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Waste Pickers in Pakistan: Gruber Fellowship Project Proposal

Overview

This project proposal will raise Pakistan's informal waste pickers out of abject poverty, reduce the social stigma against them, and raise their living standard and salaries. This will be achieved through the implementation of a cooperative (coop) model. It will require the establishment of relations between waste pickers, waste management companies, the government and NGOs. As a City District Government Lahore organization, the Lahore Waste Management Company (LWMC) is excited about the prospects of formalizing the informal waste pickers sector and seeks to be on the frontlines of my project. LWMC hopes to utilize various stakeholders to identify the informal waste pickers sector and engage with them to raise their living standard, thereby expanding LWMC capacity and streamlining the waste management processes.

Background

In the developing world, informal waste pickers are sometimes the only source of solid waste collection, particularly in cities (Dias 2013). Within the context of Pakistan, these "invisible environmentalists" tend to occupy the lowest social strata, face stigma and other risks in their work. They suffer contact with hazardous waste; a study of the Karachi metropolitan area found that 62.5% of hospitals stored their hazardous medical waste where informal waste pickers had direct access to them (Rasheed, et al. 2005). Hazardous substances have also been recorded in Lahore's landfills (Muhammad and Zhonghua 2014), and informal waste pickers in Pakistan are known to trespass onto landfills, endangering themselves (Rouse 2006). They also face harassment from police and at times deal with unscrupulous recycling middlemen. They have earnings well below the minimum wage and extremely low living standards (Thornett 2015). Furthermore, 65% of informal waste pickers in Lahore undertake waste picking as a family, meaning that women and children are also exposed these hazardous substances and remain in abject poverty (Asim, Batool and Chaudhry 2012). The urgency underlying this global justice and human rights issue will be addressed with the implementation of a coop model.

Coop models around informal waste pickers have been successfully initiated in various developing countries, including in Curitiba, Brazil and Pune, India. In Curitiba, local government support helped create the EcoCitizen and Green Exchange programs, which have formalized the informal waste picking sector by engaging their community and incentivizing their work. This streamlined waste management processes and benefitted the waste pickers, increasing salaries to above the minimum wage, and raising living standards. In Pune, informal waste pickers formed a

coop and successfully pressured the government into providing health and safety standards and medical insurance (Thornett 2015). Synthesizing such activities and policies offers a way out of the social injustice being done to the informal waste pickers in Lahore, and eventually Pakistan.

In Lahore, my project will engage relevant stakeholders in order to implement a waste pickers' coop, with hopes to formalize the system, thereby increasing salaries, health, safety and living standards of waste pickers, as well as streamlining waste management processes and systems. Different stakeholders will be brought into the project, from the informal waste sector to waste management companies, government and nongovernmental organizations. Some of the stakeholders and likely project participants include City District Government Lahore, Research Society of International Law, United Nations Development Programme (Solid Waste Management Division), Sustainable Development Policy Institute and Women in Informal Employment: Globalizing and Organizing.

The formalization of the waste pickers sector in Lahore through a coop is an urgent need, which continued involvement of the LWMC can address. LWMC is the only not-for-profit organization that is supervising the waste management of Lahore. Currently, no other city in Pakistan has proper solid waste management systems and the provincial government of Punjab has hired LWMC to develop waste management systems in six other cities (LWMC 2015). Surveying the informal waste pickers sector will provide data on how waste moves within Lahore and help establish integrated zones of operation. It will also highlight incorporation of informal waste pickers into the formal waste management system, leading to official occupational status, increased salaries, and health and safety standards.

A partnership with LWMC, considering its implication in multiple cities, will provide a mutually beneficial relationship with the coop. Insights drawn from the formation of a coop in Lahore will be useful in implementing coops in six other cities in Punjab. LWMC is mandated to take an integrated approach and there are financial, sustainable and social impacts of their operations that can be transformed into a coop model. This project will have an impact on the lives of informal waste pickers in Lahore, while building more efficient solid waste management systems; thus paving the way for six new possible coop developments in LWMC partner cities.

Work Plan

During the fellowship year, I will carry-out the following work plan, but a key goal of the fellowship is to establish a system that will expand to the informal waste picking sectors in Lahore, and provide lessons for other cities.

1. Action Item 1 (pre-fellowship): Conduct an independent study examining the waste management system of LWMC, identifying existing gaps in the infrastructure. This study will be conducted at FES by the fellow during Spring 2016. It will explore the dynamics

of waste flows in Lahore captured by LWMC and identify existing gaps in the infrastructure that may accommodate the formalization of the informal waste pickers sector. The goal and scope of this study will be clearly defined over Winter Recess 2015 in conjunction with LWMC. The final deliverable will be a report, completed in May 2016, and delivered to the LWMC, relevant stakeholders and the Center for Industrial Ecology.

