

Keynote Address

Human Rights and the Environment:

Common Ground

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I want to thank Guido Calibresi, Jacki Hamilton, Jacob Scherr, and the American Association for the Advancement of Science for inviting me to Yale today, and I want to thank all of you for coming.

As an international human rights attorney, I have focused my efforts on individuals who, in their pursuit of human rights, have stood up to government oppression at great personal risk. Many of these individuals have been imprisoned, tortured, or killed for their political beliefs. Untold numbers of journalists have been silenced, lawyers jailed, scientists stifled, and trade unionists crushed. What all of these brave individuals have in common is their commitment to justice, non-violence, and the rule of law.

Like civil rights lawyers in the United States who look to the Bill of Rights under the Constitution to guide their practice, international human rights lawyers look to a number of international instruments for the laws by which we expect governments to abide. Most human rights norms are based upon the Universal Declaration of Human Rights¹ and the International Covenants on human rights.² The Declaration was signed in 1948 in reaction to the Nazi atrocities during World War II, and set forth principles which members of the United Nations agreed to recognize. The Covenants were drafted and signed a few years later, and they set forth specific rights which states are bound to uphold. If states violate the terms of the Covenants, they can be brought before a tribunal and held accountable.

Our world has changed drastically since the Declaration and Covenants were written, and certainly the drafters did not anticipate all of today's problems. Clearly they did not foresee the enormity of our ecological degradation and the consequent necessity for human rights norms to encompass environmental considerations. Promoting the right to a healthy environment is the most obvious mechanism to fulfill this need. That right is just now being fleshed out. We are only beginning to explore the questions it raises: What entitlements does it anticipate? What constitutes a violation? Who

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1. *Universal Declaration of Human Rights*, G.A. Res. 217(III)A, U.N. Doc. A/810 (1948) [hereinafter *Universal Declaration*].

2. *International Covenant on Civil and Political Rights*, G.A. Res. 2200A, U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966); *International Covenant on Economic, Social and Cultural Rights*, G.A. Res. 2200A, U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966).

will monitor nations? What form will relief take? And so many other queries. Meanwhile, people are being tortured and rainforests are disappearing. We can't afford to wait until all the answers are sorted out. The need for human rights activists and environmentalists to work together is urgent. And there are at least three circumstances under which, indisputably, we can work together right now, right here, today.

The first occurs when governments deliberately withhold life-saving information about environmental degradation from those affected; here we'll look at Chernobyl. The second occurs when governments target environmentalists for persecution; here we'll look at Wangari Maathai in Kenya. And the third occurs when exploitation of natural resources threatens the viability of indigenous cultures; here we'll look at the Tagbanwa people on the island of Palawan in the Philippines.

On April 26, 1986, an experiment gone wrong blew the top off the nuclear reactor at Chernobyl and ejected more than fifty million curies of radioactivity into the universe. It was not until twelve hours after the first alert that Moscow TV acknowledged that an accident had occurred.³ Former Soviet President Mikhail Gorbachev waited nineteen days before issuing a statement about the disaster.⁴

Meanwhile, on May 1, Soviet puppets in the Czechoslovakian government demanded that all workers march in the May Day parade, the annual celebration which glorifies Communism. That morning, the first rains after Chernobyl poured down upon the very workers which Communism was supposed to save. When scientists in Prague took out their geiger counters and realized that radiation readings were off the scale, the government reacted quickly — but not as one might have expected. The government's response was to send the police on a raid to shut down every geiger counter in sight.⁵ There was more at risk here than free speech or participation in governance. This type of censorship is about governments knowingly and purposefully committing tens of thousands of their citizens to certain death. Estimates of the number of Chernobyl-related deaths range from forty thousand to one million worldwide.⁶

Governments that suppress information violate the right of their citizens to "seek, receive and impart information" and their right to "life, liberty and security of person."⁷ The Chernobyl incident is a dramatic example of the dangers of environmental censorship. Human rights activists and environmen-

3. GREENPEACE, *THE GREENPEACE BOOK OF THE NUCLEAR AGE: THE HIDDEN HISTORY* 280 (1990).

4. André Carothers, *Children of Chernobyl*, GREENPEACE, Jan.-Feb. 1991, at 8, 11.

5. Interview with Marie Pragova, Deputy Mayor of Prague, in New York, N.Y. (Sept. 1, 1991).

6. GREENPEACE, *supra* note 3, at 286-87.

7. *Universal Declaration*, *supra* note 1, at 71.

talists can work together to hold governments responsible when withholding information directly causes death or other violations of human rights.

