

## V. COMMENT TO AZADEH SHAHSHAHANI

There is concern that the rule of law is diminishing around the world, as democracy is receding and judicial independence increasingly under threat while human rights violations are escalating. Groups and individuals who are targeted (even assassinated) for their engagement to denounce corruption, impunity, damage to the environment, or attacks against marginalized groups such as Indigenous people, migrants, minorities, etcetera fear that there is no possibility of access to justice as a state of impunity is maintained through dysfunctional political and judicial system.

Question: You have participated in people's tribunals on Mexico, the Philippines, and Brazil. Can you offer some reflections on the contribution of these parallel, alternative mechanisms for solidarity justice?

## VI. CONCLUSION

It has been absolutely fascinating to hear about your reflections of solidarity in practice. Now, we open the floor to the audience for a brief round of questions, please place your questions in the chat. Thank you, I believe that we are inspired to imagine how we can engage in local or transnational actions to support a new era of solidarity as a foundation of a human rights oriented international law.

### **PEOPLE'S TRIBUNALS: HOLDING POWER TO ACCOUNT**

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People's tribunals are forums of justice set up by social justice movements and organizations to adjudicate cases often against states and state-backed corporations. Rather than courts and other judicial apparatus set up by states, organizers instead convene jurors from around the world to adjudicate. The judgments rendered through people's tribunals are non-binding, as their decisions are not backed by forces of the state. However, these tribunals render significant power: "People's tribunals have had success in directing international attention to grave abuses of human rights in various countries . . . [they] advance human rights and hold governments to account."<sup>2</sup>

People's tribunals are modeled on tribunals used in the international setting in the past, most specifically the Russell Tribunal. The Russell Tribunal (also known as the International War Crimes Tribunal) was set up by British philosopher Bertrand Russell and French philosopher Jean-Paul Sartre to investigate U.S. government intervention and war crimes in Vietnam in the late 1960s. Similar international tribunals conducted since which have been modeled on the Russell Tribunal include the 1973 Russell Tribunal on Latin America (which looked into human rights violations in Brazil and Argentina by U.S.-backed dictators), the 1974–76 tribunal which investigated the U.S.-backed coup in Chile, a 2004 tribunal in Iraq, and the Russell Tribunal on Palestine.

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<sup>2</sup> Kenneth Roland A. Guda, *International People's Tribunal to Try Philippines President Aquino and Obama for Crimes Against Filipino People*, GLOB. RESEARCH.

The experience of the Russell Tribunal inspired the creation of “Russell II,” which later morphed into the Permanent People’s Tribunal (PPT) headquartered in Rome, Italy. Started by renowned Italian jurist Lelio Basso, the PPT developed its framework of analysis with a people-centric focus through a “Declaration of the Rights and Liberation of Peoples.” This stands in stark contrast to the state-centric focus of institutions such as the United Nations.<sup>3</sup>

Organizers of people’s tribunals hope to engage and educate communities, raising public awareness about the legal and human impact of various governments’ decisions and actions. People’s tribunals address human rights violations and focus on providing a forum to people whose voices have been silenced.<sup>4</sup> Such tribunals are critical to keeping the lived human experience at the forefront of any conversation on violations of human rights, particularly when state actors try to dispute the seriousness of the allegations. People’s tribunals “aim to empower victims through providing ownership over ‘the story,’” allowing their voices to be heard against those in power.<sup>5</sup>

People’s tribunals bring attention to the inconvenient truths that international or domestic judicial tribunals either cannot engage with or choose not to. Furthermore, while people’s tribunals themselves hold no legal authority, they help shine a light on situations and gather evidence that could later be used in an International Criminal Court (ICC) trial. The ICC has the authority to try and convict those found to be guilty of “the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression.”<sup>6</sup> The ICC may take on cases and launch investigations due in part to the support of evidence from people’s tribunals, highlighting the power and importance of people’s tribunals toward the goal of justice.

