

Guatemala

2012-2013

QUALIFICATIONS

Master of Laws in International and Transnational Law, Bachelor of Laws Université Laval, Canada. Member of the Barreau du Québec.

MANDATE

Articling student with the Barreau du Québec and volunteer legal adviser with LWBC's partner *Centro para la Acción Legal en Derechos Humanos* (CALDH) in Guatemala City, Guatemala.

PROJECT

Strengthening legal representation for strategic litigation on human rights matters in Guatemala.

TODAY

Lawyer and Legal Coordinator at the LWBC office in Guatemala.

LWBC's work in Guatemala started back in 2010. Today, its project aims to support the development of a cluster of human rights lawyers to enable victims and civil society organizations to secure effective representation before national and international courts. The majority of the cases the Guatemala office deals with are linked to the country's armed conflict. In addition to pursuing fair compensation for victims, the cases seek to convict perpetrators for war crimes, crimes of enforced disappearances, torture, and genocide.

It was against this backdrop that I was deployed to LWBC in Guatemala for nine months, to help civil parties prepare for the trial of former dictator José Efraín Ríos Montt and his then-military intelligence chief, José Mauricio Rodríguez Sánchez.

We faced a number of challenges during the legal proceedings, especially as the defendants and their counsel did everything they could to abort the trial.

They attempted several strategies to delay the process, unduly resorting to constitutional redress (*acción de amparo*²) and appealing every ruling even though there were no reasonable grounds for arguing that the first instance ruling was evidently erroneous.

The defence also attempted to hand over the legal proceedings to the military courts and tried enforcing Guatemala's amnesty law which would have left the committed crimes unpunished. Furthermore, the defence lawyers repeatedly violated their code of professional conduct, deciding to collectively exit the courtroom following a ruling they did not agree with. Unfortunately, Guatemala does not have a disciplinary council like the *Conseil de discipline* in Quebec. Instead, it has an "honour court" which requires the approval of ¾ of all members of the bar in order to sanction lawyers who fail to comply with their ethical obligations.

² The *amparo* remedy is an exceptional legal remedy. Its purpose is to assess constitutionality or compliance of the international commitments taken by a number of Latin American countries. It can be invoked once all ordinary recourses have been exhausted, or when no effective remedy is available. *Amparo* proceedings are addressed in emergency hearings and do not require any specific formalities.



Indigenous women in front of a graffiti that translates, "We demand justice", in Ixil, a community in Guatemala where a genocide was committed.

In my capacity as an international volunteer at LWBC, I used my acquired legal knowledge and my understanding of international case law to help draft appeal briefs and amparo remedy briefs to support the legal arguments for the case. I participated in strategic meetings attended by the legal counsel representing the victims and by the prosecution lawyers to draw up the theory of the case.

Over the course of the trial, I helped coach the witnesses and prepare opening trial statements and trial arguments. Every day, with the help of a Spanish-to-Ixil (a Mayan language) translator, I presented the witnesses with questions that they were likely to be asked at the hearing. I had to prepare them for the worst case scenario,

i.e. having their reputation abused by the defence lawyers. The objective was to make sure their statements were as effective and authentic as possible. In other words, they needed to know what to expect before the trial took place.

These first steps in my career were unforgettable. We successfully prepared 100 witnesses from the most remote areas of Quiché (in the north-western region of Guatemala), overcoming cultural and Ixil-to-Spanish linguistic challenges with determination. The prosecutor and civil party lawyers³ also asked us to provide them with fact sheets of our interviews with these witnesses to help them guide them through the court interrogations.

³ Under Guatemalan criminal law, victims of a crime can be represented by a lawyer and, at the same time, participate in the trial alongside the prosecution by providing evidence and presenting arguments themselves. This process amounts to joining criminal proceedings as a private party.



“I hope volunteers specializing in international law will continue to be able to cooperate in the future. Not only is this collaboration beneficial for our partners, it represents an exceptional opportunity for young Canadian jurists who acquire work experience in a completely different legal system to the one they were taught about; have the chance to improve on their command of a second or third working language; and discover the true meaning of the term “victim” as they interact with genuine, inspirational, humble, self-respecting individuals.”



Edgar Pérez, human rights lawyer and Director of the *Bufete Jurídico de Derechos Humanos* in Guatemala.

“These first steps in my career were unforgettable.”

That said, our moderate efforts as volunteers are nothing compared to the long and arduous fight against impunity that our partners have been leading for more than ten years. They have been courageously and tenaciously opposing the powerful untouchables of Guatemala, striving day after day to grant communities in situation of vulnerability access to justice.

(...).

The sentencing of the former dictator is a significant step for society in Guatemala. It brings hope for the silent majority, downhearted in their struggle to fight corruption and impunity. The decision will allow some to heal past wounds in that it recognizes, on the one hand, the disproportionate harm that was caused to Maya communities during the armed conflict, and on the other, the victims' right to truth, justice and non-recurrence of such terrible events.

Tensions in Guatemala have reached a climax and it is not unreasonable to suppose that human rights defenders and justice workers involved in this case might have become the targets of attacks.

A number of them have already been subject to intimidation, been offered bribes and even received death threats. Through LWBC, Canada has played an indirect role in this case and must continue its involvement in the future. Although this emblematic case is a step in the right direction towards establishing the rule of law in Guatemala, the successes achieved so far need to be consolidated through continuous strategic litigation work in relation to the most grave human rights violations in the country. I hope volunteers specializing in international law will continue to be able to cooperate in the future. Not only is this collaboration beneficial for our partners, it represents an exceptional opportunity for young Canadian jurists who acquire work experience in a completely different legal system to the one they were taught about; have the chance to improve on their command of a second or third working language; and discover the true meaning of the term “victim” as they interact with genuine, inspirational, humble, self-respecting individuals.

A huge thank you to LWBC for such a wonderful experience. And I must also thank the school of the Barreau du Québec for funding a portion of my placement as part of its international internship program.



Guilty Verdict for the First Eight Accused of the Assassination of Berta Cáceres

Author:

Liza Yelle, Lawyer

Country of deployment:

Honduras

2018

QUALIFICATIONS

Masters in International Law and the Law of International Organizations, specialization in Human Rights Law, Groningen University, The Netherlands. Member of the Barreau du Québec.

MANDATE

Volunteer legal adviser at LWBC's offices in Tegucigalpa, Honduras. Liza Yelle also completed two assignments between 2016 and 2018 with LWBC partner *Comité de familiares de detenidos y desaparecidos en Honduras* (COFADEH) as part of LWBC's PRODEF project.

PROJECT

Justice, Governance and the Fight Against Impunity in Honduras (JUSTICIA).

TODAY

Associate Resettlement Officer at the United Nations High Commissioner for Refugees (UNHCR) in San Salvador, Salvador.

Berta Cáceres defended the rights of indigenous people and was an environmental activist. She was particularly known for her role in the fight against extractivism and for her dedication to defending human rights. She co-founded the Civic Council of Popular and Indigenous Organizations of Honduras (Consejo Cívico de Organizaciones Populares e Indígenas de Honduras – COPINH) and fought, among other things, against the construction of a hydroelectric dam on indigenous Lenca territory over a river with sacred significance for Lenca people. She was assassinated on March 2, 2016 in her home in La Esperanza, Honduras.

When I arrived at the courthouse on Thursday, November 29, 2018, a crowd had already gathered hours beforehand to gain access to the courtroom and witness the ruling in the trial against the first eight men accused of the assassination of Berta Cáceres.

Everyone was present, just like on September 15th, the day of the first hearing of the trial. Courtroom 1 of the *Tribunal de Sentencia con Competencia Nacional Territorial en Materia Penal* "was the place to be in the capital city that day [...]. Only a few national civil society organizations hadn't sent representatives, and several international organizations had responded to the call for support. The

international community, well aware of the significance of this case with regard to justice in Honduras, had also sent its own delegations. Among them were representatives from the Canadian, U.S., E.U., and Mexican embassies, to name but a few."⁴

In light of the excitement surrounding this ruling and given that this particular courtroom only seated 40 people or so, a ticketing system was put in place.

(...) The ruling that was to be given on that day, November 29th, was so important that the employees of the Ministry of Justice had set up a camera in the courtroom to live broadcast the proceedings on social

⁴ Liza Yelle, *Symbole de la lutte pour les droits humains au Honduras - Le procès entourant le meurtre de Berta Cáceres : entre attente et incertitude*, published on September 19, 2018. Available in French at: <https://www.asfcana.ca/blogue/symbole-de-la-lutte-pour-les-droits-humains-au-honduras/>



Liza Yelle at her desk in the offices of LWBC partner *Comité de familiares de detenidos y desaparecidos en Honduras (COFADEH)*.

media. They also put up loud speakers in the corridor outside the courtroom for those who hadn't managed to secure a place inside. I was later told that all the background noise had made it very difficult to listen to the ruling through the loud speakers.

During the hearing, COPINH supporters gathered in front of the tribunal, where police and military forces had deployed more officers outside than usual. Riot police forces had also been mobilized for the occasion.

Court Ruling

When I was at last able to enter the courtroom with my ticket, I sat in my designated seat: in the second row, in front of the accused. In front of me sat the daughter of Sergio Rodríguez Orellana, one of the accused, and right behind me sat Berta Cáceres's mother. She didn't want to sit any closer because she didn't want to confront the men accused of murdering her daughter.

First of all, the judges presented the facts that they deemed proven beyond reasonable doubt; to a great extent, these

“I sat in my designated seat: in the second row, in front of the accused. In front of me sat the daughter of Sergio Rodríguez Orellana, one of the accused, and right behind me sat Berta Cáceres's mother.”

“The victims will continue to fight until dignity, truth, and justice are served in this case.”

facts matched the theory of the case that had been established by the public prosecution. The judges then ruled on each of the accused’s level of participation in the crime.

(...).

The judges established criminal liability for (...) seven men in the assassination of Berta Cáceres. The four hitmen were also pronounced guilty of the attempted murder of the protected witness in the case. (...).

Doña Austra Berta Flores, the mother of the victim, had tears streaming down her face as the guilty verdicts were pronounced. The family members of the accused were also very moved. When Sergio Rodríguez Orellana was declared criminally liable, his daughter, who had attended the trial nearly since the beginning, cried uncontrollably in the courtroom.