2. Action Item 2 (March to November 2016): Define the informal waste pickers sector in Lahore, and Pakistan in general. This will be done through literature review, industry interviews and a survey of the relevant population. Some academic literature on Pakistan's informal waste pickers sectors exists. It will be evaluated to determine which areas to target for implementation of a coop. Industry experts and applicable organizations will establish methods of engaging the newly identified waste pickers sector. A survey will provide information on the incentives that informal waste pickers seek and will serve to outline the structure of the coop. This work will be done in conjunction with Action Item 1 and will continue into the official fellowship start. The final deliverable will be a report to LWMC and UNDP's Solid Waste Management Division; it will include the various engagement mechanisms needed for a successful coop in Lahore.
3. Action Item 3 (September to December 2016): Identifying and establishing contact with stakeholders. Several relevant stakeholders have expressed an interest in pursuing this project, including the Research Society of International Law, Sustainable Development Policy Institute and the City District Government Lahore. Other stakeholders will be contacted once the fellowship is granted. The final deliverable will be a chart highlighting participating organizations and individuals, and their agreed upon responsibilities, distributed to all. This will continue to be updated as the project evolves. It will also include champions from the informal waste pickers sector.
4. Action Item 4 (November 2016 to May 2017): Determining the financial and operational viability of a coop model in Lahore. Discussions with all stakeholders will take place to develop a coop model that financially incentivizes informal waste pickers, while remaining financially and operationally viable for LWMC. The financial case for formalizing this sector has been made in many cities globally. The operational case will be better understood after Action Item 1. This is an important step in building relations between the different stakeholders, and cannot be articulated further at this point. The final deliverable will be an agreement between the stakeholders on the detailed operations of a coop, presented as a contract.

5. Action Item 5 (June/July 2017): Establish a coop in Lahore, with monitoring and evaluation of impacts. Once responsibilities have been undertaken, the stakeholders will observe the effects of the coop on the formal and informal waste management sectors. Data collection will occur and data analysis protocols will be developed to evaluate impacts, including environmental and social impacts. It is currently expected to take place in the 10th month of the fellowship. The final deliverable will be the production of defined datasets and reporting mechanisms on the coop, sent to LWMC and the City District Government Lahore.

6. Action Item 6 (August to September 2017): Recommendations for scaling this coop model to 6 other cities in Punjab. The final deliverable will be a report to LWMC, City District Government Lahore, the Government of Punjab and other relevant stakeholders, and will be more clearly defined once project implementation occurs.

Timeline

The timeline for my project proposal is discussed in the work plan, and may change depending on stakeholder input. The goal is to establish a coop in Lahore within 10 months of the fellowship start date. This is realistic given that I will be using Spring and Summer 2016 to lay out the groundwork for success in my project.

Word Count: 1,483

Overview

Behind the celebrated beauty of the Congo Basin Rainforest lurks a darker story. Millions of indigenous people squat in makeshift villages along the boundaries of the Protected Areas that they once called home. Without land tenure, indigenous communities continue to be marginalized and often face serious human rights abuses in the name of conservation. The passage of the 2014 Community Forest Law is the first time communities in the DRC are able to apply for land tenure, which ensures access to the land they depend on. The Gruber Fellowship would allow me to collaborate with Strong Roots, a local Congolese organization, on the first pilot project in the country to help indigenous groups apply for land tenure under the Community Forest Law. Working alongside Strong Roots, my project sets up Conservation Committees and collects the baseline information needed for the Conservation Plans in the Burhiniyi Chiefdom, both requirements to qualify for land tenure. Strong Roots plans to use the lessons learned from our pilot project to scale up Community Forests with other indigenous groups across the region.

Background

The history of conservation in the Eastern DRC is fraught with human rights abuses. From the colonial period, King Leopold sought to protect the country's vast biodiversity through the use of government owned wildlife reserves. In the 1970's, the newly independent government created Protected Areas to protect mountain gorillas, displacing hundreds of indigenous communities. The vast majority of these Protected Areas were established without considering customary rights to the land. And "without land", as one Congolese woman explained to me this past summer, "we are nothing".

While conservation and indigenous rights are frequently presented as incompatible, indigenous people have used ancestral lands sustainably for centuries. Through local resource laws, traditional authorities manage some of the most bio-diverse regions outside of Protected Areas. Increasingly, conservationists are realizing that forest management "must involve the people-especially the most vulnerable...not as objects, but as active agents" (Agarwal, 1995). Biodiversity does not have to be equated with creating more government managed Protected Areas. Indigenous communities do not need to be displaced for conservation to succeed. Community forestry, the new frontier of conservation, demonstrates how indigenous rights and conservation can co-exist. Yet community forestry cannot exist without secure land rights.

Strong Roots, a local conservation organization, is launching the first pilot project in the country to help indigenous groups obtain land tenure. Unlike international conservation organizations that only work in the Protected Areas, Strong Roots has over 20 years of experience working with indigenous groups whose lives are intricately linked with forest resources. The Burhiniyi Community Forest, located in the Kahuzi- Itombwe Corridor in

Tolbert-Gruber Fellowship Proposal- 2015

the Eastern DRC, is the site of Strong Roots' pilot project. This is a region where customary law still protects the forest. Home to six indigenous communities, the forest provides habitat for numerous endemic and endangered species, most notably the eastern lowland gorilla. Despite the work of traditional authorities to preserve wildlife and the health of the forest, the government recently said it plans on expanding the nearby National Parks to encompass this area. Fearing they will once again be displaced, indigenous groups reached out to Strong Roots in an attempt to secure their land rights under the 2014 Community Forest Law.