For the most part, the procedure of these tribunals is fairly similar: there is a hearing conducted in a formal setting, where the case is argued. The actors include jurors, witnesses, the prosecution, and the defense. Social movements and groups organizing people’s tribunals often invite legal scholars, faith and community leaders, and judges to sit on the panel of jurors. The prosecution is typically composed of lawyers committed to the cause promoted by social justice groups. Witnesses are the most influential and authentic aspect of these tribunals—they are the people who have been affected by the abuses. In this way, the tribunals offer a platform for individuals to testify about how they have been harmed and affected. This brings in an incredibly profound human element to issues that may seem distant or more difficult to understand. It is these witnesses who make these people’s tribunals significant and effective. In most settings, witnesses will be heard, there will be oral arguments by both the prosecution and defense. Then, the jury will have an allotted amount of time to deliver their verdict.

## I. PEOPLE’S TRIBUNALS IN THE INTERNATIONAL CONTEXT

People’s Tribunals have been used to address human rights violations in the international setting. Below are some recent ways in which tribunals were used to address violations in Brazil, the Philippines, and Mexico.

### A. Brazil

In July 2016 in Rio de Janeiro, the International Tribunal for Democracy in Brazil was tasked with examining the impeachment of then-President Dilma Rousseff. Based on the evidence

<sup>3</sup> Richard Falk, *People’s Tribunals and the Roots of Civil Society Justice*, OPENDEMOCRACY (May 2015).

<sup>4</sup> Angela Oliver, *Power to the People: People’s Tribunal a Platform for Arguments Surrounding Muslim Ban*, PROJECT SOUTH (Oct. 2017).

<sup>5</sup> Corinna Mullin, Nada Trigui & Azadeh Shahshahani, *Decolonizing Justice in Tunisia*, MONTHLY REV. (May 2019).

<sup>6</sup> International Criminal Court, *About the International Criminal Court*.

presented at the hearing, the jury found that the “impeachment” of President Rousseff was “in effect, a coup” that “violate[d] all the principles of the democratic process and Brazilian constitutional order.”<sup>7</sup> The trial aimed to “call attention to a situation quickly spiraling into fascism”<sup>8</sup> due to the unjust impending removal of Rousseff, ending the democratically elected rule of the Worker’s Party and resulting in the takeover of former Vice President Michel Temer and a newly “all-white male cabinet” composed of Brazil’s elite.<sup>9</sup> Rousseff was impeached based on “charges of manipulating the federal budget,” which involved a transfer of “funds from a federal bank to cover cash-flow shortfalls in government programs” all of which “were repaid to the federal bank.”<sup>10</sup> Yet this practice had been used previously under other presidents and administrations and after an investigation by the Public Prosecutor’s office, Rousseff was not found guilty of having committed any crime, further highlighting the injustice of the impeachment.<sup>11</sup>

The tribunal was organized by various Brazilian social movements, including Via Campesina International, the Brazil Popular Front, and the Brazilian Jurists for Democracy. It was supported by other groups such as the grassroots Landless Workers Movement. These organizations invited international legal scholars, faith leaders, and judges to serve on the jury. These jurors included Bishop Raul Veras from Mexico; Giovanni Tognoni, a member of the Permanent Tribunale of Popoli; Jaime Cardenas Gracia, a lawyer, politician, and academic from Mexico; Laurence Cohen, a French senator; Maria Jose Farinas Dulce, professor in philosophy of law and economic expert from Spain; Walter Montealegre Antillon, an academic and politician from Costa Rica; Carlos Augusto Galvez Argote, a judge and professor from Columbia; and myself.<sup>12</sup>

After hearing from witnesses as well as the prosecution and the defense, the jurors found that impeachment was being used for partisan purposes to depose a democratically elected president, and that perpetrators of this coup are guilty of corruption and other grave crimes.<sup>13</sup>

