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Impulses + Case
Studies

Interdisciplinary Perspectives on the Interplay between Human Rights and Sustainability

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Preface

The following collection of manuscripts emerged from an interdisciplinary virtual exchange held during the Winter semester of 2023/2024 at the Environmental Campus Birkenfeld, organized by Prof. Dr. Milena Valeva and Prof. Dr. Kathrin Nitschmann. Additionally, Prof. Dr. Héctor Bombiella Medina, a lecturer of anthropology in the Department of World Languages and Cultures at Iowa State University, contributed to the virtual exchange and supervised case studies 3 and 4, bringing his extensive experience in this field and facilitating the international exchange. Within the elective module on Human Rights, students from the Bachelor's programs "Nonprofit and NGO Management" and "Environmental and Business Law," as well as the Master's program "Energy and Corporate Law," explored the interconnections between human rights and sustainability.

In an era marked by unprecedented environmental challenges and profound social transformations, the intersection of human rights and the rights of nature has emerged as a critical area of inquiry and debate. Today, as we face the dual crises of climate change and biodiversity loss, the traditional boundaries between human and environmental rights are increasingly blurred. This confluence demands a fresh, interdisciplinary approach to understanding and addressing the complex and interrelated issues at hand.

Human rights, fundamental to the dignity and freedom of individuals, are deeply impacted by environmental degradation. Communities worldwide are experiencing firsthand the devastating effects of polluted air, contaminated water, and deforested landscapes, all of which undermine basic human rights to health, livelihood, and well-being. Conversely, recognizing the rights of nature – the intrinsic value of ecosystems and species – challenges us to reconsider our legal, ethical, and philosophical frameworks. It calls for a paradigm shift from an anthropocentric world-

view to one that embraces the interconnectedness of all life forms.

Engaging in robust discussions and research on these topics is essential in today's context. By exploring interdisciplinary perspectives, we can forge innovative solutions that honor both the rights of individuals and the integrity of nature. This special issue aims to contribute to this vital discourse, providing insights and fostering dialogue on how we can collectively navigate the complex landscape of human rights and environmental sustainability.

The first chapter „Human rights and SDGs in the context of democracy“ examines the significance of international human rights in today's context and links them to new value systems like sustainability.

The second chapter, the case study „Rights of Nature“ explores the concept of granting legal rights to nature itself by comparing laws from various countries to show how it combats environmental exploitation.

The third chapter, the case study „Traditional coca leaf consumption and drug trafficking in Colombia“ delves into the complex issues surrounding coca cultivation in Colombia, highlighting its economic, social, and political impacts.

The fourth chapter, the case study „The artisanal fishing community of Chorrillos, Peru“ aims to provide theoretical insights and recommendations for improving the livelihoods of artisanal fishing communities in Peru, considering legal, ethical, and environmental perspectives as well as how economic liberalization, privatization, and deregulation affect the community's socio-economic conditions.

public policy with perspectives from nonprofit and non-governmental organizations. Contributing to this chapter are students from the Environmental Campus Birkenfeld at Trier University of Applied Sciences, including those pursuing degrees in law, a master's in law and non-profit and NGO management.



Prof. Dr. Héctor Andrés Bombiella Medina

has conducted extensive fieldwork with social groups in condition of poverty and disadvantage, grassroots organizations and the public as well as private-sector in the United States, Colombia and Peru. He is a teacher and researcher on topics dealing with human rights, public policy and sustainability. He is currently advising on and promoting policies to empower peasants and solidarity-based economies at the Colombian National Training Agency (Servicio Nacional de Aprendizaje, SENA).