Community groups qualify themselves for land tenure by establishing Conservation Committees and by implementing a Conservation Plan (Community Forest Decree, 2014). In collaboration with traditional authorities, the Conservation Committees are made up of 6-10 community members who are charged with enforcing a Conservation Plan for the forest. The law requires that the Committees create a community map that documents areas that are critical for local livelihoods and make note of gorilla habitat. Some areas are classified for conservation and others remain open for resource use. Although the legal procedures are clear, the community does not yet have the necessary capacity to undertake these Plans independently.

Strong Roots' staff has excellent technical expertise but they need additional assistance designing and facilitating workshops that solicit a diversity of viewpoints. A key component of successful workshops is translating technical knowledge into a language accessible to audiences with no formal education. This is the gap I would fill within Strong Roots. I am well suited to this role because the bulk of my time in Peace Corps was devoted to organizing farmer's co-operatives that represented both men and women. In this role, I trained facilitators on ways to make women feel comfortable expressing their viewpoints. I also worked with agriculture extension agents to better design technical workshops for audiences from diverse educational backgrounds. Using visuals and hands on exercises, I encouraged the extension agents to think of creative ways to present information to rural farmers. This extensive background in adult education will complement Strong Roots' technical skills and propel our project to success.

Work Plan

Within Strong Roots, I would report to the Executive Director, Dominique Bikaba. Mr. Bikaba and I have a strong working relationship from field research and study at the Yale School of Forestry and Environmental Studies. Weekly staff meetings will provide a space for me to receive feedback on workshop designs and address problems as they arise. Mr. Bikaba and I will also set up bi-weekly meetings to addresses more specific problems.

The first step in obtaining land tenure is to gather a mix of ecological and socio-economic data for the Conservation Plan. I would work with the director and the staff's primatologist to make Strong Roots' technical vegetation and primate survey workshops better suited for community members. With the director, I would lead a community-mapping workshop to define the community forest boundaries, noting areas where there

is great ape presence. I led a similar workshop in August 2015 with one community in the Burhinyi Chiefdom and this work expands that to the other five villages.

To monitor the impact of the Conservation Plan on local livelihoods, I would train the Strong Roots' staff on how to use the Basic Necessity Survey. This provides a household welfare score that can be monitored over time. The survey will be repeated every three years to evaluate changes in household welfare as a result of the Conservation Plan. I trained data collectors in the DRC, Rwanda, and Uganda to use this survey technique in 2014 and adapted the training workshop based on participant's feedback. Based on past experiences, it is expected that both the ecological and socio-economic survey will take three months.

Once this baseline data is collected, I would spend the next seven months working alongside Strong Roots to create the Conservation Committees. A major component of this would be training the Strong Roots' staff on ways to solicit input from a diverse group of people, ensuring men and women are equally represented on the final Committees. Once the Committee Members are elected, the information collected during the community mapping workshop would be used to draft the Conservation Plan. A first draft would be presented to local and traditional leaders at a community forum. Before the forum, I would gather feedback from community members, specifically targeting women and lower-income households who are most likely to be impacted by new resource laws. Once the Conservation Plan is finalized, the application for land tenure will be submitted to the District's Community Forestry Division. We plan to submit this application by May 2016, making adjustment to the application as requested by the government.

This pilot project has the potential to transform the field of conservation. Without this project it is unlikely that international conservation NGOs will shift their focus from protected areas to trialing new forms of conservation through community forestry. To make community forestry the new frontier of conservation, Strong Roots and I will devote the final two months to completing an in-depth evaluation to advise the scalability of Community Forests in the region. While we will be monitoring progress throughout the duration of the project, the final two months are meant to give us time to think strategically about the best way for Strong Roots to scale up the pilot project to other indigenous groups in the Eastern DRC. Beyond the DRC, we will share our work through journal articles and conference presentations to catalyze a shift to local conservation solutions. By advocating for community forestry through our project, Strong Roots and I will be able to prevent further unjust displacements, protecting both people and nature.

Word Count: 1399

Gruber Fellowship Proposal

2016 - 2017

I. Overview

My project will establish a pro bono service hub in the Greater Washington D.C. area at the Tahirih Justice Center for Central American refugee families previously detained at the Dilley and Karnes detention facilities. While at the Tahirih Justice Center, I will provide representation to these families and develop tools and resources for pro se litigants and pro bono attorneys throughout the country, building on work I have already started at Yale Law School. The Tahirih Justice Center, which specializes in providing services to women and girls who have been victims of gender-based violence, is uniquely positioned to support this work. Their expertise on asylum and gender-based violence and their pro bono networks will allow me to not only provide direct representation, but to help unrepresented Central American refugee families in the Greater Washington D.C. area connect to pro bono counsel.