After Chernobyl, those who had the information and the access to mass communications failed to speak out. Why? Perhaps they were afraid of the consequences, the consequences for their governments if the people found out, or the consequences to themselves personally if their governments found out who told the people.

The exercise of free speech about the dangers of pollution — speech which totalitarian governments view as a challenge to their survival — is all too often the catalyst for a series of human rights violations, including the rights to be free from arbitrary arrest, torture, or extra-judicial execution. Perhaps the clearest example of the inextricable link between human rights and the environment is a government that targets an environmental activist for persecution — someone who speaks out despite the consequences, someone like Wangari Maathai of Kenya. Today, she personifies the perfect marriage of human rights advocacy and environmental activism.

Professor Maathai founded "The Green Belt Movement" and went on a one-woman campaign to reforest Kenya. She distributed seedlings and encouraged rural women to plant them. The Green Belt movement has planted ten million trees in a dozen African countries. It was a simple concept, and it was vastly successful. Professor Maathai soon won the Africa Prize for helping to stop hunger.⁸ The Kenyan government heralded her as one of its most exemplary citizens. Newspapers and local organizations lauded her. Then one day her commitment was tested.

President Daniel arap Moi decided to erect a sixty-nine story skyscraper in the middle of Nairobi's most popular park. The office building was to be a monument to Moi. Lest there be any doubt, plans called for the entranceway to be graced by a two-story statue of the President, striding, Leninesque, into the future. When Professor Maathai objected to her friends, they warned her to hush. When she spoke out publicly, she was visited by security forces. When she organized demonstrations, she was subjected to a harassment campaign orchestrated by the government.⁹ Members of Parliament denounced her and dismissed her organization as a "bunch of divorcees."¹⁰ The state-run newspaper questioned Professor Maathai's past sexual activities, and finally, policemen detained and interrogated her, with no warrant and no charges.

8. Christopher Boyd, *Kenyan Plants Roots for Reforestation, Political Power*, CHI. TRIB., Jan. 5, 1992, § 6, at 1.

9. *Id.*

10. Pius Nyamora, *Wangari Maathai: Wrestling Men*, SOCIETY MAG., Autumn 1989, at 4, 6.

More determined than ever, Wangari Maathai continues her work on environmental protection. But now she talks about human rights abuses as well. Today she leads the campaign to free Kenya's political prisoners. A few weeks ago, Moi ordered the military police to break up a demonstration Maathai led. They fired a tear gas canister at her head and, when it knocked her unconscious, the police continued to kick her limp body. When they finally dispersed, she was taken to the hospital. Upon her release several days later, Professor Maathai announced she was continuing the campaign until all political prisoners are free.¹¹ Professor Maathai speaks passionately about the importance to the environment of political freedom. She looks forward to taking her message to the international community.¹²

As Wangari Maathai's experience demonstrates, activists who seek to protect the environment are often targets of human rights abuse. Their rights to free speech and association are violated, they are subjected to illegal arrests and detention, and sometimes they are killed. Kenyan activists are not alone. Environmentalists are persecuted all over the world. Everyone knows the story of the assassination of Chico Mendes, the Brazilian rubber tapper whose efforts to save the rain forest brought down the wrath of powerful logging interests in Brazil.¹³ Other names are less well known. In Poland, Kristof Gorlich was imprisoned for warning fellow laborers about the contamination of Krakow's ground water from the Lenin Steel Works.¹⁴ In Malaysia, James Barclay, a correspondent for *The Guardian*, was imprisoned¹⁵ and then deported¹⁶ after he visited a timber blockade by the nomadic Penan people. In Peru, Barbara D'Achille, an environmental reporter, was killed by Shining Path guerrillas after writing critically of their abuse of the environment.¹⁷ Respect for human rights is not a panacea which will solve our ecological problems, but unless and until activists, journalists, and citizens are free to discuss the extent of environmental degradation without fear of reprisal, our natural resources will never be safeguarded.