Affected Human Rights by the destruction of coca plantations

Author: Cara-Maxine Heyd

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1 Introduction

The Coca-plant has been cultivated on a large scale in plantations in some South American countries for almost 100 years. Colombia, for example, is one of the countries in South America with the highest sales of cocaine cultivation. The coca plant, from which cocaine is produced, has been cultivated in Colombia since the 1960s, especially in the more remote areas of the Andes, in order to make progress in the field of medicine. Ever since Albert Niemann produced the drug cocaine from the coca plant in 1860, the cultivation of the coca plant from Colombia has also been used to produce cocaine. When Alberto Sicilia Falcon promoted the mass production of cocaine in the 1980s, Colombia became one of the largest cocaine-producing countries in the world and continues to import cocaine worldwide to this day. With the help of the US government, the "Plan Colombia" was developed, which aims to destroy the plantations and, as a result, to maintain social and economic programs to preserve sources of income. However, the destruction of the plantations still leads to socio-economic, corrupt and violent conflicts to this day, as the drug trade has shifted to other count-

ries and has not really disappeared in Colombia. In addition, the destruction of cocaine plantations can restrict human rights, especially if it is not carried out in accordance with the rule of law and human rights standards.

The following elaboration is based on the human rights of the UDHR (Universal Declaration of Human Rights) and their possible restriction or violation and in the final consideration the prospects in German law.

The Universal Declaration of Human Rights of 1948 is the best-known human rights document and forms the cornerstone of international human rights protection. Before the Second World War, human rights were mainly regulated nationally. The horrors of war led to a rethink. The UN Charter of 1945 instructed the international community to promote human rights for all. The breakthrough came with the adoption of the UDHR by the UN General Assembly in December 1948, following a two-year discussion process. The UDHR is not a legally binding document but has great political and moral significance. It influenced the development of the UN human rights conventions from the 1950s onwards. The Universal Declaration of

Human Rights enshrines fundamental civil, political, and social rights to which every human being should be entitled on the basis of their dignity. In 30 articles, it sets out guarantees of protection for the human person, including the right to life, the prohibition of slavery, torture, and arbitrary detention. It also includes procedural rights such as the right to effective legal remedies as well as traditional civil liberties such as freedom of expression, freedom of religion, guarantee of property and freedom of marriage. In addition, economic, social, and cultural rights are guaranteed, including the right to social security, work, food, health and education. These rights should apply to all people regardless of race, gender, or nationality (UDHR Art. 2), as all people are born free and equal in dignity and rights (UDHR, Art. 1).

In my paper, I will discuss the international human rights of the UDHR and develop arguments for a possible violation of human rights. At the end of my paper, I will look at the facts of the case in terms of the German basic right to a decent subsistence minimum and I will take a closer look at the use of the herbicide glyphosate, as it has caused the greatest damage and is a fundamental problem for current drug policy.

Before WW II, human rights were mainly regulated nationally. The horrors of war led to a rethink. The UN Charter of 1945 instructed the international community to promote human rights for all. The breakthrough came with the adoption of the "Universal Declaration of Human Rights" by the UN General Assembly in December 1948, following a two-year discussion process.

2 Affected universal human rights

2.1 Right to adequate living conditions

"Everyone has the right to a standard of living adequate for health and well-being." This means guaranteeing the basic needs of an individual and their family in the sense of the social subsistence minimum. This includes decent housing, adequate clothing, and food as well as medical treatment.

According to Art. 25 UDHR, these rights include "food, clothing, housing, medical care, necessary services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood through no fault of their own" (para. 1) as well as the right to special care and assistance for mothers and children (para. 2). Thus, several rights are addressed in one article, which could have been restricted or even violated by the destruction of the plantations (Humanrights.ch, n. D.).

The plantations were to be destroyed in various ways. They were to be destroyed by eradication, aerial fumigation and fighting armed groups.