II. Background

In December 2014, the federal government opened the nation's largest immigration detention facility in Dilley, Texas. The 2,400-bed, for-profit facility was designed to house mothers and children, many of whom were fleeing Central America to escape horrific gender-based persecution, including repeated beatings and rape. Thousands of women and children from Guatemala, El Salvador and Honduras are being detained at the border in detention facilities in Dilley and Karnes, including nursing mothers and children averaging just six years old. Detention conditions have led mothers to attempt suicide and caused children to develop serious psychological disorders.

A growing movement has called for an end to the nation's family detention program, the largest since Japanese internment. 178 U.S. Representatives and 33 U.S. Senators have requested the immediate release of all families. In August 2015, a federal judge agreed, ordering an end to the detention of minors and requiring the release of most parents as well.

Despite these developments, thousands of families continue to cycle through detention. A coalition of nonprofits, the CARA Family Detention Pro Bono Project (CARA), has formed to represent these families while detained. However, CARA is unable to continue representation of families once released. Upon release, traumatized families regularly travel to unfamiliar areas where they are unable to afford counsel and access needed services. Mothers with young children must navigate social, medical, and education services while focusing on their pressing immigration needs.

Since May 2015, I have worked closely with CARA as a student coordinator to provide on-site and remote legal assistance to Central American refugees affected by family detention. I have represented families in immigration court, and I have co-recruited and organized more than 100 volunteers at Yale Law School and nationally to provide services to this population. Together, we have been able to use CARA's database to identify and locate previously detained families and have made over 500 phone calls to formerly detained families to ensure they are aware of upcoming hearings in immigration court. For indigent women who are unrepresented and have relocated to Connecticut, we have begun the process of finding pro bono counsel.

Volunteer efforts by Yale Law students have also identified over 200 families who have relocated to the Greater Washington D.C. area and who have upcoming immigration court hearings in the Baltimore and Arlington immigration courts. Roughly 85 percent of these women remain unrepresented, and additional families are released from Dilley and Karnes each day.

Family detention is a recent phenomenon, and no organization is reaching out to these women and children both to provide representation and to connect them with pro bono legal and social services. My project would fill this gap by establishing a pro bono service hub in the Greater Washington D.C. area at the Tahirih Justice Center for Central American refugee families previously detained at the Dilley and Karnes detention facilities.

III. Work Plan

My project will provide comprehensive legal services to indigent refugee women and children who have relocated to the Greater Washington D.C. area after release from immigration detention centers on the border. My project will harness the Tahirih Justice Center's wide expertise in gender-based asylum cases and their partnerships with law firms, mental health providers, and other social service providers to benefit newly arrived Central American refugees to the Greater Washington D.C. area.

I would be based in the Tahirih Justice Center's Falls Church, VA office, while also utilizing the Baltimore office to meet with clients in the Baltimore area. While I would provide direct legal representation to a subset of women and children who have their individual asylum hearings during the year of my Gruber fellowship, most women will have only preliminary hearings during 2016-2017. For that reason, my project would create a referral system for future representation by the Tahirih Justice Center and the private bar. I will collaborate with Tahirih Justice Center's Pro Bono Network, which already works with over 1,800 attorneys across the country to place cases with private law firms and then continues to support those law firms and associates.

As part of my project, I will craft and disseminate materials such as templates and practice advisories for attorneys who are referred clients previously detained at Dilley or Karnes. Tahirih Justice Center already provides pro bono attorneys with training and mentorship, however, I would augment that support by focusing on the unique issues that arise for formerly detained women. Topics could include how to file a Motion to Change Venue for immigration court, how to challenge release requiring electronic monitoring, and how to apply for employment authorization. The advisories will culminate in a short report that will include sections on families' most common areas of legal need, along with short anecdotes about how specific issues were resolved. In addition to distributing to pro bono attorneys in the D.C. metro area, these advisories and reports would also be disseminated on CARA's nationwide listserv of hundreds of legal workers who have traveled to Dilley and Karnes to volunteer or work. This listserv presents a natural venue for the quick and effective dissemination of advisories to legal and social service providers around the country.

Finally, I will also develop a specific website or homepage for formerly detained women that will include short videos and print materials to disseminate self-help information to formerly detained families. I have already begun to film informational videos, which have become a popular way to distribute information on the CARA Project's secret Facebook group, and I would continue to partner with CARA to place materials on their group's page. These materials will enable families to self-advocate by providing basic "How To's" relating to immigration, education, public benefits, and medical systems. I have also already worked with CARA to draft and produce booklets provided to families upon release from Dilley and Karnes, and I have secured a firm to print and mail copies of these materials to the detention centers as needed. These materials could be easily updated to direct families to online materials as well.