### *B. The Philippines*

Another people’s tribunal was organized and held in Washington D.C. in July 2015, focusing on violations of economic, political, and cultural rights of the Filipino people by the Philippine government. This International People’s Tribunal also delved into the role of the U.S. government, specifically its political and military intervention in the Philippines. The goal of the tribunal was to shine light on the crimes of the Aquino regime and hold the Philippine and U.S. governments accountable.<sup>14</sup>

The tribunal was organized by human rights defenders, lawyers, jurists, academics, people of faith, political activists, and several organizations including the International Coalition for Human Rights in the Philippines, the National Lawyers Guild (NLG), the International Association of Democratic Lawyers, and IBON International.<sup>15</sup>

<sup>7</sup> Azadeh Shahshahani, *An International Tribunal Declares the Impeachment of Brazil’s Dilma Rousseff an Illegitimate Coup*, NATION (Aug. 2016).

<sup>8</sup> Mullin, Trigui & Shahshahani, *supra* note 5.

<sup>9</sup> Shahshahani, *supra* note 7.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Azadeh Shahshahani, *People’s Tribunals Deliver Justice for Victims of Human Rights Violations*, NAT’L LAWYERS GUILD (July 2015).

<sup>15</sup> Indicting the BS Aquino Regime and the U.S. Government as Represented by Pres. Barack Obama for Human Rights Violations, Plunder and Transgression of the Filipino People’s Sovereignty, International People’s Tribunal (July 2015).

There were three main charges leveled against the administration of President Benigno S. Aquino. First, the prosecution contended that there were violations of civil and political rights by the Filipino and U.S. governments through extrajudicial killings, massacres, disappearances, and torture. Second, there were violations of economic, social, and cultural rights of the Filipino people through economic plunder and transgressions of economic sovereignty. Finally, the prosecution contended that the United States violated the Filipino people's right to national self-determination through U.S. military intervention and crimes against humanity and war crimes.<sup>16</sup>

Survivors of human rights violations presented testimony to the tribunal in both the Philippines and D.C. One of the witnesses, Melissa Roxas, was a survivor of kidnapping and torture while conducting a medical survey in La Paz in which the United States refused to intervene. In an open letter to former U.S. President Barack Obama written approaching the five-year anniversary of her kidnapping by the Filipino military, Roxas criticized U.S. support of the Philippines: "By entering into agreements with the Philippine government and continuing to fund the Armed Forces of the Philippines, you are in effect giving your seal of approval to the B.S. Aquino administration to continue its corruption and deceit, and to continue to commit human rights abuses."<sup>17</sup> During the tribunal, Roxas also presented testimony describing the circumstances of her forced disappearance and kidnapping by government forces: "We were staying at a house when approximately fifteen men in civilian clothing with high powered rifles, bonnets, and ski masks forced me and my two other companions which were health workers into a van and took us to what I believe to be a military camp. There I was handcuffed and blindfolded and for the six days that I was there I was repeatedly beaten, suffocated, and underwent other forms of torture."<sup>18</sup>

Another witness, Coy Gemarino, widow of a man named Romeo Capalla who was a victim of extrajudicial killing, testified about her husband's murder and the effect that it has had on her family. She stated: "He was brutally shot in front of my mother. My mom was 91 years old, physically disabled, she uses a walker. She had a hip fracture and Romeo usually picked her up in our store. He was appointed at the time manager of Panay Fair Trade Center. It's a fair trade organization that helps farmers. It's emotionally draining, especially to the kids. The youngest, Katrina, still has nightmares at this time."<sup>19</sup> Ultimately, the jury found the Aquino administration and the U.S. government guilty on all counts.<sup>20</sup>

In September 2018, The International People's Tribunal convened in Brussels to look into the ongoing human rights violations perpetrated by the Duterte administration with the backing of the United States under Trump. According to the International Association of Democratic Lawyers, "Experts and victims of human rights violations presented testimony on poverty, homelessness, the "drug war," political persecution, extrajudicial killings, the oppression of women and a range of issues."<sup>21</sup> One of the witnesses, Jimmylisa Badayos, testified about the death of her mother. "In 2010, Jimmylisa's mother Elisa became an organizer for the Karapatan Human Rights Alliance in the province of Negros Oriental. On 28 November 2017, while leading a 13-person fact-finding mission, she was riding her motorcycle to the City Hall to make a complaint. Another rider came close and shot Elisa and two others with her. The killer shot Elisa again as she tried to crawl away.