The right to adequate living conditions may have been restricted to the extent that the local population may lose their livelihoods, resulting in poverty and precarious living conditions. In 2021, plantations of around 103,000 hectares were destroyed (APA, 2022). The farming community of the coca plantations depend on work in coca cultivation to earn a living. Without this income, the population cannot maintain an adequate "standard of living that guarantees health and well-being for themselves and their families". The Colombian state is trying to support alternative crops such as coffee, sugar cane and plantains with the help of financial support, e.g. in the form of subsidies. Other countries, such as the USA with its "International Drug Control and Law Enforcement" aid project, which is also committed to social justice and development cooperation to enable a decent standard of living, also support countries like Colombia in their fight against drugs (Humanrights.ch, n. D.). These projects are not enough for those affected. In the past, farmers have repeatedly had to resort to growing coca in order to survive. Although the cultivation of the coca plant is not completely illegal in Colombia, it is "still" on the UN's prohibited list, as coca leaves are considered

a narcotic (Weigand, 2023). Coca farmers are therefore also in a difficult situation in legal matters (Merkur.de, 2022). On the one hand, the coca growers are very much afraid of being arrested by the state, and on the other hand of having to face even worse consequences from the drug mafia, the cartels or other drug power brokers. The difficulty in winning the war on drugs lies in limiting state resources and enforcing them against the Colombian rulers.

Manual eradication creates a dangerous dynamic on the ground by directly confronting the military and police with coca growers. As one official put it, "The eradication divides the government from the farmers and armed groups." For farmers in remote areas without access to public services, the military's attempt to deprive them of their livelihoods becomes their only experience with the state. As one farmer describes, "The only investment we have experienced is that of the armed forces, which has only brought us pain and sadness. ... They have turned our communities into a war" (Crisis Group, 2021, p. 27).

The farmers have no opportunity to build up a decent standard of living for themselves and their families due to their constant fear of expulsion, arrest, flight or even fear of death (Crisis Group, 2021).

In 2018, the Colombian government under President Duque launched five intensive military operations, known as Zonas Futuro (Future Zones), to pacify conflict-ridden areas and create the basis for economic development. This strategy, which links military operations with future development, harbors risks, especially in areas where farmers depend on illegal harvests. Focusing on the capture of high-ranking members of armed groups can generate as much violence in rural areas as it can prevent it. Killing or arresting commanders leads to power vacuums and internal cleansing but increases violence. The danger to civilians increases when armed forces publicly thank for information, putting the community at risk. It is suggested that Bogotá should rethink the measurement of success of military operations. The current focus on arresting criminal leaders does not contribute to conflict reduction. Military planners should consider the impact on communities, the likelihood of permanent police presence and the risks of power struggles between armed groups. Better planning

is needed to mitigate negative impacts on communities and increase confidence in security forces (Crisis Group, 2021, p. ii).

2.2 Right to work

"The government calls us coca farmers drug dealers, terrorists and guerrillas. They persecute us as if we were the very worst. But we're not bad people, we're doing this out of sheer necessity. How are we supposed to survive? Coca is the only thing that makes money here" (Herrberg, 2021).

The right to work could be restricted to the extent that the workers who worked on the plantations lose their jobs as a result of the destruction of the plantations. It is critical whether the government, which controls the destruction, must ensure that alternative employment opportunities and support are available in order not to violate the right to work. Working on the coca plantations is, or was, legal employment.

Article 23 of the UDHR addresses a variety of work-related entitlements and particularly emphasizes the right to work. Although states cannot enforce this right in court, as judges cannot allocate jobs, the Declaration obliges states to direct their policies towards the prevention of unemployment. It is the responsibility of the state to take active measures to ensure a wage that secures the basic existence of workers and their families. This includes setting a minimum wage and, if necessary, providing supplementary benefits similar to social assistance. However, the actual level of minimum wage and benefits varies greatly and is closely linked to the general standard of living in the country concerned (Humanrights.ch, no. D.).

The Colombian state is therefore not obliged to provide alternative jobs for coca farmers. However, there have already been many organizations and projects to convert the cultivation of the coca plant to an alternative, legal crop. Similarly, countries such as Colombia have been trying for many years to win the war on drugs and overthrow those in power so that the population can live and survive through legal work.

The free choice of occupation of farmers is guaranteed by Art. 23 UDHR, but this does not include the cultivation of illegal substances. Here again, the difficulty lies in weighing up whether the cultivation of the coca plant is illegal or not.