My goal is that the work I do with the Tahirih Justice Center's Falls Church, VA and Baltimore, MD offices will be serve as a model nationwide, including for the Center's Houston, TX office and their forthcoming Los Angeles, CA office. These locations are particularly exciting opportunities for expansion because the top five locations where Central American refugee families are relocating include the Greater Washington D.C. area, Houston and Los Angeles. Additionally, my hope is that this work will also provide me with a platform to influence policy and advocacy work around ending the one-year filing deadline for asylum applications, ending family detention and ending the use of electronic monitoring on women fleeing violence in Central America.

IV. Timeline

1. Months 1 - 3:
 - a. Begin process of representing families in areas of need with upcoming merits hearings.
 - b. Engage pro bono attorneys for clients with upcoming master calendar hearings, prioritizing women with upcoming one-year I-589 deadlines.

- c. Create blueprints for self-help videos and print materials.
2. Months 4 - 6:
 - a. Continue outreach to and representation of formerly detained families.
 - b. Continue to recruit and engage pro bono attorneys.
 - c. Create self-help materials to provide women regarding how to file an I-589 who do not yet have representation, both within the region as well as throughout the country.
 - d. Begin to prepare advisories on providing immigration services to formerly detained Central American families.
3. Months 7 - 9:
 - a. Continue representing families.
 - b. Continue to provide pro bono referrals, and work with Tahirih Justice Center and private bar to establish longer-term referral system.
 - c. Launch website with self-help materials.
 - d. Prepare advisories on providing immigration services to formerly detained Central American families.
4. Months 10 - 12:
 - a. Create succession plan and/or wrap up representation of families.
 - b. Prepare report on providing holistic services to formerly detained families.

Word Count: 1,449 words

GRUBER FELLOWSHIP PROPOSAL

Melaina Dyck

Protecting and promoting traditional knowledge in Shipibo communities

Overview

I plan to collaborate with the native Shipibo community of Paoyhan (Loreto, Peru) in registering their traditional knowledge with the Peruvian National Institute for the Defense of Free Competition and the Protection of Intellectual Property (Indecopi), and support other communities doing the same. A government program, Indecopi protects native communities' intellectual property rights through curating databases of traditional and indigenous knowledges associated with biological resources. Registered knowledge is accessed only with explicit permission of the community, and Indecopi supports communities in demanding full partnership, transparency and compensation from any research or product developed with traditional knowledge. My Gruber Fellowship to support Paoyhan accessing the Indecopi system promotes indigenous intellectual property rights—a justice concern of global proportions as many local communities are losing control over their collective resources. Furthermore, I am committed to co-production of knowledge, and I will proceed only in collaboration with Paoyhan community members. In order to achieve justice, it is essential to prioritize the goals of those experiencing injustice.

Background

Peru has 55 recognized indigenous peoples.¹ The Shipibo are among the largest indigenous groups in the Peruvian Amazon, with 36,000 people and over 150 communities, of which Paoyhan is one of the largest.² Intellectual property rights are a critical concern for many indigenous communities facing both loss of traditional knowledge due to historically-rooted, ongoing processes of displacement and assimilation, as well as exploitation of their knowledge by researchers and pharmaceutical companies. Paoyhan residents are preserving their knowledge through *Farmacia Viva*—a 5-hectare forest garden of medicinal plants. This “living pharmacy” preserves plants traditionally used by Shipibo people and the medicinal knowledge associated with those plants.

Farmacia Viva began as a community-led initiative, supported by Alianza Arkana (hereafter Alianza), an Pucallpa-based NGO working in Shipibo communities that has supported *Farmacia Viva* since its inception. Alianza is my host organization for the Gruber Fellowship. I will have access to Alianza's extensive network of Shipibo communities and allies, long-term knowledge of the region, and ethnobotanical surveys completed in Paoyhan by researchers associated with Alianza. Alianza will also provide a workspace, internet access and lodging in Paoyhan.

In addition to preserving knowledge of community residents, *Farmacia Viva* is a site for tourists interested in native plants and Shipibo medicines. The Shipibo are experts in plant medicines, and communities like Paoyhan attract tourists seeking traditional healing. However, tourism risks unscrupulous visitors collecting and profiting from Shipibo knowledge and resources without respect for intellectual property. A member of the *Farmacia Viva* committee highlighted the risk of exploitation to me. As he told it, a Swiss tourist visiting Paoyhan arrived with a head cold, which was cured with a preparation from the garden. The tourist took samples to Switzerland to analyze in his lab. Committee members never heard the outcome of his analysis. While this story can be read as a friendly exchange of knowledge, it demonstrates that

¹ Base de Datos de Pueblos Indígenas u Originarias, <http://bdpi.cultura.gob.pe/mapa-pueblos>

² Coshikox Economic Plan, 2018

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Melaina Dyck

Farmacia Viva could expose Paoyhan to biopiracy. Indeed, indigenous communities have had collectively-created genetic resources exploited in the name of ‘research.’ For example, the International Rice Research Institute (IRRI) has collected over 75,000 rice varieties—the majority of which were developed by traditional rice farmers—to keep in a frozen seed-bank. IRRI’s stated goal is to make these seeds available to posterity, yet, rather than promoting genetic diversity of rice, IRRI has restricted access to seeds, replaced diverse local varieties across Asia with a few ‘scientifically’ developed rice strains, and, by devaluing peasant knowledge, is destroying the traditional knowledge associated with those crops.³ Strong legal protections for knowledge and resources developed by indigenous communities is a global justice concern.