The judges ended the session announcing that the sentences of each of the guilty men would be pronounced on January 10, 2019.

(...).

Press Conference With the Victims and Their Lawyers

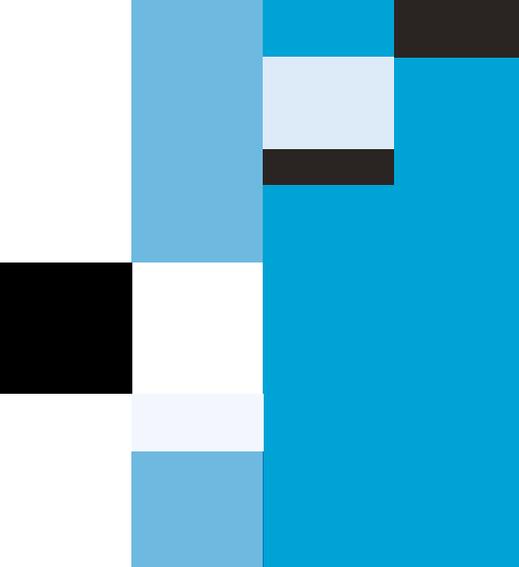
After the hearing, the victims and their legal counsel held a press conference in

front of the Supreme Court. The lawyers said that these convictions were just the first step in the fight for justice regarding Berta Cáceres’s assassination. They demanded that the masterminds of the crime be tried too.

They said that the truth surrounding the facts of this crime was, for the time being, limited to these first men accused, the reason being that the State of Honduras had been impeding further progress by intervening at tribunal and public prosecution level. The lawyers also called out the fact that they had been excluded from the judicial process.

That said, the victims and their lawyers accepted that this was a step in the right direction seeing as the judges had acknowledged in the court ruling the responsibility of the company DESA and its executives in taking part in and organizing the crime. According to the victims’ lawyers, this position taken by the judiciary should urge the government to not wait a moment longer to revoke the license it had initially granted DESA to build the Agua Zarca hydroelectric dam on the river Gualcarque.

The victims will continue to fight until dignity, truth, and justice are served in this case.



TRANSITIONAL JUSTICE

**POSITIONING VICTIMS AT THE HEART
OF THE PEACE AND JUSTICE PROCESS
THANKS TO TRANSITIONAL JUSTICE**

"My New Name is BAH Willy"
Author: William Fortin

TRANSITIONAL JUSTICE

Positioning Victims at the Heart of the Peace and Justice Process Thanks to Transitional Justice

What exactly is transitional justice?

Transitional justice is a series of mechanisms that aim to restore justice in a State that has suffered a major crisis and serious human rights violations. The crisis might have stemmed from armed conflict, a popular uprising, a period of political oppression, or mass violations of human rights such as genocide or crimes against humanity.

It is called “transitional” justice because it is usually implemented in a context of transition, from instability to long-term peace.

From a practical perspective, transitional justice involves the implementation of a number of innovative mechanisms, both judicial and non-judicial, which act alongside conventional institutions. LWBC focuses its interventions around four main areas:

- Fighting for the right to the truth;
- Bringing high officials to justice;
- Enforcing victims’ right to reparation for harm and suffering;
- Establishing guarantees of non-recurrence of human rights violations.

What purpose does transitional justice serve?

- Officially recognizing that victims’ rights have been violated;
- Seeking out the truth and preserving collective memory;
- Obtaining justice for victims and remedying harm suffered;
- Prosecuting crimes committed and punishing perpetrators;
- Preventing further crimes from being committed;
- Contributing to reconciliation, peace, peaceful coexistence, and social cohesion;
- Helping society get back on the path to development;
- Empowering people in situation of vulnerability and victims, including women, to realize their human rights.

What about victims?

Victims are always at the heart of transitional justice policies. Their aspirations with regard to justice, reparations, truth, and reform must be taken into account.

Victims’ needs and priorities must be taken into account at all stages of the process—from the design phase of a transitional justice agenda right up to its implementation.

The success of these transitional justice mechanisms depends, above all, on the victims’ active participation in the process. Victims can, for example:

- Set up spaces for communication with their community;
- Address their claims and recommendations to the government directly;
- Take part in truth and reconciliation commission hearings;
- Suggest legislative and institutional reforms during public consultations;
- Become involved in judicial proceedings by joining as a civil party to the case.

Ensuring successful deployment of transitional justice policies is an area in which our volunteers are particularly active.



My New Name is BAH Willy

Author:

William Fortin

Country of deployment:

Côte d'Ivoire

2018-2019

QUALIFICATIONS

Masters in international studies, University of Durham, United Kingdom. Bachelor in International Studies, York University, Canada.

MANDATE

Volunteer legal adviser with *Mouvement ivoirien des droits humains* (MIDH) in Abidjan, Côte d'Ivoire.

PROJECT

Protection of the Rights of Children, Women, and Other Vulnerable Communities (PRODEF).

TODAY

Volunteer legal adviser for the Access to Justice and Fight Against Impunity in Haiti (AJULIH) project, led by LWBC.

The rumbling sound of the engine and the jolts of the bus are keeping me awake. Outside, I can see the elegant trunks of the silk-cotton trees going by, as though an invisible hand were frantically marking out white stripes all over this green landscape that my gaze cannot let go of. In the distance, I can make out the mountain range, so distinctive of this area of Côte d'Ivoire. I sense the authenticity of this landscape as it exposes both its few remaining untouched areas and its vast scars left by deforestation.

In some way, the scenery is a mirror of the country itself: struck by crises, but standing proud and forever bewildering visitors by its beauty. Nothing could bring me to miss a single second of the splendour unrolling before my eyes. I fight the exhaustion and focus on the horizon. The reason I'm so tired is that I have just completed an intense mission in the field.

This journey back to Abidjan marks the end of a ten-day assignment to the western part of the country, on behalf of *Mouvement ivoirien des droits humains* (MIDH). Over these ten days, we traveled over one thousand kilometres, visited three locations and trained 86 people on sexual and gender-based violence (SGBV), community reparations, and alternative methods of conflict resolution.

Combatting SGBV and Nurturing Peace: From the Mountains of Man to the Banks of the Cavalla River

The mission we have just undertaken is linked to a project that provides assistance to victims, especially victims of sexual and gender-based violence. The project is part of the community reparations process that MIDH is implementing.



Photo taken by a volunteer during his assignment in Côte d'Ivoire.

Since the beginning of the project, MIDH has been holding workshops to facilitate experience sharing and strengthen capacities in the following areas: SGBV prevention, care for SGBV victims on a psycho-social and legal level, awareness raising about applicable national and international SGBV legislation, community reparations, and conflict resolution. As a volunteer legal adviser with MIDH, my job was to deliver introductory training on mediation, and explain a number of elements of the country's new criminal code.⁵

The project had team set out for the western part of Côte d'Ivoire with an aim to strengthen the capacity of traditional leaders, representatives of women's and victims' associations, and other members of civil society and public service employees.

Too Often, Victims Feel Left to Their Own Devices

The training sessions took place in Man (on September 24-25, 2019), in Duékoué (on September 27-28, 2019), and in Guiglo (September 30 to October 1, 2019). In each of these locations, we were greatly impressed by the quality of participant contributions. A number of SGBV-related or conflict resolution tools that we shared during the training will help these participants carry out their functions in the long term.

Some participants are often asked to act as moderators when a conflict arises within their community. Others are also in charge of helping SGBV victims and/or attempting to deconstruct prejudices and myths around SGBV. In addition to these, a number of participants are in charge of raising awareness among the population and combatting certain harmful practices for women and young girls, such as early marriages and genital mutilation.

⁵ Act No. 2019-574 of the Criminal Code.

“Over these ten days, we traveled over one thousand kilometres, visited three locations and trained 86 people on sexual and gender-based violence (SGBV), community reparations, and alternative methods of conflict resolution.”



Photo taken by a volunteer during his assignment in Côte d'Ivoire.



Legal clinic in Bouaké, Côte d'Ivoire.

Whether committed during times of peace or during conflict, SGBV is, sadly, still affecting the lives of many people in western Côte d'Ivoire. This observation stood out as particularly striking as participants talked to us about sexual violence committed during conflicts. This problem isn't unique to this specific region of the country.

(...).

SGBV is still a painfully present issue for these communities. Furthermore, SGBV doesn't just go away when peace returns. SGBV claims victims on a daily basis. The recently publicized death of a three year-old girl after being raped is a harsh reminder of this reality.⁶ In light of all this, it isn't surprising that our training modules on SGBV and caring for victims sparked keen interest among participants.

One of the central aspects of the training was a presentation of the reformed Criminal Code. We addressed many of the novelties contained in the Code, including its definition of rape—it is important to specify here that the previous edition of the Criminal Code did not provide a definition of rape. Project trainers explained the provisions of the Code that punish SGBV. In addition to the Criminal Code, the amnesty decree of 2018, now made law,⁷ was also discussed with training participants, providing them with the opportunity to express their concerns about the consequences of the decree on victims of the 2010-2011 post-electoral crisis.

⁶ <https://www.jeuneafrique.com/839364/societe/cote-divoire-marche-apres-le-viol-et-la-mort-dune-fillette/> (in French).

⁷ Act No. 2018-980 of the ratification of decree No. 2018-669 of 6 August 2018 granting amnesty.

“I definitely won’t forget their faces any time soon.”

My Topic as a Trainer: Conflict Resolution

The second half of the training addressed mediation and alternative methods of conflict resolution. I delivered introductory training on mediation, with particular emphasis on the importance of the role that women play in resolving and preventing conflict. Addressing the fundamental principles of mediation and specific needs of each party to the conflict aroused particular interest among participants.