<sup>16</sup> Shahshahani, *supra* note 14.

<sup>17</sup> Melissa Roxas, *Open Letter to President Obama*, JUSTICE FOR MELISSA (May 2014).

<sup>18</sup> IPT2015-US U.S. Team, *International Peoples' Tribunal Highlights*, YOUTUBE (July 2015).

<sup>19</sup> *Id.*

<sup>20</sup> Shahshahani, *supra* note 14.

<sup>21</sup> International Association of Democratic Lawyers, *International People's Tribunal on the Philippines Issues Verdict on Duterte and Trump* (Sept. 2018).

Jimmylysa rushed to the hospital but could find no pulse when she touched her mother's body. She strongly suspects the military killed her mother, who had been receiving many death threats."<sup>22</sup>

The war on drugs being carried out in the Philippines under Duterte has also imposed mass violence on the country and resulted in the deaths of thousands. The police and government admit to the killing of 4,410 people; however, human rights organizations estimate this number to be closer to 23,000 people who have died at the hands of the government and through government-imposed violence.<sup>23</sup>

The Duterte regime was ultimately found guilty on all counts, after extensive evidence was presented to show the regime's targeting of the citizenry for extrajudicial killing, blatant disregard for the rights of women, and targeting of journalists reporting on human rights abuses, among other systematic human rights violations.<sup>24</sup> In addition to finding Duterte responsible for these heinous acts, the tribunal also found Donald Trump in his official capacity as President of the United States responsible for "sanctioning the methods used by Duterte in the drug war and [pouring] financial assistance" which supported the killing of the poor.<sup>25</sup> The continuing financial support given by the United States to the Duterte regime, namely 193.5 million dollars in 2018 for military aid, implicates the United States as a supporter of the ongoing human rights violations.<sup>26</sup>

### C. Mexico

An International Tribunal of Conscience conducted in 2015 in New York evaluated human rights violations by the Mexican government, specifically, the disappearance of forty-three students in 2014, the San Fernando massacre in 2011, the Acteal massacre of 1997, and the systemic violations of individual's rights in detention centers along the migratory route. This trial was held coinciding with the one year anniversary of the forced disappearance of the forty-three student teachers from Ayotzinapa, Mexico in which Mexican police forces kidnapped the students, who have not been heard from since.<sup>27</sup> The trial also presented the issue of femicide, gender-based violence and killing within the country, as well as fundamental human rights violations against Mexican and Central American citizens trying to cross the border into the United States.<sup>28</sup> The jury consisted of a former associate justice of the California Supreme Court, a former UN special rapporteur, human rights lawyers and activists, and others.<sup>29</sup>

Testimony came from various sources, including representatives of Mexican human rights groups, and highlighted a significant number of civilian survivors of violence and torture at the hands of Mexican federal, state, and local police and the Mexican military, usually in the context of Mexico's "drug war."<sup>30</sup> The verdict of this tribunal describes the tragic death of twelve-year-old Noemí Álvarez Quillay. In early 2014, Noemí was taken into custody by the Mexican police in Ciudad Juárez when she was found at a safe house on her journey to attempt to reunite with her mother and father who were already living in the United States. "Noemí was then brought to a

<sup>22</sup> Peter Murphy, *The International People's Tribunal Has Found President Duterte Guilty – Now the International Community Must Do the Same*, EQUAL TIMES (Oct. 4, 2018).