Formal legal frameworks meant to protect communities from exploitation exist. The Nagoya Protocol (1992, 2010) established guidelines for the use of genetic resources and indigenous knowledge.⁴ In addition to signing and ratifying the Nagoya protocol (2014), Peru has Supreme Decree N°003 (2009) to regulate use of genetic resources and Law N°27811 (2002), which protects collective indigenous knowledge and created the Indecopi databases.⁵ Yet, justice for indigenous people requires not only codified protection, but foregrounding the context of traditional knowledge and making systems of justice accessible.

This is the entry point for my project. I intend to use my position as a Gruber Fellow to elucidate the Indecopi process and break down barriers that communities like Paoyhan face to participation. Barriers include lack of information about Indecopi, difficulty accessing and submitting necessary paperwork, and the requirement that botanists review submissions. I will help Paoyhan and Alianza learn to navigate the Indecopi system and determine how to support continued registration in Paoyhan and other communities in the future.

I am also interested in making registration culturally relevant. At the Indecopi workshop I attended in summer 2018, Shipibo participants raised concerns about securing intellectual property rights for *kene*—traditional Shipibo art. In Shipibo tradition, *kene* designs and knowledge of plants are one and the same, as *kene* expresses the ways of knowing offered by plants. This deep connection between artistic and ecological knowledge demonstrates the often-overlooked relationship between landscape and culture in human health and understanding of biological systems.⁶ Complexity in traditional knowledge is lost by an exclusive focus on the ecological. I hope this project can identify how to register traditional knowledge in a way that is culturally relevant and able to protect specific ways of knowing—not just the knowledge itself. Systems for protection and preservation of traditional knowledge can fail to be just when locally specific cultural concerns and relations are not taken into account. Ensuring Indecopi is culturally appropriate not only addresses the concerns of Shipibo community members, but can also serve as a model for how to better promote justice in the context of intellectual property rights globally.

Work Plan

To complete this project, I will be based in Paoyhan, where I can work directly with community members. Upon arrival, I will initiate meetings with Paoyhan community authorities, the garden committee, and residents to develop our plan for how to proceed. I anticipate I will

³ Frossard, 2005. “In Field or Freezer? Some Thoughts on Genetic Diversity Maintenance in Rice.”

⁴ McCune, 2018. “The Protection of Indigenous Peoples’ Seed Rights during Ethnobotanical Research.”

⁵ Dora Velásquez, Indecopi Workshop, July 25, 2018.

⁶ Gesler, 1992. “Therapeutic Landscapes: Medical Issues in Light of the New Cultural Geography”

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then spend several weeks in Lima at Indecopi's offices learning about the registration process. To facilitate the co-production of knowledge, I will invite *Farmacia Viva* committee members join me in Lima for training. We will then facilitate an Indecopi workshop in Paoyhan, similar to a workshop I attended in July 2018. Once trained, community members and I will prioritize plant medicinal knowledges to register. Each entry in the Indecopi system represents just one use for one plant. Registration requires interviewing many community members to ensure information is complete and taxonomic identification by a certified botanist. Community members and I will complete as many registrations as possible. By the last two months of my tenure in Paoyhan, community members will be taking the lead on registration, with me in a supporting role. I will also write a manual, to publish in collaboration with Alianza and Indecopi, providing step by step instructions for communities and allies navigating the registration system. Empowering many groups with detailed information and the example of Paoyhan will allow more communities to participate in protecting their knowledge.

In addition to Alianza, I have several key affiliations. Most importantly, I will work closely with the *Farmacia Viva* garden committee, with whom I met in August 2018. For technical botanical knowledge, I will work with Jana Horakova at Universidad Nacional Intercultural de la Amazonia, an expert on medicinal plants in Ucayali. For legal expertise, I will collaborate with Monica Nuñez, a Peruvian lawyer and Yale School of Forestry alumna. Nuñez previously worked for Indecopi and will connect me with her colleagues. I also have from the July 2018 Indecopi workshop. Finally, I maintain connections with the Council of the Shipibo-Konibo-Xetebo (Coshikox) and the Association of Organized Indigenous Youth (AJIO), who can disseminate information generated by this project to other Shipibo communities.

Conclusion

When this project is complete, Paoyhan will have the ability to securely promote *Farmacia Viva* without concerns of biopiracy, and be a model for other native communities registering their knowledge. Alianza and other ally organizations will be equipped to support registration efforts. With more communities participating, Indecopi will more effectively protect indigenous intellectual property rights in a culturally-sensitive way. A successful Indecopi is an important example globally, as many countries struggle with protecting and preserving indigenous knowledge. My project is unique because, unlike historical ethnobotany—known as highly extractive—success in this case is contingent on the project being useful and relevant to Paoyhan. This Fellowship will serve as a case study to carry forward the crucial work of protecting traditional knowledge through community-led efforts—an essential piece of promoting justice for indigenous communities.