Designed with a special focus on interactive learning, this training allowed for some rich exchanges. Thanks to conversations I had with the participants, I learned a lot about local practices and initiatives for conflict resolution. This approach also allowed participants to draw up a list of recommendations on the different topics that were addressed and submit them to the State, to community leaders, to the United Nations Development Programme, and to civil society.⁸

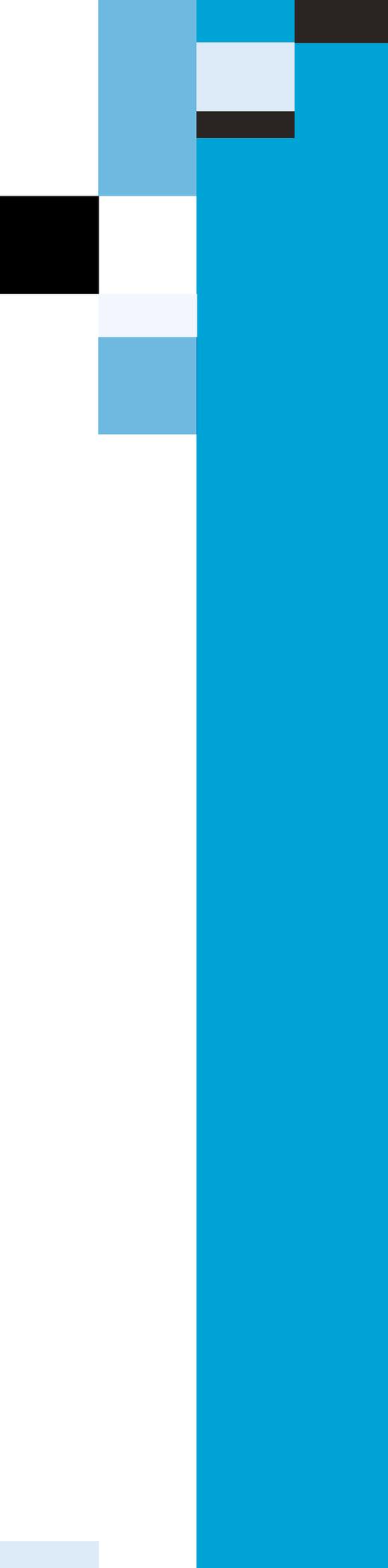
On this bus journey back to Abidjan, my brain is whirring with ideas. As I peer out of the window a couple of hours later, I notice that the forest scenery has given way to urban density. The austere grey concrete stands out against the colourful streets of Yopougon.⁹

Somehow I feel a little different to how I felt when I left the city the week before. It’s as though I had brought something of Western Côte d’Ivoire back with me. It sure is difficult to forget that view I woke up to every morning in Man: the mountains overlooking the city, embraced in a veil of mist—an imposing presence, but reassuring at the same time. It’s even harder to forget the warm welcomes the town’s residents greeted us with. I definitely won’t forget their faces any time soon. And so I make my way back to Abidjan full of gratitude for the women and men who hosted me and amicably called me BAH Willy.¹⁰

⁸ A total of 19 recommendations were made.

⁹ One of Abidjan’s ten communes.

¹⁰ BAH is a relatively common name in western Côte d’Ivoire.



LEGAL AID AND LEGAL ASSISTANCE

**THE ROLE OF LEGAL AID AND LEGAL
ASSISTANCE IN MAKING JUSTICE
ACCESSIBLE AND COMPREHENSIBLE**

Breaking the Deadlock of Arbitrary
and Illegal Detentions in Haiti
Author: Samuel Gagnon, Lawyer



Workshop with the community of Petén
in Guatemala on the right to land.

LEGAL AID AND LEGAL ASSISTANCE

The Role of Legal Aid and legal Assistance in Making Justice Accessible and Comprehensible

Legal aid is a system whereby the services of qualified professionals are made available to victims who can obtain guidance, information, advice and representation both prior to judicial proceedings and once before the jurisdiction of the courts. The aim in developing the capacity of people in situation of vulnerability to take action is to allow them to gain access to frontline legal services, provided free of charge by local partners receiving support from LWBC volunteers.

What are legal aid and legal assistance?

Legal aid enables litigants to gain access to justice at a local level. As such, they receive support in resolving civil, criminal, or administrative matters.

For example, legal aid can be provided in the form of legal counselling, guidance, and support for women who want to obtain a fair share of their family inheritance, file a complaint for domestic violence, put an end to discriminatory practices at work, etc.

Legal aid can then progress towards judicial assistance when people in situation of vulnerability and victims of human rights violations decide to seek justice before local or national courts or administrative tribunals. For example, legal assistance can help a rape victim join legal proceedings against her offender as a civil party. It can also contribute to releasing people who have been wrongfully detained, i.e. without motive or without sentence.

What is the purpose of legal aid and legal assistance?

Ensuring access to adequate legal aid and legal assistance services in our countries of intervention is sometimes difficult for a number of reasons, including: general weakness in the judicial system, absence of governmental legal aid services, lack of affordability, etc. In order for people in situation of vulnerability, including women and girls, to stand a real chance of gaining access to justice and reparations, they need to have access to appropriate, diverse, and robust legal services at a local level. Our civil society partners make this possible, by supporting them in obtaining effective access to justice in civil, criminal and administrative matters, and providing support through a holistic approach that takes physical and mental health care into consideration.

LWBC volunteers are actively involved in this multidisciplinary approach.



Breaking the Deadlock of Arbitrary and Illegal Detentions in Haiti

Author:

**Samuel Gagnon,
Lawyer**

Country of deployment:

Haiti

2018-2019¹¹

QUALIFICATIONS

Bachelor of Laws (LLB), Université Laval, Canada. Member of the Barreau du Québec.

MANDATE

Volunteer legal adviser at *Réseau national de défense des droits humains* (RNDDH), Port-au-Prince, Haiti.

PROJECT

Access to Justice and Fight Against Impunity in Haiti (AJULIH).

TODAY

Civil liability and insurance lawyer at Langlois lawyers.

In Haiti, 75% of the incarcerated population have not yet been tried. That's right, 75%. This is one of the main causes of prison overcrowding and deplorable detention conditions in the country's prisons. Haiti recognizes the critical nature of the situation, and the need to take action to uphold the rights of individuals deprived of their liberty. During an interview in 2017,¹² the former director of the Haitian Prison Administration, Jean Gardy Muscadin, admitted that the "conditions [were] out of line with international detention standards."

The problem is twofold. The first is that most people who are suspected of having committed an offence (still presumed innocent) are imprisoned for lengthy periods of time without trial. This is what is known as "arbitrary and illegal detention". Secondly, the individuals who are in prison—regardless of whether they have been convicted yet or not—live in inhuman and degrading conditions.

Raising Awareness About the Problem

Most of the time, commitment to human rights stems from a sense of outrage that one might feel when witnessing an unjust situation. As far as illegal and arbitrary detention in Haiti is concerned, it is essential to work on raising awareness of the problem in order to mobilize political and social stakeholders to act on the issue.

A number of actors have been drawn to the pressing situation around detention in Haiti. Civil society plays an important role in maintaining a presence in detention centres and keeping in contact with authorities. RNDDH (a national network for the defence of human rights), among other LWBC partners, is an organization that is recognized by the Penitentiary Administration Department, which means it is allowed to undertake visitations to prisons whenever it wants. Another LWBC partner, the *Office de protection*

¹¹ Samuel Gagnon was already a lawyer at Langlois lawyers when he was posted on this assignment, which he carried out on leave.

¹² See <https://www.youtube.com/watch?v=rFynTA3jQLQ> (in Haitian Creole with French subtitles).

“In Haiti, 75% of the incarcerated population have not yet been tried.”



Port-au-Prince courthouse, Haiti.

du citoyen (OPC, equivalent to a Human Rights Ombudsman or Commission), plays a frontline role in advocating on the matter.

The media are also mobilized around the question, and the topic quite often makes the headlines. The work the media carry out in informing and raising awareness is progressing towards a collective realization regarding the situation. (...).

Involving Youth

Involving youth fosters reflection among younger generations through the sense of outrage they might feel as they witness unfair situations. Involving youth is also a

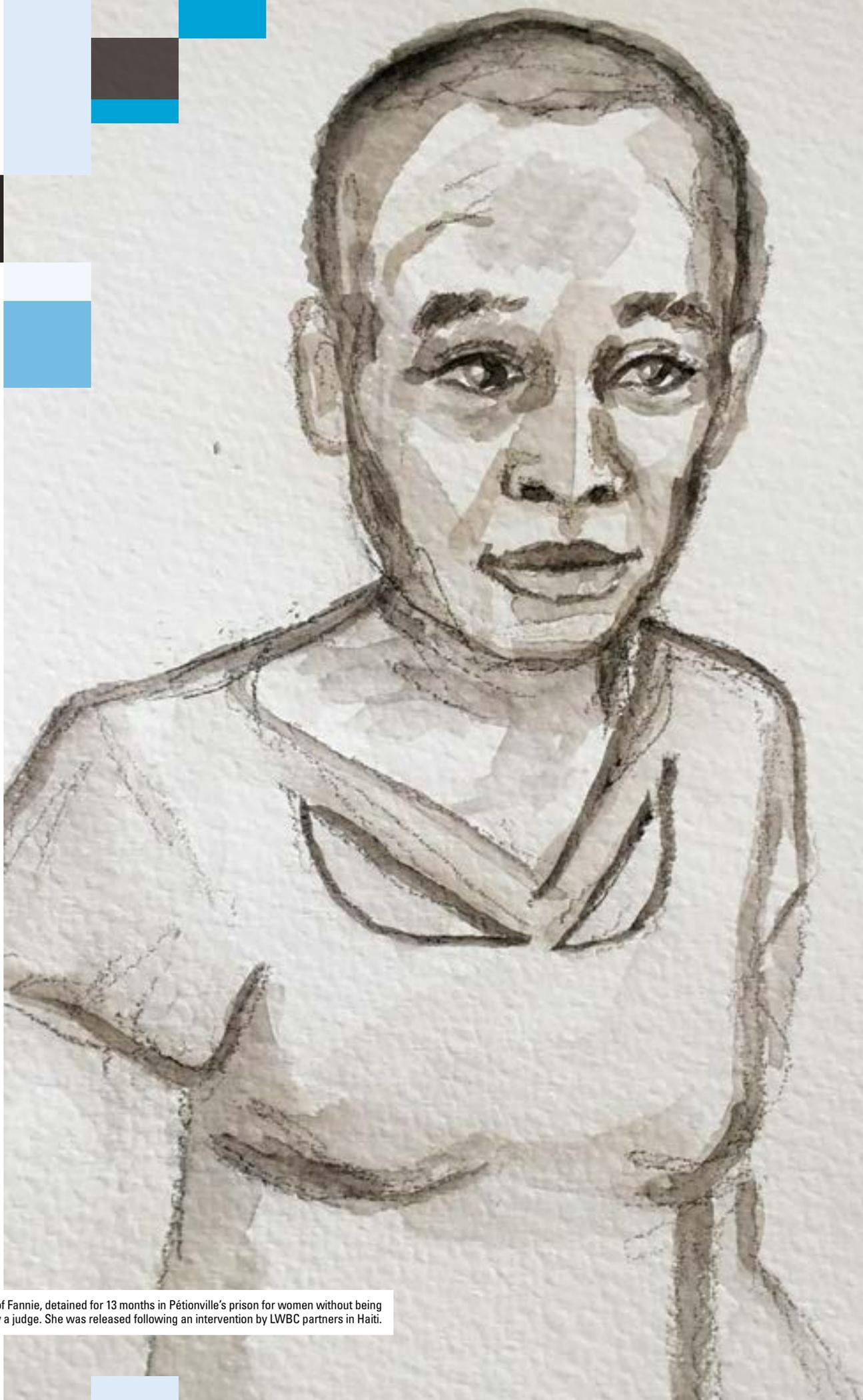
great opportunity for providing them with the necessary means to take part in the public debate by endorsing their role as drivers of change within their communities.