<sup>23</sup> *Id.*

<sup>24</sup> International Association of Democratic Lawyers, *supra* note 21.

<sup>25</sup> *Id.*

<sup>26</sup> Azadeh Shahshahani & Rev. Sadie Stone, *Stop US Military Aid to the Philippines*, JACOBIN MAG. (Oct. 2019).

<sup>27</sup> Marina Franco, *Five Years Ago, 43 Students Vanished. The Mystery, and the Pain, Remain*, N.Y. TIMES (Sept. 2019).

<sup>28</sup> International Tribunal of Conscience of Peoples in Movement: First Hearing on the Human Rights Crisis in Mexico: Preliminary Findings, Verdict, Recommendations, National Lawyers Guild International Committee (Sept. 2015).

<sup>29</sup> Camilo Perez Bustillo & Azadeh Shahshahani, *Tribunal Finds Mexico and US Jointly Responsible for Human Rights Crisis Linked to Drug War*, WORLD POST (Sept. 2015).

<sup>30</sup> *Id.*

migrant youth shelter by Mexican authorities, pending her repatriation or deportation. The Ecuadorian government was never informed of her detention in Mexico, as international law requires. . . . A few days later, on March 11, 2014, Noemí was found dead hanging in the bathroom at the Villa Esperanza migrant youth shelter in Ciudad Juárez, shortly after she was aggressively interrogated by Mexican Federal police agents. . . . On the eve of the first anniversary of her death, a statement was released by the U.S. Embassy in Mexico confirming that Noemí was raped prior to her death, which had been described as a ‘suicide’; local forensic reports confirming the sexual violence which she had been subjected to were reportedly suppressed due to ‘superior orders’ from state authorities in Chihuahua.”<sup>31</sup> The jury, in hearing the evidence, found an overall pattern of state terror and state criminality, that has been further enabled by the U.S. government.

## II. PEOPLE’S TRIBUNALS IN THE DOMESTIC CONTEXT

Not only have people’s tribunals been an effective means of raising awareness about human rights violations abroad, they have also been used to highlight the real impact of repressive government policies and human rights violations in the United States.

### A. Hurricanes Katrina and Rita

In late summer of 2007, the People’s Hurricane Relief fund initiated the International Tribunal on Katrina and Rita to expose crimes against humanity carried out by local, state, and the federal government in the United States in response to the hurricanes and to advocate for reparations for internally displaced persons who were survivors of the hurricanes.<sup>32</sup>

The judges of the tribunal included representatives from the United States, Brazil, Venezuela, Mexico, France, and elsewhere. The prosecution presented evidence of human rights violations surrounding the right to be free from racial discrimination and discrimination based on immigration status, the right of Internally Displaced Persons to be resettled, the right to be free from torture and other inhumane punishments, the right to a fair trial, and the right to freedom of association.<sup>33</sup>

Witnesses included a formerly incarcerated person who testified about being forced to wade through feces-ridden water while being denied medications when Katrina hit, as well as an individual whose brother was shot by police during the hurricane. One witness named Malik Rahim stayed in his community of Algiers, New Orleans, during and following Hurricane Katrina and testified about the racial discrimination and violence that occurred: “They demonize people to the point that they take the humanity out of individuals. . . . I saw that that was going on with us because by that Wednesday (after Hurricane Katrina hit) all African American people who were left in the city were classified as looters. . . . we were demonized as looters and nobody was providing anything.”<sup>34</sup> He described how people were trying to get food to feed young children and people in the Superdome because they were not receiving nearly adequate support from the federal government or state or local authorities. He also testified about how the police and army encouraged white vigilantes to “protect their neighborhood,” which led to heavily armed groups of white civilians killing Black men in the communities. He said that these men were encouraged by authorities and did not face any accountability for the murders that they committed.<sup>35</sup> Another witness spoke about the racism and violence that accompanied the military occupation of New Orleans in

<sup>31</sup> International Tribunal of Conscience of Peoples in Movement, *supra* note 28.