The cultivation of the coca plant is generally permitted for cultural, spiritual, and medicinal purposes. However, this does not include its predominant use, but rather its resale and processing into cocaine. Unfortunately, the majority of coca farmers are forced to pursue this illegal occupation for reasons of survival and fear of death. They are subjected to illegal forced labor – not directly by the Colombian state, but by those in power in Colombia. Indirectly, however, forced labor could be brought about by the state due to the insufficient support for alternative cultivation, the minority of the state military compared to the drug military and the insufficient protection against the consequences if the farmers oppose the drug powers.

2.3 Right to food

The right to work and the right to an adequate standard of living are closely linked to the right to food, as the workers on the plantations lived off their wages. Due to the destruction, this salary is no longer paid, leading to food insecurity and the destruction of livelihoods (Schmeil, 2021). The destruction of the coca plantations and thus of the agricultural fields in the immediate vicinity constitutes a violation of the right to food.

2.4 Right to health and human dignity

The right to health goes in two directions. On the one hand, the right to work and the right to food are continued with the right to health. If the population has no work, there is no money for food. Without food, people fall ill.

Secondly, the area surrounding the plantations is exposed to health risks, as the destruction of the plantations is carried out using the chemical glyphosate, among other things. This chemical has been classified as "possibly carcinogenic" by the WHO, as a result of which the Constitutional Court ruled in 2017 that glyphosate can only be used to destroy coca plantations under strict conditions (Suhner, 2022).

The Colombian government under President Duque planned to resume spraying with glyphosate to combat coca fields. The Constitutional Court had set strict conditions for spraying, based on health and environmental studies, and although the government met some requirements, court cases are expected to delay the resumption until

mid-2021. The government argues in favor of the more cost-effective aerial fumigation, supported by some military officials and the Trump administration. Some U.S. officials claim this is critical to reducing the supply of coca.

The resumption of aerial fumigation is likely to have similar violent effects as in the past. Glyphosate affects not only coca fields, but agriculture, which can lead to tensions between neighbors. The effects on public health are alarming, with documented miscarriages, diarrhea, and skin lesions. In the long term, the World Health Organization considers glyphosate to be a probable carcinogen. Negative effects could trigger a humanitarian crisis, even for farmers without coca cultivation.

2.5 Right to the cultural life

"Coca leaves are part of the culture of indigenous populations in the Andes region and are traditionally used for health and religious purposes. The ban to date is pharmacologically and toxicologically unfounded and has caused ecological and social damage to the affected region" (Weigand, 2023). The coca plant has been part of the culture and tradition of the Colombian and Andean regions in general for centuries and has great spiritual significance. The leaves are used as a medicinal plant, in ceremonies and in rituals in order to have a stronger connection to religion. The coca leaf is also processed and chewed or used in tea to dispel negative energies and purify the body. This is mostly practiced in the community and serves as a means of social interaction. One of the most important uses of the coca leaf is for medicinal purposes. Its leaves are rich in vitamins and minerals, including A, B1, B2, B3, C, E, calcium, phosphorus, iron, sodium as well as potassium. The 14 different alkaloids promote blood circulation and oxygen uptake in the blood and brain. In the high-altitude regions where coca plants thrive, locals use it to relieve altitude sickness, exhaustion and stomach problems. The leaves also have antioxidant properties and support the liver and the health of the stomach and intestines. In the Andean regions, coca is chewed or drunk as a means of increasing stamina and energy at high altitudes, especially above 3,500 meters. This stimulating effect enables people in the Andes to cope with long working hours in difficult conditions (Köppl, 2023).

Among other things, the Colombian Constitutional Court has banned eradication without prior consultation and consent of the community in areas of the substitution program, in national parks and in indigenous reserves, but this only affects a very small proportion of those affected (Crisis Group, 2021), especially as these regulations have not been complied with (Suhner, 2022).