The partnership between LWBC and the FOKAL Foundation (Foundation for Knowledge and Liberty), specifically targets youth through awareness-raising activities related to human rights.

During a coaching seminar organized for the youth members of the debating club in the town of Jérémie,¹³ I was asked to hold a discussion on the issue of detention in Haiti. (...).

“Most of the time, commitment to human rights stems from a sense of outrage that one might feel when witnessing an unjust situation.”

¹³ A video published on line (in French) provides a summary of the event.



A portrait of Fannie, detained for 13 months in Pétienville's prison for women without being heard by a judge. She was released following an intervention by LWBC partners in Haiti.

“The many successful *habeas corpus* proceedings that have been brought over the past months have contributed to reducing the number of people held in extended pre-trial detention in civil prison establishments in the Port-au-Prince jurisdiction.”

The seminar had two aims on that particular day: to raise awareness among the youth of the Jérémie debating club on the reality inside the town’s prisons, and to empower them to implement their own awareness-raising activities on the subject.

A few months later, on May 4, 2019, the youth of the debating club organized an awareness day on the rights of detainees. During the event, youth visited the prison in Jérémie, staged a demonstration in the town, and invited their fellow citizens to a conference on the subject.

Pre-trial Detention: A Measure Designed to be Exceptional and Temporary

Over time, extended pre-trial detention has become institutionalized in Haiti as a result of delays—and paralysis in some cases—in the judicial system. Most of the time, arrested individuals are imprisoned whilst they wait for a decision on the charges against them, or whilst they await trial (once charges have been brought). This practice is supposed to be exceptional and temporary, but it has become commonplace over the past years. Quite often, individuals who are still presumed innocent spend several years in prison as a result of this malfunction in the criminal justice process.

The Constitution of the Republic of Haiti states (Article 26) that a judge must decide on the lawfulness of a detention within 48 hours following the arrest. It also provides (Article 26.2) that a specific judicial procedure (commonly referred to as the remedy of *habeas corpus*¹⁴) can be invoked in order to demand the release of the individual being unlawfully detained.

Other solutions include the judicial route. The many successful *habeas corpus* proceedings that have been brought over the past months have contributed to reducing the number of people held in extended pre-trial detention in civil prison establishments in the Port-au-Prince jurisdiction. The number of detainees dropped from 4,918 to 3,318 from December 2018 to July 2019. The nomination of the new Government Commissioner Paul Éronce Villard for the Port-au-Prince jurisdiction in December 2018 sped up case processing and contributed to improving the situation by halting the sending of more innocent people to prison. This progress does, however, seem to only be happening in the capital, Port-au-Prince. Figures for other departments in the country are not as encouraging.

¹⁴ To find out more about this mechanism, visit [Maroussia Lévesque’s blog article](#) (in French).

“Detaining innocent individuals must stop, and those who have been found guilty must be treated as human beings.”

Beyond successfully releasing detainees whose legal guarantees were violated, it is important to bear in mind that those who get out following several years in prison generally suffer physical, psychological, and interpersonal aftereffects.

Compensating victims for unjust treatment would likely be one way of remedying—at least in part—the suffering they have undergone, and the violation of their dignity. However, over the past few years, no victim has yet received any such compensation. (...).

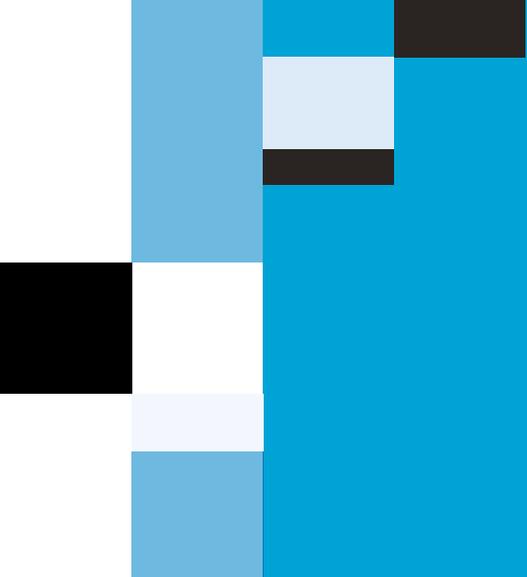
Rethinking Prisons

Human rights violations—arbitrary detention, inhuman and degrading treatment, etc.—are happening under Haiti’s penitentiary system, and this isn’t news to anyone. As such, it is now absolutely crucial to redesign the way prisons function.

The main priority is to upgrade penitentiary facilities in order to improve the detention conditions of the individuals who live in them. Detaining innocent individuals must stop, and those who have been found guilty must be treated as human beings.

Secondly, a thought process must be initiated as to what function prisons play in society in Haiti. Whether prisons are a “school for crime” or a death sentence in itself, penitentiaries are a breeding ground for adverse socialization—a sign of the system’s failure to uphold its responsibility of reintegrating detainees into society. Once released, former detainees often face the harsh judgment of society and end up in isolation. In light of these observations, we must think of transformations that need to be effected in order to reform prisons in Haiti. We need to rethink the penitentiary system in a way that puts more emphasis on education and reintegrating those who are deemed temporarily unfit for society.

Taking the reflection process a little further, recourse to imprisonment can itself be called into question as a solution to combatting crime and insecurity in the country. Complementary institutions could be reinforced so as to address the issue at its root causes: poverty, lack of education, the inaccessibility of the justice system, unemployment, precarious economic conditions, and a failing healthcare system (including mental health).



GENERATIONAL HANDOVER

NURTURING THE NEW GENERATION OF HUMAN RIGHTS DEFENDERS

Behind the Scenes

Author: Andrée-Anne Perreault-Girard, Lawyer

Developing the Next Generation in Mali: the Key
to Success for an International Cooperation Project

Author: Jean-Christophe Durand



Workshop on litigation and oral communication techniques, Colombia. © Fernando Daza Riveros

GENERATIONAL HANDOVER

Nurturing the New Generation of Human Rights Defenders

In order to position the law as a key instrument for people in situation of vulnerability and victims of human rights violations to use in order to take ownership of their rights and exercise them for a chance to change their lives, it is essential that they have access to lawyers who are not only qualified from a technical point of view, but are also committed to advancing human rights and fighting impunity. As such, LWBC implements projects that aim to shape the next generation of human rights lawyers and develop the capacities of young legal scholars, so they can defend human rights throughout their future career.

Lawyers: Actors of Change

The direct partners who are involved in LWBC's projects are all actors of civil society, including especially lawyers, legal scholars and human rights organizations. In upholding values that significantly contribute to strengthening the rule of law, good governance, and the promotion of human rights as a means to help vulnerable litigants, these actors are absolutely essential.

Given the context in which they intervene—political instability, fragile institutions—the lawyers who represent victims in civil proceedings on matters involving human rights violations often stand as key pillars for the rule of law, and act as obstacles to injustice and impunity. Their

direct intervention in these matters and interactions with legal stakeholders makes a significant difference.

LWBC's firm belief in this approach provides organizations with the necessary drive to empower these lawyers not only to contribute to accelerating prosecution efforts through significant legal and judicial accomplishments (and modernizing the law in so doing), but also to advance the effective operation of the judicial system as the ultimate guardian of the rule of law.

LWBC volunteers devote much of their energy to empowering and supporting legal professionals who represent victims.

How do you develop this new generation?

To help develop this new generation of human rights defenders, LWBC (with the help of its volunteers) supports partners in providing:

- Professional training and mentoring programs that meet the experience and needs of young legal scholars, especially women legal scholars;
- Internships for local lawyers;
- Scholarships;
- Moot court competitions;
- Partner and mentor programs;
- Employability opportunities.

What about in Canada?

Shaping the next generation doesn't only involve supporting future human rights defenders elsewhere in the world. It also involves encouraging this new generation in Canada. In this sense, LWBC acts as a laboratory for the advancement of human rights, training a contingent of new practitioners within the legal community in Canada who are committed to assisting people in situation of vulnerability. During their assignment, LWBC volunteers are themselves under the supervision of experienced human rights defenders. The experience inspires our volunteers and nurtures their commitment to the human rights cause so they can, once back in Canada, become actors of change themselves by integrating a strong human rights component into their work.



Behind the Scenes

Author:

Andrée-Anne Perreault-Girard, Lawyer

Country of deployment:

Honduras

2015-2016

QUALIFICATIONS:

Masters in International Law, Université Laval, Canada. Member of the Barreau du Québec.

MANDATE:

Volunteer legal adviser with LWBC partner *Comité de familiares de detenidos y desaparecidos en Honduras* (COFADEH) in Tegucigalpa, Honduras.

PROJECT:

Protection of the Rights of Children, Women, and Other Vulnerable Communities (PRODEF).