The last subject I want to address is the pattern of human rights abuse which accompanies the exploitation of indigenous peoples. It is a fight for the control over natural resources. It is a threat confronting indigenous people

11. *Kenya: Environmentalist Clubbed by Riot Police*, Greenwire, Mar. 5, 1992, available in LEXIS, Nexis Library, GRNWRE File.

12. Interview with Wangari Maathai, in Miami, Florida (Nov. 9, 1991).

13. See Eugene Robinson, *Brazilian Court Finds Ranchers Guilty of Murdering Amazon Ecologist*, WASH. POST, Dec. 16, 1990, at A33; Stephen Schwartzman, *Justice in the Rainforest*, CHRISTIAN SCI. MON., Jan. 30, 1991, at 18.

14. Interview with Kristof Gorlich, in Krakow, Poland (Sept. 10, 1991).

15. *Malaysia Detains Briton for Illegal Entry*, Agence France Presse, Feb. 27, 1992, available in LEXIS, Nexis library, CURRNT file.

16. *Briton Deported*, THE INDEPENDENT, Mar. 19, 1992, at 16.

17. *Peruvian Guerrillas Slay Journalist*, CHI. TRIB., June 2, 1989, at C20.

around the globe, including Canada's Cree and Inuit (but after last week's announcement in Albany, perhaps not so much any more),¹⁸ Brazil's Kayapo Indians, and Gabon's pygmies.

This conflict was brought home to me when I visited the Island of Palawan in the Philippines. Palawan is one of the most beautiful places I have ever seen. Situated halfway between Manila and Hanoi, the island is a tropical Bali Hai, covered by virgin rain forest, teeming with wild animals and exotic birds. It is ringed with a halo of white sand beaches and dotted with magnificent coral reefs which are home to some of the most fertile and diverse spawning waters in the world.

But beneath the surface beauty lies a struggle for survival. Commercial logging interests are stripping Palawan's rainforest and imperiling its people. From 1972 until 1988, the Palawan forest cover decreased by one third,¹⁹ among the highest rate of forest destruction in the world. According to one study, if logging continues at the current pace, the virgin forest will be entirely extinguished by the end of the century. The primary tropical woodlands and their rare hard-wood and fruit-bearing trees, along with a multitude of endangered birds and mammals, including the scaly anteater, stink badger, and the little leopard cat, are all at risk of extinction.²⁰

Who is responsible for this devastation? One man controls twenty-five percent of the logging concessions on Palawan. His name is Pepito Alvarez and he owns Pagdanan Lumber, Palawan's largest logging company. He is regarded with fear and awe by virtually every person I met on Palawan. I was told that he owns not just the logging companies and the concessions, but the police, the lawyers, the judges, and the politicians as well. Certainly there are officials on Palawan who are not corrupt, and I met a few. Still, Alvarez' power is pervasive and his influence over virtually every Palawan's life is oppressive. But most disturbing of all is the fact that his greed is literally obliterating the indigenous peoples who belong to the Tagbanuwa and Batak tribes. The experience of the Tagbanuwa is typical.

The Tagbanuwa subsist on lowland crops and trade forest products, such as almaciga resin, and rattan, for staples like rice and other products. The Tagbanuwa have lost a great deal of their tribal traditions, and their written

18. Governor Mario Cuomo halted negotiations with the government of Quebec and canceled a 20-year contract to buy power from a controversial hydroelectric complex that Quebec planned to build in the James Bay region. Environmentalists and Native Canadian leaders have argued that the project would devastate the wilderness and the Cree Indian culture. Sam Howe Verhovek, *Cuomo, Citing Economic Issues, Cancels Quebec Power Contract*, N.Y. TIMES, Mar. 28, 1992, at 1.

19. Interview with Director of the National Mapping and Resource Information Authority, in Metro Manila, Philippines (Jan. 1989).