A law was passed to ensure that these regulations are theoretically complied with. Chapter VII of Law 30 of 1986 regulates the procedure for the destruction of confiscated plantations and substances. Article 77 lays down in particular the steps for the identification and measurement of crops and the identification of those responsible by taking samples and forwarding them to the health authorities. Throughout the procedure, the presence of the Ministry of Public Affairs is required before eradication can begin. The producers concerned must obtain confirmation from the health authority that they are dealing with psychoactive plants before the eradication is carried out. A protocol is drawn up and must be signed by the owner or producer. The article emphasizes the importance of guarantees for the presence of the Ministry of State, in particular to ensure compliance with eradication protocols and full respect for human rights. The Antinarcotics Handbook for the Manual Eradication of Illicit Crops by the Police states in Article 7.1: *"At all times, care must be taken to ensure good treatment and respect for all people, their goods and their property, paying particular attention to the regionalisms and cultural specificities characteristic of each territory"* (Arenas and Vergas, 2020).

It is also difficult to distinguish whether coca farmers actually use the coca plant for culture, religion, spiritual rituals and medicine or consume it as a drug. The traditional use of coca leaves aims to exploit the stimulating and energizing properties without extracting the psychoactive component cocaine. The amount of cocaine in the dried leaves is minimal, between 0.1 and 0.8%. This low content prevents the risk of intoxication or addiction (Köppl, 2023). The debate as to whether the coca plant can be used for cultural, religious and spiritual medicinal purposes and whether the coca plant should be removed from the UN list of narcotics is still ongoing in connection with

It is also difficult to distinguish whether coca farmers actually use the coca plant for culture, spiritual rituals and medicine or consume it as a drug. The traditional use of coca leaves aims to exploit the stimulating and energizing properties without extracting the psychoactive component cocaine. The amount of cocaine in the dried leaves is minimal, between 0.1 and 0.8%. This low content prevents the risk of intoxication or addiction.

Colombia's 10-year drug strategy. Thus, there is no human rights violation of culture here, as the coca plant is still considered a potentially carcinogenic and dangerous drug.

3 Decent existence minimum Art. 1 GG

As a comparison of international human rights within the meaning of the UDHR with German fundamental rights, the focus is probably on the right to a minimum subsistence level in keeping with human dignity.

Small farmers in the Colombian municipality of Tibú have successfully thwarted the violent destruction of their coca plantations by the national army. Over a period of 24 hours, the farmers laid siege to their plantations, arrested 180 military personnel, and then handed them over to the local ombudsman. The action was non-violent and did not escalate. The farmers are demanding an end to the stigmatization and destruction of their fields as well as the consistent implementation of the substitution program for illegal plants. The Catacumbo region in the north-east of Norte de Santander suffers from a lack of local profit participation despite centuries of oil extraction.

The region is characterized by armed conflicts and the influence of paramilitary groups. A report by the Human Rights Ombudsman's Office shows that many residents of Norte de Santander suffer from kidnappings and forced displacement.

General Omar Sepúlveda stigmatized those involved in the resistance as kidnappers and drug traffickers, which was sharply criticized by peasant organizations. The peace agreement concluded in 2016 provides for the voluntary substitution of illegal plantations, but implementation remains inadequate. Instead, the government is planning to spray coca plantations with glyphosate, which poses considerable health risks for the local population and threatens their livelihoods. (Schmeil, 2021)

The Colombian police have temporarily suspended the destruction of coca plantations. Police chief Henry Sanabria emphasized that farmers are considered the weakest link in the drug trade. However, the fight against those behind the drug trade and illegal organizations will continue in order to prosecute people connected to the drug trade.

Alongside Peru and Bolivia, Colombia is one of the world's largest producers of cocaine. Last year, 234,000 hectares of coca plants were cultivated, with the security forces intensifying the destruction of plantations in recent years. In the previous year, 103,000 hectares of coca bushes were destroyed. Various criminal syndicates, splinter groups of the Farc guerrilla organization and the ELN rebel group are active in the drug trade. The cultivation of coca plants is attractive to many farmers due to the higher profits compared to legal agriculture. However, there are reports of farmers being forced by criminal gangs to cultivate coca plants.