TODAY:

After working as a legal adviser at LWBC headquarters, Andrée-Anne is now a lawyer at *Refuge pour femmes et enfants victimes de violence* (a shelter for women and child victims of violence) in Montreal.

Losing cases is a common reality for lawyers and legal scholars. In spite of the emotional detachment they must maintain in performing their job, the hardest cases to lose are those which take up the most time and energy, and the ones where the stakes are high and involve victims that the lawyers or legal scholars may have developed an affection for.

Sitting in the shade of a coconut tree with my feet in the sand, I (...) was thinking about what I'd read on what I had believed to be crimes against humanity committed in Honduras. I looked back on the most gruesome case facts, the remedies, the lack of response from the State. I muttered words like "impunity", "high officials", and "International Criminal Court" out loud.

A few hours later, just as my seaside vacation in a neighbouring country was coming to an end, signaling my return to Honduras, I received some devastating news: the Prosecutor of the International Criminal Court (ICC), Fatou Bensouda, had concluded the preliminary examination initiated by her Office in November 2010 into the situation in Honduras.

The Prosecutor of the ICC had determined that the legal requirements of the Rome Statute for opening an investigation into the situation in Honduras had not been satisfied. Following her meticulous legal and factual analysis, she had decided to conclude the preliminary examination into the situation in Honduras.

Close Curtain. The End.

Between 2009 and 2012, human rights organizations such as COFADEH submitted over 30 communications to the Office of the Prosecutor of the ICC (OP-ICC), setting out in great detail a series of serious crimes committed against groups of civilians in Honduras. In November 2010, Ms. Bensouda's predecessor, Mr. Luis Moreno Ocampo had announced the opening of the preliminary examination into the situation in Honduras.

(...).

Since my arrival three months earlier, my COFADEH coworker and I had been investing our best efforts into gathering information and building a well-supported case in response to the PO-ICC's decision to open a preliminary examination. The



Volunteers Andrée-Anne Perreault-Girard and Laurianne Ladouceur during a meeting with LWBC partner *Comité de familiares de detenidos y desaparecidos en Honduras (COFADEH)*.

first big challenge for both of us was a cultural one. On several occasions, some human rights violations cases which my colleague deemed important didn't satisfy the necessary legal requirements to qualify as crimes against humanity. I hadn't yet grasped the full social and political context surrounding the coup d'état and its consequences, whereas my colleague had been immersed in that reality for so long that she sometimes found it difficult to take a step back when looking at the facts of a case. We then had to hunt for and summarize hundreds of documents to support each case. Given the absence of any investigation into the

events in Honduras, there were no judicial records we could use as a reference. This meant that we had to rely on alternative sources of information such as statements published by other NGOs, reports of international bodies, etc. Our toughest challenge, though, was linking the crimes to high officials. In the absence of prior investigations and judicial procedures and in light of the country's widespread culture of impunity, this was certainly the hardest obstacle to overcome. In fact, due to the high levels of violence and violent crime rates in Honduras, many political attacks were treated as ordinary crimes, which complicated matters even further.

“Since my arrival three months earlier, my COFADEH coworker and I had been investing our best efforts into gathering information and building a well-supported case in response to the PO-ICC's decision to open a preliminary examination.”



A woman contemplating a loved one, a victim of the enforced disappearances carried out in Honduras.

“How can someone who works over six days a week, risks her life to represent victims before national courts with little or no chance of winning, accept such a rejection on the part of international institutions?”

But we overcame these challenges, and once the case was sufficiently supported, I took leave, feeling exhausted, but satisfied. My colleague, who was just as exhausted as I was, was on her way to the Inter-American Court of Human Rights in Washington, where even more work awaited her.

I would like to particularly highlight this point. Honduras is not my country; I didn't find the organization I was working; the fight I was leading wasn't mine per se; I didn't know any of the victims on a personal level. Despite all of this, and despite the fact that I had only been living and only been fully committed to my job for three months, I felt crushed by the news. So how is someone who has dedicated her entire life to a specific cause supposed to react to this? Just get back to work and continue fighting? How can someone who works over six days a week, risks her life to represent victims before national courts with little or no chance of winning, accept such a rejection on the part of international institutions?

Out of respect for my colleague, I must acknowledge that there is nothing glamorous about defending human rights. Although it is an area of law that drives inspiration and motivation, it carries its fair share of disappointment, too. My colleague will never read this; even if I translated it, she would be too modest to accept the compliment. I would still like to express my unconditional respect for

her, for the members of the COFADEH, and for all the human rights defenders in Honduras.

On October 30, 2015, all the members of human rights organizations in Honduras were invited to a press conference with the ICC Prosecutor in a hotel in downtown Tegucigalpa. A total of 17 civil society organizations showed up at the location at the specified time. In a sign of protest, however, they gathered in the room next to the one where the members of the ICC were holding their roundtable to discuss the next steps of the procedure.

Although I don't necessarily agree with this approach, I must recognize that despite the disappointments our work as LWBC volunteers can sometimes lead to, there is never a dull moment in Honduras.

“I would still like to express my unconditional respect for her, for the members of the COFADEH, and for all the human rights defenders in Honduras.”



Developing the Next Generation in Mali: the Key to Success for an International Cooperation Project

Author:

Jean-Christophe Durand

Country of deployment:

Mali

2018-2019

QUALIFICATIONS:

Masters in International Studies, Université de Montréal, Canada.
Bachelor of Laws (LLB), University of Bordeaux, France.

MANDATE

Volunteer legal adviser at LWBC's Bamako office, Mali.

PROJECT

Justice, Prevention, and Reconciliation for Women, Minors, and Other Persons Affected by the Crisis in Mali (JUPREC).

TODAY

Specialist consultant in international law.

The concept of “next generation” lacks clarity and is rather abstract. Although it is referred to regularly, it is seldom defined. What if the “next generation” was in fact the solution to successful international cooperation: the cornerstone to a partnership, an exchange, and a common desire to succeed, progress, and grow?

A few months have passed since starting my assignment as an LWBC volunteer in Mali. I work with the “next generation” on a daily basis— actually, all aspects of the JUPREC project are supported by young legal experts from all over Mali.

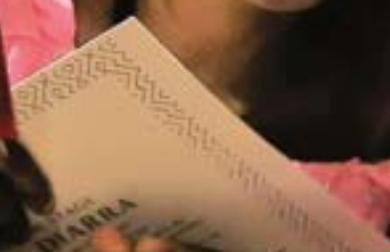
Thanks to a strong sense of trust between the JUPREC project and the young Malians involved, support for shaping this next generation is mainly provided through collaboration and training. More specifically, the project increases awareness among young legal professionals and provides them with training and support. This new generation is the expression and embodiment of the desire for change that emanates from Malian society. Above all, these young people represent hope for Mali today, and its voice for tomorrow.

The objectives that the JUPREC project has set with regard to youth include professional integration and awareness of human rights. To date, over 60 young legal scholars are involved in the project in some way or another and receive support and take part in capacity building activities provided by the actors of the project.

In addition to its involvement these past years with TRIJEUD (*Tribune Jeunes pour le Droit au Mali*, an association of young legal scholars in Mali) in strengthening capacities through, among other activities, a moot court competition, the JUPREC team has also been working on an advanced legal training program for young professionals (...). As well as receiving comprehensive courses in preparation for the bar exams to become lawyers or judges, the individuals supported by the JUPREC project complete a 12-month placement in one of several partner law firms or other partner organizations such as Women in Law & Development in Africa (WILDAF), to name but one.

SOIRÉE DE LA RELÈVE GÉNÉRATIONNELLE

BAMAKO 2019



LIATION POUR LES FEMMES, MINEURS ET AUTRES PERSONNES AFFECTÉES PAR LA CRISE AU

JUPREC
CERTIFICAT DE REUSSITE
KOMIBA SAMAKE

JUPREC

JUSTICE, PRÉVENTION, RÉCONCILIATION

UN PROJET DU CONSORTIUM



ASF
Canada

ENAP



Next generation celebratory event in Bamako, Mali.

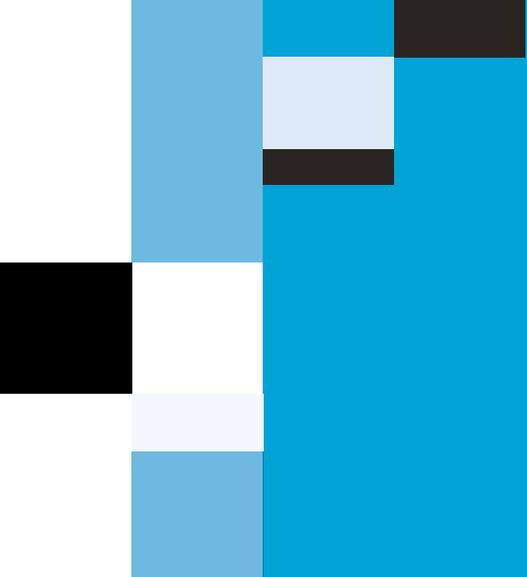


“To guarantee stability for Mali in the future, awareness needs to increase among youth today. Although they may all have different professional aspirations, they’re all working towards the same goal: for Mali to become a State that respects the rule of law and makes no room for impunity, a State in which corruption shifts from normality to illegality, a State in which human beings have rights that they can enforce.”

What is the point in fighting for peace and respect for human rights if there is no one to make sure the battle continues? To guarantee stability for Mali in the future, awareness needs to increase among youth today. Although they may all have different professional aspirations, they’re all working towards the same goal: for Mali to become a State that respects the rule of law and makes no room for impunity, a State in which corruption shifts from normality to illegality, a State in which human beings have rights that they can enforce. Whether they go on to become lawyers, judges, activists, members or leaders of NGOs, the aim of JUPREC’s “next generation” program is to increase awareness among young legal scholars in Mali so that they feel more involved in the fight for human rights—a fight which the actors of the JUPREC project and the whole legal community in Mali are leading right now.

Just as the second group of legal scholars (who completed their placement between 2017 and 2018) are taking up professional opportunities, the youth in the third group are just starting their professional training. Several members of the first and second groups have since come together and founded *Terre de Justice*, an organization which will help them keep up the impetus for change in Malian society.