20. DARIO NOVELLINO, FRIENDS OF THE EARTH (ITALY), A SUMMARY REPORT ON RESOURCE DEPLETION AND TRIBAL SURVIVAL IN PALAWAN ISLAND, PHILIPPINES: GOVERNMENT POLICY AND FOE PROPOSALS 9 (1989).

language is already extinct.²¹ Even so, many Tagbanuwa try to uphold their cultural heritage. I was privileged to take a tour through the forest with a Tagbanuwa Baranguay captain, a community leader. Every few feet, he'd point to a different plant and say, "We use the bark of this one for headaches and that one for malaria and that one for menstrual cramps." I was tempted to take a few home with me.

But it wasn't all so pleasant. He spoke sadly of seeing his way of life disappearing. He blames it on the encroachment of Alvarez' logging company, Pagdanan Lumber, and on the influx of outsiders who follow the logging roads. Alvarez' interests at Pagdanan are protected not only by the police and politicians, but also by a two hundred-man private militia which wields its power with impunity against tribal people and others.

One Tagbanuwa tribesman related a harrowing tale. Along with a group of four or five friends, he had collected rattan in the forest as his forefathers have done for centuries. They were transporting the rattan down-river when shots suddenly rang out, and they were ordered to bring the raft to shore. As they came to the bank, eight men emerged: one policeman, three officials from the federal Department of Environmental and Natural Resources, and four men from Pagdanan Lumber toting guns. The Tagbanuwa were interrogated, and their rattan was confiscated. At least one of the Tagbanuwa tribesmen is unable to return home for fear of reprisals for having spoken publicly of the incident.²² In another case, an official from Alvarez' private militia shot a Tagbanuwa youth and admitted to the murder. Alvarez even sent the local mayor a hundred dollars to be given to the family for funeral expenses. Still, there has been no indictment, no trial, and no conviction.²³ I heard more stories of deaths and disappearances attributed to Alvarez' private militia, but rarely were the perpetrators brought to justice.

The exploitation of the Tagbanuwa and Batak in Palawan has been repeated around the globe. When indigenous populations are stripped of their land and its natural resources, they also lose their autonomy and, with it, their very existence as a people. The world loses a language, a culture, a history and, as Jason Clay of Cultural Survival has pointed out, the crucial knowledge about how to manage our dwindling resources in a sustainable manner.²⁴ Most horrifying of all is the fact that millions upon millions of indigenous people have been killed, and are being killed today, because of the struggle over the exploitation of natural resources. The only way to stop the slaughter is to realize what activists in Palawan know all too well: protecting human

21. *Id.* at 10.

22. Interview in Palawan, Philippines (Mar. 3, 1992) (name withheld for family's protection).

23. *Id.*

24. See JASON W. CLAY, *INDIGENOUS PEOPLES AND TROPICAL FORESTS: MODELS OF LAND USE AND MANAGEMENT FROM LATIN AMERICA* (1988).

rights means preserving the environment, and safeguarding the environment means respecting human rights. How to do so will be an important part of the discussions over the next few days.

As we struggle with these issues, let us not forget that here in the United States we spend much of our time worrying about the gray areas and the fine lines that define the powers of some and the rights of others. Certainly it will be important to talk about these boundaries and rights, as I know we will over the next three days here on this beautiful campus.

It is one of the golden worries of this country that so often these issues are still being debated only at the margin. To look at liberty through the lens of the experience of other countries will be particularly valuable and sobering — reminding us that human rights and a healthy environment may be God-given, but their protection is hand-made. For all of us here today, it is also a reminder of the importance of the principles we value to see the stark state in which these rights are found in so many other nations. We struggle daily with the gray areas, but for millions of the world's environmentalists and human rights advocates — people like Wangari Maathai, Chico Mendes, and the Tagbanuwas — there are no shaded zones, but only the dark regions of oppression, domination, and injustice.

In speaking about the fight to save the rainforests by environmentalists, human rights advocates, and tribal people, Paulinko Paiakan, the Kayapó Indian leader from Brazil said, "No one of us is strong enough to win alone; [but] together, we can be strong enough to win."²⁵ As we begin this conference and debate these issues, let us agree on one thing: that we will learn from the environmentalists and human rights activists who struggle in the dark regions, and we will find a way to work together for a healthy environment and for justice in our own country and around the world. Because together we will be strong enough to win.

25. SUSANNA HECHT & ALEXANDER COCKBURN, *THE FATE OF THE FOREST* 193 (1989).