Word count: 1498

Gruber Fellowship in Global Justice and Women's Rights Project Proposal

I. Overview

Stable and secure housing is pivotal to survivors of domestic violence. Dozens of nuisance ordinances across New York state exacerbate housing insecurities faced by domestic violence survivors and force women to endure abuse in order to stay in their homes. These ordinances do this by punishing landlords and property owners for police response to their property.¹ Once a property is designated a nuisance, landlords must “abate” the nuisance through eviction or face fines or other penalties. As a Gruber fellow with the New York Civil Liberties Union (NYCLU), I will litigate and advocate at the local level to get rid of these harmful ordinances and ensure that domestic violence survivors are guaranteed protection by law enforcement.

II. Background

Nuisance ordinances designate behaviors, such as disorderly conduct, assault, stalking, or an excessive number of emergency calls, as “nuisances.”² When a property is associated with a certain number of nuisances, the entire property is deemed a nuisance, which the owner must “abate” or face penalties, including fines, property forfeiture, or even imprisonment.³ Landlords have a strong incentive to evict tenants who call the police in order to avoid these consequences. These ordinances often do not differentiate between the victim and perpetrator of the nuisance behavior.⁴ As a result, those in need of police protection suffer from these laws.

Nuisance ordinances are devastating to domestic violence survivors, who are more likely to face violent crime in their home.⁵ Even if survivors are not evicted, nuisance ordinances discourage them from calling 911, making them more unsafe.⁶ For example, in Norristown, Pennsylvania, Lakisha Briggs, a single mother, was threatened with eviction pursuant to the city's nuisance ordinance after she called the police several times about an abusive ex-boyfriend.⁷ Ms. Briggs then avoided calling 911, even after further attacks, because she knew calling the police risked immediate eviction.⁸ But after the neighbors called 911 during a brutal

¹ Emily Werth, *The Cost of Being Crime Free: Legal and Free Rental Housing and Nuisance Property Ordinances*, SARGENT SHRIVER NAT'L CTR. ON POVERTY LAW (Aug. 2013), at 25, available at <http://povertylaw.org/sites/default/files/files/housing-justice/cost-of-being-crime-free.pdf>.

² U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, OFFICE OF GENERAL COUNSEL GUIDANCE ON APPLICATION OF FAIR HOUSING ACT STANDARDS ON THE ENFORCEMENT OF LOCAL NUISANCE AND CRIME-FREE HOUSING ORDINANCES AGAINST VICTIMS OF DOMESTIC VIOLENCE, OTHER CRIME VICTIMS, AND OTHERS WHO REQUIRE POLICE OR EMERGENCY SERVICE (Sept. 13, 2015), at 2 [HUD Guidance].

³ *Id.* at 4, 18.

⁴ ACLU WOMEN'S RIGHTS PROJECT, SILENCED: HOW NUISANCE ORDINANCES PUNISH CRIME VICTIMS IN NEW YORK (2015), at 8.

⁵ *Id.* at 4.

⁶ Matthew Desmond and Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, 78 AM. SOC. R. 117, 133 (2012).

⁷ *Briggs v. Borough of Norristown*, No. 2:13-cv-02191-ER (E.D. Pa. filed Apr. 29, 2013).

⁸ *Id.*

attack where her ex-boyfriend stabbed her in the neck, Norristown revoked her landlord's rental license and informed him that Ms. Briggs must leave the property before it could be reinstated.⁹

At least 41 cities in New York have nuisance ordinances that are regularly enforced.¹⁰ For example, in Binghamton, N.Y., from 2012 to 2014, sixteen residential properties were subject to nuisance ordinance action.¹¹ As in other parts of the country, these laws have a disproportionate impact on those experiencing domestic violence. In Binghamton, 38% of points imposed in nuisance enforcement actions arose from domestic violence and in Fulton, N.Y., domestic violence made up 48% of incidents included in nuisance enforcement warnings.¹²

These ordinances exacerbate domestic violence survivors' already elevated risk of homelessness.¹³ A Milwaukee study found that landlords given nuisance citations based on domestic violence situations most commonly responded by evicting their tenants who had experienced domestic violence.¹⁴ An eviction record resulting from nuisance abatement can make it difficult for tenants to secure other housing.¹⁵ Furthermore, nuisance ordinances may deter landlords from renting to women experiencing domestic violence.¹⁶

Nuisance ordinances are a women's rights issues because they disproportionately impact those subjected to domestic violence, 80% of whom are women.¹⁷ These local laws can also be combatted through global justice, particularly through international human rights law. A 2011 Inter-American Commission on Human Rights decision clarified that state protection from domestic violence is a human rights obligation.¹⁸ In this case, Jessica Gonzalez called the Castle Rock, Colorado police to enforce a domestic-violence restraining order against her estranged husband, but the police refused to implement the order.¹⁹ Her husband subsequently kidnapped and murdered her two children. Though the U.S. Supreme Court found that the police had no constitutional obligation to enforce her restraining order,²⁰ the Commission found an international human rights violation because the "State's failure to act with due diligence to protect women from violence constitutes a form of discrimination, and denies women their right to equality before the law."²¹

⁹ *Id.*

¹⁰ SILENCED, *supra* note 4, at 9.