In the pursuit of its capacity building activities, the JUPREC project team created LJDH-Mali (*Ligue de juristes pour la paix et le respect des droits humains*, a league of legal professionals for peace and respect for human rights). The program was launched in October 2018 and aims not only to increase legal scholars’ knowledge of the law, but also to develop their practical skills in other fields. Project management, communication, international humanitarian law, awareness of sexual and gender-based violence, budget management, and English language are areas which, once mastered, will be valuable assets for young professionals entering the job market.



HUMAN RIGHTS ADVOCACY

CIVIC ENGAGEMENT AS A MEANS FOR ADVANCING SOCIETY

The Sinister Price to Pay for Defending Human Rights:
a Presentation of Human Rights Defenders and Community
Leaders in Colombia

Author: Elizabeth España

When Hatred Kills: Daily Violence Against LGBTI
Persons in Honduras

Author: Floriane Basile

8'785.305 VÍCTIMAS
del Conflicto armado

losto

luego



A wall painting on the armed conflict, Colombia.

HUMAN RIGHTS ADVOCACY

Civic Engagement as a Means for Advancing Society

Advocacy is generally defined as a series of actions and activities that aim to promote an opinion, a cause or the status of a group of people in order to influence and positively change public policy and public opinion. The fight for enforcing human rights and combatting impunity and corruption either involves advocating in favour of legislative, political, and institutional reforms that comply with international human rights standards, or fighting against norms, practices, or measures that are discriminatory or breach these international standards.

What purpose does advocacy serve?

Human rights advocacy focuses on civic engagement, including the participation of women, at institutional or community level. As such, the aim of human rights advocacy is to make sure voices of underprivileged segments of the population are heard and are taken into account by decision makers.

High-level advocacy activities aim to tackle impunity and corruption, and the root causes of inequality, injustice, and poverty. Given its power to effect change, advocacy provides a means to address deeply embedded prejudices and discriminatory practices against women and people in situation of vulnerability.

What does advocacy look like in practice?

In order to act as a driving force among State authorities and encourage them to take adequate measures to uphold the right to truth, justice, and reparation, civil society organizations that defend victims need to be able to support their arguments and present them to the State and before relevant regional and international bodies in an effective way. To do that, they need

to have access to appropriate tools. What makes LWBC's advocacy work so distinctive is the fact that it focuses on the legal basis and on the standards that govern dialogue between civil society and the State, between international bodies and States, and between States.

Advocacy can involve various activities, including drafting recommendations on legislative proposals to be submitted to public authorities, analyzing case law to leverage the capacities of our partners, producing legal documentation to serve as a basis for civil society actors in implementing awareness campaigns, etc.

During their assignment, volunteers are often involved in developing advocacy tools, in collaboration with partners, to allow people in situation of vulnerability to have a greater say and a greater chance at making difference.



The Sinister Price to Pay for Defending Human Rights: a Presentation of Human Rights Defenders and Community Leaders in Colombia

Author:

Elizabeth España

Country of deployment:

Colombia

2016-2017

QUALIFICATIONS

Bachelor of Laws (LLB), University of Ottawa, Canada; Juris Doctor, Université de Montréal, Canada. Member of the Barreau du Québec.

MANDATE

Articling student and volunteer legal adviser at LWBC's office in Bogotá, Colombia.

PROJECT

Protection of the Rights of Children, Women, and Other Vulnerable Communities (PRODEF).

TODAY

Lawyer, holds a master's degree in children's rights from the University of Geneva, Switzerland.

A country that sets itself the goal to establish stable and durable peace in a post-conflict or post-dictatorship context will inevitably run into a number of challenges. Addressing the threat to the safety of community leaders and human rights defenders is one such challenge. These groups may bear the brunt of the international community's withdrawal once human rights violations are no longer considered an issue. Experience in the matter at an international level shows that States must remain cautious and ensure the safety of community leaders and human rights defenders by taking appropriate action.

(...).

What Is the Situation in Colombia?

In 2012, the Colombian Government initiated a negotiation process with the Revolutionary Armed Forces of Colombia (FARC). The process resulted in the signature of a peace agreement, on November 24, 2016. Since then, the stakeholders involved have been working together to implement the various transitional justice mechanisms provided by the peace agreement. Despite this historic progress, there is still one particularly worrying issue: the safety of community leaders and human rights defenders.

When I arrived in Colombia in November 2016, a wave of hope had begun to spread across the country in the wake of the agreement on the transitional peace process. A year later, during a forum in December 2017 on the successes and failures resulting from the implementation of the peace agreement, one of the main concerns was the worrying increase in the number of attacks against community leaders and human rights defenders throughout the country.

“When I arrived in Colombia in November 2016, a wave of hope had begun to spread across the country in the wake of the agreement on the transitional peace process.”



Elizabeth España during an awareness-raising workshop for women victims and community leaders in the region of Santander, Colombia.

Statistics produced by the development and peace study institute *Instituto de Estudios para el Desarrollo y la Paz – Indepaz* indicated that in 2017, 170 community leaders and human rights defenders had been murdered—a 45% increase compared to 2016. Furthermore, in January 2018 alone, around 20 assassinations of community leaders and human rights defenders were reported. Eight of these killings took place in departments where LWBC was conducting activities as part of its Transitional Justice and Women project (JUSTRAM).

First-Hand Experience

During my two assignments as an LWBC volunteer, I had the opportunity of working in close collaboration with LWBC partners in the departments of Santander and Norte de Santander, located in Northeastern Colombia. This experience made me realize just how dangerous working conditions are for civil society organizations committed to advancing human rights.



Elizabeth España during an awareness-raising workshop for women victims and community leaders in the region of Santander, Colombia.

For example, during a peaceful social demonstration in the department of Cesar, human rights defenders of the civil society organization Equipo Jurídico Pueblos, LWBC partner in Santander, were beaten and arrested by officers belonging to Colombian national riot police forces.

We immediately reported the situation, respectfully reminding the Colombian authorities of their obligations under the United Nations Declaration on Human Rights Defenders and the UN Basic Principles on the Role of Lawyers, as well as the State's obligation to respect the judicial guarantees and rights of human rights defenders.

Moreover, according to the feedback received from residents of the departments of Santander and Norte de Santander, several acts of harassment were committed against human rights and land rights defenders. These strongly militarized communities are being targeted by a phenomenon called "social cleansing".

Given the situation, one cannot but wonder what actions the Colombian government is taking to tackle the problem and effectively guarantee the safety and protection of community leaders and human rights defenders.

The Colombian Government's Responses

The peace deal signed between the government and the FARC's establishes safety and protection measures, and solutions to fight criminal organizations, with the wider aim of strengthening the peace process and political participation on the part of the Colombian population, including community leaders and human rights defenders. These measures include implementing the National Commission on Security Guarantees, establishing a comprehensive security and protection program for the communities and

“I was privileged to witness their deep commitment to the cause of human rights in spite of the multiple threats against them and their families. I am convinced that without their relentless work combined with an effective response from the government to ensure their safety, peacebuilding in Colombia could sadly remain just a myth...”

organizations in the region, and deploying a mechanism to prevent and monitor criminal organizations.

(...).

A Call for Urgent Improvement

On the face of it, the measures that were negotiated in the peace agreement between the Government and the FARC's seem appropriate and are indeed the result of political goodwill. However, the implementation of these measures is far from satisfactory. Continued attacks against community leaders and human rights defenders are yet another sign of the State's failure to protect these people's lives.

It could not be more evident that the Government of Colombia needs to increase its efforts in responding to the immediate needs of community leaders and human rights defenders by implementing effective, tangible, measures which truly will ensure the transition towards a stable peace.

Over the course of my assignments as an LWBC volunteer legal adviser, I met many lawyers and human rights defenders, as well as communities that were among the most severely impacted by the conflict. Thanks to this experience, I was privileged to witness their deep commitment to the cause of human rights in spite of the multiple threats against them and their families. I am convinced that without their relentless work combined with an effective response from the government to ensure their safety, peacebuilding in Colombia could sadly remain just a myth...



When Hatred Kills: Daily Violence Against LGBTI Persons in Honduras

Author:

Floriane Basile

Country of deployment:

Honduras

2019-2020

QUALIFICATIONS

Masters in International Public Law,
Aix-Marseille University, France.

MANDATE

Volunteer legal adviser with
LWBC partner *Red de Respuesta
Lésbica Cattrachas* (Cattrachas) in
Tegucigalpa, Honduras.

PROJECT

Justice, Governance and the Fight
Against Impunity in Honduras
(JUSTICIA).

TODAY

Volunteer legal adviser for the
LWBC-led JUSTICIA project.

This article was published in the wake of a series of attacks against individuals of the LGBTI (lesbian, gay, bisexual, trans, intersex) community in Honduras, resulting in four deaths and seriously injuring several other people, in a single week.

Committed in July 2019, these hate crimes increased the toll of violent deaths of persons belonging to the LGBTI community in the country to 45 since the beginning of 2019, seven of whom were trans women. In memory of the lives lost to hatred, and to make sure that they are remembered and that their deaths do not go unpunished like so many others before, I'd like to share a few words with you on the story of these people and the national context in which they fought to survive.

(...).

Persecution, Discrimination, and Violence Based on Sexual Orientation, Gender Expression, or Gender Identity

LGBTI people are in an extremely vulnerable position due to a combination of factors of discrimination that prevent members of the community from exercising

their rights in a number of aspects of society (economic, legal, social, political, and professional). For many trans women who have been confronted with employment discrimination, sex work is often the only survival option.

Today, the fight for equality brings multiple challenges from a legal perspective for LGBTI individuals. For example, the prohibition of same-sex marriage discriminates against members of the LGBTI community from the point of view of adoption, transfer of property upon death, and insurance policies.

Furthermore, Article 38 of Honduras's *Reglamento del Registro Nacional de las Personas* (regulation pertaining to the law on the national registry of persons) does not allow individuals to change their name, which has direct consequences on their legal capacities and the exercise of their political rights. For example, a trans person cannot run for an electoral mandate using the name they go by if it differs from their birth name.

In failing to adopt the necessary legislative reforms, the State of Honduras is in breach of several norms that are protected by the



Floriane Basile with the Cattrachas team, Honduras.

American Convention on Human Rights, a treaty which the State has ratified. It is also in breach of Honduran citizens' right to a name, to private life, and to equal protection under the law, as interpreted in light of the principle of equality and non-discrimination.