According to the circumstances described, the minimum standard of living in accordance with Article 1 in conjunction with Article 20 (1) of the Basic Law could have been violated by the destruction of the coca plantations and the use of glyphosate. In terms of proportionality, it is again difficult to weigh up the interests of the coca farmers against the interests of the general public (also worldwide). In any case, the coca farmers must be identified as people in need of help who are entitled to a decent minimum standard of living. The focus of the elements of proportionality

lies in the necessity, i.e. whether there is a milder means. This brings us back to the failed war on drugs and the drug strategy now being pursued. (Zeit Online, 2022).

4 Conclusion and Looking to the future with the 10-year drug strategy

It is very difficult to assess whether the destruction of coca plantations constitutes a violation of human rights within the meaning of the Universal Declaration of Human Rights. There are restrictions on the existence of the coca population, but these are caused by the cultivation of an illegal plant. In most cases, the coca plant is processed into cocaine and sold. This represents the illegal drug trade. However, the coca farmers are dependent on this work and the drug trade in order to survive. They use the money they earn to create a standard of living that is very low despite the high demand for cocaine. The work on the coca plantations is controlled and monitored by the rulers, the supporters of the drug cartels, so that the coca farmers are subordinate to the Colombian government and the government of these rulers. Weighing up how they can secure their minimum subsistence level, they opt for survival. Although the Colombian state has worked with other countries to develop programs and systems to help coca farmers grow alternative crops on existing plantations, there is a smaller market for these crops. In addition, the safety of the farmers and their families is at risk if they decide not to cultivate the coca plant.

The destruction of these coca plantations is driving families to financial ruin. The plantations are destroyed in the long term, even for alternative crops, by uprooting the plants and spraying them with glyphosate. Nevertheless, if the right to an adequate standard of living is violated, it can be said that although the coca farmers' livelihoods have been destroyed, this could be justified with regard to the cultivation of an illegal drug. In this case, the safety and well-being of the general public is also paramount, as the cultivation of the coca plant means that the population is threatened by the consumption of the drug alone, as well as by the power of the cartels. Although the right to work was also restricted by the destruction, systems for alternative work were made available.

However, the right to health was violated due to the destruction. The use of glyphosate has resulted in many direct serious medical cases that have been proven to have occurred. The health of the population was also indirectly endangered. The plantations on which farmers could have grown alternative crops were poisoned by this chemical, as were agricultural fields in the immediate vicinity.

The coca plant is also considered a medicinal plant by the indigenous population. The destruction of this medicinal plant deprived this population group of the chance of a cure. The coca plant is also a spiritual, cultural and religious plant that is used for rituals and the like. However, the destruction did not violate the right to cultural life, as the coca plant was classified as a potentially carcinogenic illegal drug (America 21, 2022). Whether the coca plant should remain on the UN list of narcotics is currently being debated.

Colombia's problem with coca plantations is not the state and the violation of fundamental rights per se. It is the general war on drugs. The cartels and rulers predominate in these countries and have a greater influence on the population than the government itself. In order to offer the Colombian population a decent standard of living, the war on drugs must be won. Not just in Colombia, but worldwide. Consumption and the sales market must be reduced or cut to a minimum in order to reduce demand and take this power away from those in power. The government is acting in the interests of national security and this is also a justification in Colombia.

In October 2023, a new 10-year drug strategy with corresponding draft legislation was presented in this regard. The aim of the strategy is to end the war on drugs and introduce reforms that will bring about long-term and sustainable change. The strategy is to be applied internationally, as this will only work in cooperation with all countries involved.



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is currently pursuing a Master of Laws degree in energy and corporate law, now in her 2nd semester. Prior to the Master program, she completed her bachelor's degree with a focus on environmental law. Actively engaged in academic life, she serves as a member of the student council "UWUR" (environmental economics and environmental law) while also contributing as a research assistant at the corporate firm KPMG Law.

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