¹¹ *Id.* at 27.

¹² *Id.* at 2.

¹³ JANA L. JASINSKI ET AL., THE EXPERIENCE OF VIOLENCE IN THE LIVES OF HOMELESS WOMEN: A RESEARCH REPORT 2, 65 (2005).

¹⁴ Desmond, *supra* note 6, at 118.

¹⁵ Gretchen Arnold & Megan Slusser, *Silencing Women's Voices: Nuisance Property Laws and Battered Women*, 2015 LAW AND SOC. INQUIRY, at 14-15.

¹⁶ See e.g. Cedar Rapids, Iowa. SILENCED at 5.

¹⁷ HUD Guidance, *supra* note 2, at 13.

¹⁸ *Lenahan (Gonzales) v. United States*, Case 12.626, Inter-American Commission on Human Rights, Report No. 80/11 (2011).

¹⁹ *Id.*

²⁰ *Castle Rock v. Gonzales*, 545 U.S. 748 (2005).

²¹ *Lenahan*, *supra* note 18, at ¶ 111.

The Commission's framing of domestic violence as a human rights issue provides new avenues for advocacy.²² Advocates have since successfully urged cities, such as Cincinnati, Ohio, to implement the *Gonzalez* decisions by adopting resolutions acknowledging freedom from domestic violence as a human right.²³

III. Work Plan

Collaborating with Erin Harrist, a senior staff attorney at the NYCLU, I have developed a two-part project that aims to end harmful nuisance ordinances in New York. With chapter offices and advocate networks throughout New York, the NYCLU is well situated to tackle local nuisance ordinances. The project will consist of 1) advocating for New York cities to repeal nuisance ordinances and pass laws that conform to progressive international human rights standards, and 2) bringing litigation challenging ordinances in New York that punish domestic violence survivors for calling the police.

A. Outreach and local advocacy

Drawing on the *Gonzalez* case,²⁴ I will encourage local governments to repeal their nuisance ordinances and enshrine international human rights protections of domestic violence survivors in their laws.

My first step will be to analyze New York nuisance ordinances. I will submit Freedom of Information Law (FOIL) requests for enforcement data to cities with nuisance ordinances. I will also liaise with NYCLU advocates throughout the state to assess where these ordinances have done the most harm. I will identify cities where these ordinances not only impact survivors of domestic violence but also have a disproportionate impact on women of color.

Next, I will travel to cities with problematic ordinances to meet with local women's rights advocates and service providers and to interview domestic violence survivors who have been affected by the ordinances. Through these conversations I will evaluate the impact of nuisance ordinances and identify potential plaintiffs. I will also meet with local officials to urge them to repeal the nuisance law and pass affirmative protections for survivors of domestic violence. Throughout my fellowship I will continue advocacy efforts, including through drafting proposed local legislation and conducting follow-up visits to relevant cities.

B. Litigation

Based on this research, I will identify an ordinance to challenge in court that is representative, enforced against survivors, and unlikely to be voluntarily repealed. My complaint will challenge this ordinance on several grounds: as a violation of the First Amendment right to petition the government; as a violation of the Fourteenth Amendment guarantee to procedural

²² See Elizabeth M. Schneider et al., *Implementing the Inter-American Commission on Human Rights' Domestic-Violence Ruling*, CLEARINGHOUSE REV. J. OF POVERTY L. AND POL. (Jul-Aug 2012).

²³ *Id.* at 120; Cincinnati, Ohio, Resolution 47-2011 (2011).

²⁴ *Lenahan*, *supra* note 18.

due process; as discriminating on the basis of sex under the Fair Housing Act,²⁵ and as preempted by New York's state prohibition on discrimination against domestic violence survivors.²⁶

Finally, I will create a litigation toolkit, which will include the enforcement data gathered from my FOIL requests, a sample complaint, and an outline of briefing arguments. The toolkit will be distributed to local housing attorneys for future challenges.

IV. Timeline

- Fall 2017: conduct desk research on nuisance ordinances across the state; submit FOIL requests to cities with nuisance ordinances; liaise with local chapters and advocates to conduct outreach and preliminary advocacy, and to develop a work plan for focused advocacy.
- Winter 2017: Visit with advocates and politicians in identified localities; conduct additional plaintiff outreach and complete pre-litigation memorandum; file complaint.
- Spring 2018: Continue local advocacy, including through drafting local ordinances that enshrine human rights protections for survivors of domestic violence; continue to litigate.
- Summer 2018: Finalize and distribute litigation toolkit.

²⁵ HUD Guidance, *supra* note 2, at 7.

²⁶ N.Y. Real Prop. Law § 227-d.