In a historic Advisory Opinion issued by the Inter-American Court of Human Rights in 2017¹⁵, the Court said that States have an obligation to implement procedures to allow individuals who change identity to update their civil status in national registries, and also to allow same-sex couples to marry. Like any other Advisory Opinion, this one will have to be taken into consideration by the State of Honduras to ensure compliance of the country's legal system with this interpretation of the rights embedded in the Convention.

Actors Fighting for Change and Equality

In this hostile context, activists and organizations fighting for LGBTI rights continue to seek equality and protection with regard to their rights.

One of these organizations is the lesbian and feminist network Cattrachas, a lesbian and feminist network founded in 2000 in Tegucigalpa. Cattrachas uses strategic litigation and national and international advocacy to condemn violations of LGBTI people's rights in Honduras. Composed of lesbian and feminist members, the organization focuses on defending the human rights of the women and members of the community it represents. The organization deploys ongoing efforts to improve access to justice and fight

¹⁵ Inter-American Court of Human Rights, Advisory Opinion OC-24. (2017)

“Although the number of cases of injustice is high, over 96% of violations committed against those who identify as belonging to the “sexually diverse” portion of the population remain unpunished.”

impunity. This work also involves advocacy activities that build on the data collected by the organization’s observatory for violent deaths of LGBTI persons. Set up by Cattrachas, the observatory is a hub that monitors national media on a permanent basis, allowing the organization to keep track of the number of violent deaths of LGBTI people and to carry out a global analysis of the situation of the LGBTI community in Honduras.

Moreover, in response to the attacks in July 2019, several international organizations have condemned the situation and reasserted their concern and support. These organizations include the Inter-American Commission on Human rights (IACHR) and the United Nations Office of the High Commissioner for Human Rights (OHCHR) in Honduras.

The Failure of the Justice System in Dealing With Hate Crimes Against LGBTI People

Although the number of cases of injustice is high, over 96% of violations committed against those who identify as belonging to the “sexually diverse” portion of the population remain unpunished. In the six months following the coup d’état in 2009, Cattrachas’s observatory identified 30 hate crimes committed against members of the LGBTI community, including 15 against trans women. Most of the killings took place during curfew hours, which the IACHR has recognized as a period during which civil life was strongly militarized and constitutional guarantees were breached.¹⁶ To date, none of these crimes have resulted in any form of criminal punishment, a symptom of the pervasiveness of impunity in Honduras.

One of the most emblematic cases from the era was the murder of Vicky Hernández, committed on June 28, 2009, in San Pedro Sula, the country’s second-largest city. It was committed during curfew, when all people, except law enforcement officers, were prohibited from going out into the streets. More than ten years later, the investigation into Vicky’s murder is still in its preliminary stage before national courts, which is common for murder cases that occurred during the coup.

¹⁶ CIDH, Derechos humanos y golpe de Estado, 2010 p.5. On line: <http://www.cidh.org/pdf%20files/HONDURAS2009ESP.pdf>

“Cattrachas hopes that this will help achieve more progress, mitigate discrimination, and (...) reduce the violence LGBTI persons are subject to on a daily basis in Honduras.”



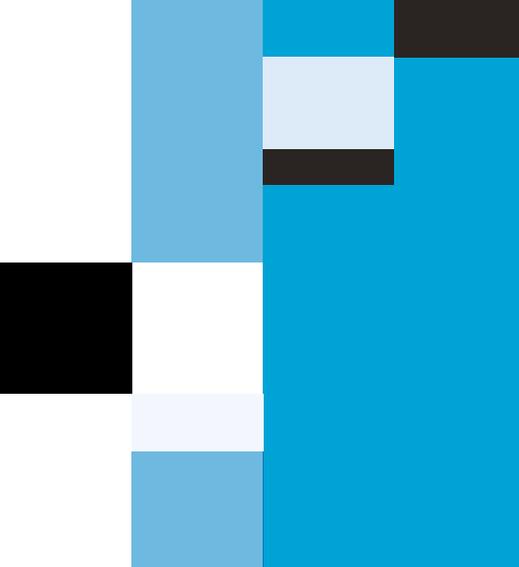
Floriane Basile during her assignment in Honduras.

Fighting for equality and access to justice is an arduous battle in Honduras. However, recent progress has been made in the case of Vicky Hernández’s murder. The matter was handed over to the IACtHR by the IACHR, which considered that several articles of the Convention had been breached, including the right to life, to equality, and to freedom of expression. Cattrachas hopes that this will help achieve more progress, mitigate discrimination, and (...) reduce the violence LGBTI persons are subject to on a daily basis in Honduras.

I will end here on this hopeful note, and will be in touch in a few months’ time with updates on this central case.



Consultation with women from indigenous communities who suffered human rights violations during the armed conflict in Guatemala.



REGIONAL HUMAN RIGHTS

THE IMPORTANCE OF REGIONAL HUMAN RIGHTS BODIES IN ACHIEVING LARGE-SCALE IMPACT

A Unique Experience Pleading Before
the African Commission on Human and Peoples' Rights
Author: Marilyn Rubayika

Terrones Silva et al. v. Peru: Arguing a Case before
the Inter-American Court of Human Rights
Author: Diana P. Carvajal



Volunteer Caroline Dufour taking part in the hearings of the 117th regular period of sessions of the Inter-American Court of Human Rights in San José, Costa Rica, acting as the legal representative of the victim alongside LWBC partner *Asociación Pro Derechos Humanos (APRODEH)* in the *Alfredo Lagos del Campo v. Peru* case involving a wrongful dismissal in Peru. © OEA

REGIONAL HUMAN RIGHTS

The Importance of Regional Human Rights Bodies in Achieving Large-Scale Impact

Sometimes, helping victims of serious human rights violations bring a case before national jurisdictions fails to yield satisfactory results. Similarly, the support we provide to our partners in advocating against discriminatory legislation or unlawful practices is also sometimes not enough. Sometimes, people in situation of vulnerability find themselves with no course of action available to them within their country. In such cases, they often have the option to turn to regional or international human rights bodies.

What exactly are regional human rights bodies?

Regional human rights bodies like those of the inter-American human rights system and the African human rights system were, among other things, designed to give victims access to justice when they have nowhere to turn to within their own State.

Can LWBC volunteers actually participate in these mechanisms?

LWBC volunteers sometimes have to navigate through the workings of these systems, whether through participating in thematic hearings to order States to comply with international legal standards, or directly supporting our partners representing victims of human rights violations who weren't able to seek appropriate remedies at a national level. In this case, volunteers act in support of partner organizations, drafting arguments, preparing witness statements, or drawing up reports to be submitted and presented at hearings.



A Unique Experience Pleading Before the African Commission on Human and Peoples' Rights

Author:

Marilynn Rubayika

Country of deployment:

Côte d'Ivoire

2017-2018

QUALIFICATIONS

Bachelor in Civil Law and Juris Doctor, University of Ottawa, Canada. Member of the Law Society of Ontario.

MANDATE

Volunteer legal adviser with *Mouvement ivoirien des droits humains* (MIDH) in Abidjan, Côte d'Ivoire.

PROJECT

Protection of the Rights of Children, Women, and Other Vulnerable Communities (PRODEF).

TODAY

Lawyer.

The 62nd ordinary session of the African Commission on Human and Peoples' Rights (ACHPR) took place from April 25 to May 9, 2018 in Nouakchott. The ACHPR is the African Union body in charge of promoting and protecting human rights in Africa. Its ordinary sessions are held twice a year and allow participants to discuss the general state of human rights in Africa.

(...) During the first session of the year, the agenda included major contemporary issues such as the death penalty in Africa, management strategies for migratory flows, and the decline of democratic freedoms.

State representatives, National Human Rights Institutions (NHRIs), and non-governmental organizations with observer status were invited to participate in the ACHPR's ordinary sessions. The MIDH, a Côte d'Ivoire human rights movement organization, obtained observer status during the Commission's 30th ordinary session in October 2001. This was MIDH Director, Mr. Amon Dongo's fourth participation in the event. For myself and for LWBC, it was a historic first.

What role did MIDH play at the 62nd session of the ACHPR?

In 2015, following a communication issued by Open Society, the ACHPR delivered a decision against Côte d'Ivoire, in *Open Society Justice Initiative v. Côte d'Ivoire*, the Commission recommended that the State take action regarding the phenomenon of statelessness impacting a number of communities living in Côte d'Ivoire.

The first article of the 1954 Convention relating to the Status of Stateless Persons defines a stateless person as "someone who is not considered as a national by any State under the operation of its law." A stateless person has no nationality. That said, nationality can be perceived as "the right of all rights" in that it enables individuals to exercise the rest of their rights.

As such, absence of nationality can have negative consequences on the lives of those concerned. In some cases, stateless persons can neither register their children at birth nor enroll them in schools. In other cases, statelessness makes it more difficult to access public health services and a great many other rights.

“Attending these public sessions at the ACHPR was an extraordinary experience for me as a young legal scholar.”



The 62nd ordinary session of the African Commission on Human and Peoples' Rights (ACHPR) in Nouakchott, Mauritania.

In Côte d'Ivoire, this is a major issue and is the result, among other things, of the country's colonial past and movement of West African populations. Nationality is governed differently according to the law of each country. Where some States adopt the principle of *jus soli* whereby a person acquires the nationality of the country they were born in, others adopt the principle of *jus sanguinis* which requires a parental affiliation with a national of that country.

The census in Côte d'Ivoire in 2014 found that 24% of the country's population identified as foreigners even though 59% of them were born in Côte d'Ivoire. Among these 59%, some were not recognized as nationals by any country. To date, it is estimated that there are around 800,000 stateless persons in Côte d'Ivoire.

The recommendations issued in the 2015 decision included adopting a national

action plan to eradicate statelessness before 2024 and modifying the Nationality Code of Côte d'Ivoire to ensure compliance with the 1954 Convention relating to the Status of Stateless Persons and with the 1962 Convention on the Reduction of Statelessness—two conventions that have been signed and ratified by Côte d'Ivoire.