<sup>32</sup> Monica Moorehead, *International Tribunal on Katrina & Rita: We Charge Genocide*, WORKERS WORLD (Sept. 2007).

<sup>33</sup> *Id.*

<sup>34</sup> PHRFOC, *International Tribunal on Hurricanes Katrina and Rita*, YOUTUBE (Apr. 2011).

<sup>35</sup> *Id.*

the aftermath of Katrina. Eyewitness accounts detailed the effects of Governor Blanco's "shoot to kill" to "restore order" direction to the National Guard. There was also testimony regarding U.S. government denial of aid offers by Cuba and Venezuela. Ultimately, the panel of jurors charged genocide.<sup>36</sup>

### *B. Trump's Muslim Ban*

A recent example of an effective people's tribunal was in relation to Trump's Muslim Ban. This tribunal took place in Atlanta, Georgia in October 2017, and was organized by Project South, the National Lawyers Guild Georgia Chapter, CAIR Georgia, and other groups.<sup>37</sup> In this tribunal, jurors, who represented community organizations, found Trump and his administration guilty of violating the First, Fifth, and Fourteenth Amendments of the U.S. Constitution.<sup>38</sup> This verdict came after Georgia witnesses testified about the impact of the ban on themselves, their families, their friends, and their neighbors. Some of the witnesses included a Syrian medical student and the director of the Somali American Community Center in Clarkston. Another Somali witness testified, "For some Somalis, even those who were born here, it seems we don't belong anymore."<sup>39</sup>

### *C. The Role of Lawyers*

Lawyers and law students can play an important part in people's tribunals by serving as defense counsel, prosecutors, or members of the jury, drawing on their legal expertise. In the tribunal on the Muslim Ban, Georgia-based lawyers and law students served in all three capacities. In the tribunal on the Philippines, lawyers served in the prosecution team and on the jury. Lawyers affiliated with the National Union of Peoples' Lawyers in the Philippines played an especially important part as part of the prosecution team by preparing voluminous testimony and through questioning witnesses. They also then accompanied jurors and witnesses for the tribunal on a visit to a parliamentarian from the European Parliament as well as to The Hague and the International Criminal Court, armed with the verdict of the jury and accompanying documents.

### *D. The Role of the NLG*

As an organization that has historically fought in defense of social justice movements, NLG members are keenly aware of the limitations of the judicial system in providing redress and accountability. NLG lawyers have been on the forefront of legal thinking outside the box in order to seek justice for our movements. As such, the NLG has played an important part organizationally in helping to organize and take part in people's tribunals both domestically and internationally.

## III. CONCLUSION

People's Tribunals offer a powerful option to shed light on otherwise muted human rights violations, those which are perpetrated by states and state-backed corporations. While they do not offer the power of judicial tribunals and their ability to enforce judgements, they are significant

<sup>36</sup> *Id.*

<sup>37</sup> Civil Rights Groups to Host People's Tribunal, *The People v. Muslim Ban*, GSU College of Law, Oct. 9, Project South (Oct. 2017).

<sup>38</sup> Angela Oliver, *Power to the People: People's Tribunal a Platform for Arguments Surrounding Muslim Ban*, PROJECT SOUTH (Oct. 2017).

<sup>39</sup> *Id.*

in the way they make people more aware of ongoing violations of rights and provide a forum to survivors of human rights violations.

If we want to enact change, particularly regarding human rights violations and crimes against humanity, the voices of those most affected must be heard. These voices, so often drowned out by the louder, megaphoned voices of those in power, are the ones that will inspire action. People's tribunals also provide and create a record of offenses that could potentially be a starting point when domestic and international judicial, such as the International Criminal Court, are finally forced to act. By shining a light on systematic human rights violations, the public will not only become more aware, but invested in doing their part to prevent such violations in the future and hold power to account.