A Privilege to Work with the *Mouvement ivoirien des droits humains*

As an organization that strives to promote and defend human rights and acts as the coordinator of the Coalition ivoirienne contre l'apatridie (CICA, a coalition in Côte d'Ivoire against statelessness), MIDH actively participates in advocacy efforts on a national level to make sure the Government of Côte d'Ivoire implements these recommendations.

“I often used to think that defending and protecting human rights was essentially a desk job. But my experience as a volunteer with LWBC has proven me wrong.”

A significant portion of my work with MIDH involved participating in various national meetings aimed at advancing these advocacy efforts. When I attended the Commission’s 62nd session, I was given the opportunity not only to share the progress achieved in Côte d’Ivoire in combatting statelessness, but also to grasp the regional dimension of the issue. In gaining

a greater understanding of the situation, I was able to better reflect on how to develop new advocacy strategies.

(...).

Let the Proceedings Begin!

After the session’s opening ceremony and the adoption of the agenda, the President of the ACHPR, Soyata Maiga, invited State delegates to deliver their statements. One after another, they described the human rights situation in their country. We then listened to the statements of the National Human Rights Institutions, national commissions, and NGOs.

These statements highlighted all the legislative advances with regard to human rights on the African continent, a moment that brought me great inspiration. I particularly appreciated the right of reply granted to State delegates in response to each of the NGOs’ statements. In my opinion, effective communication between

State actors and civil society organizations is absolutely crucial to improving respect for the rights we defend.

Attending these public sessions at the ACHPR was an extraordinary experience for me as a young legal scholar. After just a few hours, I was briefed on existing issues, advancements achieved, and difficulties encountered by the African stakeholders present.

(...).

Limited freedom of protest in Togo, the situation of sexual minorities in Cameroon, gender inequality in Egypt—all these issues were raised. In addition to these challenges, other subjects were mentioned, including the disregard of certain States for the decisions of regional human rights bodies, marriages involving under-18 year-old girls, and the ban on access to education for young pregnant girls in Tanzania. In such a short space of time, I was given a truly effective analysis of the challenges facing the African continent. This moment in my assignment was particularly memorable for me.

“When I met that woman who said she had become a human rights defender after undergoing genital mutilation, or the time I spoke to a man, also a human rights defender, whose motivation stemmed from his own experience of torture—that’s when I understood that defending and protecting human rights was not just a textbook endeavour. To some people, defending and protecting human rights is their whole life.”



Marilynn Rubayika's ID badge for the 62nd ordinary session of the African Commission on Human and Peoples' Rights (ACHPR) in Nouakchott, Mauritania.

Beyond Each Victim Lies a Defender

I often used to think that defending and protecting human rights was essentially a desk job. But my experience as a volunteer with LWBC has proven me wrong.

On a daily basis, I meet and talk with victims of serious human rights violations, and today, I don't think "victim" is the appropriate term to describe these people. On more than one occasion during these discussions, women told me that they wanted to see justice in order to prevent

the same thing happening to others like themselves.

When I met that woman who said she had become a human rights defender after undergoing genital mutilation, or the time I spoke to a man, also a human rights defender, whose motivation stemmed from his own experience of torture—that's when I understood that defending and protecting human rights was not just a textbook endeavour. To some people, defending and protecting human rights is their whole life.



Terrones Silva et al. v. Peru: Arguing a Case before the Inter-American Court of Human Rights

Author:

Diana P. Carvajal

Country of deployment:

Peru

2017-2018

QUALIFICATIONS

Masters in International Law, Université Laval, Canada. Juris Doctor candidate, University of Sherbrooke, Canada. Member of the Barreau du Québec.

MANDATE

Volunteer legal adviser with LWBC partner *Asociación Pro Derechos Humanos* (APRODEH) in Lima, Peru.

PROJECT

Protection of the Rights of Children, Women, and Other Vulnerable Communities (PRODEF).

TODAY

Lawyer and volunteer legal adviser for the LWBC-led Transitional Justice and Women project (JUSTRAM) in Colombia.

On March 12-13, 2018, I participated in a public hearing at the Inter-American Court of Human Rights (IACtHR) in San José, Costa Rica, with LWBC partner APRODEH, a human rights organization. The hearing addressed the *Terrones Silva v. Peru* case on the enforced disappearances of the lawyer Wilfredo Terrones Silva, journalism student Néstor Rojas Medina, university professor Teresa Díaz Aparicio, student Cory Clodolia Tenicela Tello, and a member of the rural Manyac community, Santiago Antezana Cueto.

(...).

The Inter-American Commission on Human Rights's report¹⁷ presented the context of the case and described the systematic and widespread use of enforced disappearances by the State of Peru between 1980 and 2000 in the name of the fight against terrorism, led by "Shining Path", an armed group founded on Marxist ideology.

The Commission later submitted the case before the IACtHR in November 2016. The Commission deemed the Peruvian

government responsible for violating the right of the victims to recognition as a person before the law, to life, to integrity, to freedom, to a fair trial, and to judicial protection.¹⁸ The State had indeed failed to fulfill its obligation to respect these rights and take the necessary measures to uphold them.¹⁹

Preparation for the Hearing

The first step preparing for the hearing involved examining a number of written requests, arguments, and pieces of evidence²⁰ produced in April 2017 by representatives of victims, with support from Caroline Dufour, a former LWBC volunteer who had also worked on this case in support of our partner organization.

At first, I found it quite difficult to come up with a way to present five seemingly diverse cases in a coherent manner. I started by preparing the first drafts of surveys to very broadly address the circumstances in which the witnesses had learned about the disappearance of their relatives and the impact these events had had on their lives.

¹⁷ IACHR, Report No. 5/16, April 13, 2016, para. 4.

¹⁸ Inter-American Convention on Human Rights, Inter-American Specialized Conference, San José, November 22, 1969, articles 3, 4.1, 5.1, 5.2, 7.1, 8.1, 25.1.

¹⁹ *Ibid.*, articles 1.1 and 2.

²⁰ Rules of Procedure of the Inter-American Court of Human Rights, adopted during the 85th regular period of sessions, held November 16-28, 2009, Article 40 [Rules of Procedure].



Diana P. Carvajal during her intervention during the Inter-American Court of Human Rights hearings in the *Wilfredo Terrones Silva et al.* case involving multiple enforced disappearances.

It was only when I conducted the interviews with the members of victims' families that I was able to comprehend the suffering and the relentless desire to search for the truth that inhabited Néstor Rojas's mother, and the determination of Wilfredo Terrones's son in the midst of such despair. Unfortunately, all of Teresa Díaz Aparicio's close relatives had passed away over the 26 years since the events.

In addition to conducting the interviews, I also worked on other case elements to present, including affidavits from Néstor Rojas's sister, and statements of experts who were going to present reports on the psychological impact of the enforced disappearances on the relatives of the victims and how this had affected their lives. I also prepared questions for State witnesses to answer during the hearing,

and tried to anticipate the questions that might be put to the victims and witnesses.

Thanks to support from the inter-American human rights system's Legal Assistance Fund²¹, our witnesses were able to make their way to the IACtHR in San José, Costa Rica, to tell their story, more than 25 years after the initial crime.

Practical Aspects of the Public Hearing

In order to make sure witness statements were as spontaneous as possible, witnesses did not have the opportunity to listen to other statements once they had given their own.²² They had to stay outside of the courtroom.

During the long days spent preparing for the hearing—often a psychologically

²¹ Resolution AG/RES. 2426 (XXXVIII-0/08) on the establishment of the Legal Assistance Fund of the inter-American human rights system, General Assembly of the OAS, 4th plenary session, June 3, 2008.

²² Rules of Procedure, *supra* note 7, Article 51.6.

“It was only when I conducted the interviews with the members of victims’ families that I was able to comprehend the suffering and the relentless desire to search for the truth that inhabited Néstor Rojas’s mother, and the determination of Wilfredo Terrones’s son in the midst of such despair.”

exhausting experience for the witnesses—I would insist on the importance of delivering a consistent narrative and answering the questions in detail, without drifting onto other aspects which would be raised later on, before the judges. One after the other, the witnesses answered my questions as well as those put to them by the State representatives and provided explanations when requested by the judges.²³

The next day saw the presentation of the arguments on the merits. The State’s defence counsel failed to discredit the son of lawyer Wilfredo Terrones.

It tried, in vain, to justify the crimes on grounds relating to the fight against terrorism by attacking the father and son’s presumed political ideologies.

In our capacity as representatives of the victims, we highlighted the fact that to date, with the exception of Santiago Antezana, all cases have remained unpunished. Despite the multiple requests made to various authorities by the relatives of the disappeared persons over the past

decades, the State has never disclosed any information on what happened to the victims, or what had been done with their bodies.

Given the significance of the context and the systematic nature of the practices carried out by the State, the *Terrones Silva et al. v. Peru* case could still become a key precedent in the development of case law and international standards with regard to evidence of enforced disappearances and the search for disappeared persons.

As the Inter-American Convention on Human Rights marks its 40th anniversary of coming into force, may this IACtHR decision compel the State to fulfill its obligations with regard to human rights, and protect Peruvian nationals in their quest for justice and truth regarding the fate of their relatives.²⁴

²³ Judges may ask all persons appearing before the Court any questions they deem proper”, Rules of Procedure, supra note 7, Article 41.

²⁴ In September 2018, the IACtHR recognized the responsibility of the State of Peru for crimes of torture and enforced disappearances in the emblematic *Wilfredo Terrones Silva et al. v. Peru* case.

WHY NOT BECOME AN ACTOR OF CHANGE YOURSELF!

Do you want to make justice a reality and acquire experience in voluntary cooperation?

Feel free to get in touch, we're always on the lookout for new candidates!

www.asfcanada.ca

recrutement.pcv@asfcanada.ca



LAWYERS WITHOUT BORDERS
AVOCATS SANS FRONTIERES
ABOGADOS SIN FRONTERAS
Canada

They have a right
to justice

They have a right
to equality

They have a right
to freedom

They have a right
to dignity

They have a right
to integrity

They have a right
to cooperation

They have a right
to a lawyer

The *Barreau du Québec* is proud to support Lawyers Without Borders Canada, which for nearly 20 years has defended human rights, access to justice and legal representation for the most vulnerable groups and persons in the world.

Barreau
du Québec

