

REALIZING SOLIDARITY THROUGH INTERNATIONAL LAW

This panel was convened at 9:00 a.m. on Saturday, April 9, 2022, by its moderator, Professor Cecilia Marcela Bailliet of the University of Oslo, who introduced the speakers: Noura Erakat of Rutgers University; Maha Hilal of the Justice for Muslims Collective; Nia Holston of the Abolitionist Law Center; and Azadeh Shahshahani of Project South.

INTRODUCTION REMARKS BY CECILIA M. BAILLIET

<https://doi.org/10.1017/amp.2023.67>

Welcome to this Roundtable on “Realizing Solidarity Through International Law,” I am Cecilia Bailliet, professor at the Department of Public International Law of the University of Oslo in Norway. It is a great privilege to be speaking and moderating this session with this esteemed group of speakers who exemplify the personalization of the right to solidarity in action and scholarship.

We are pre-recording this session on the very day that Russia launched a military assault on Ukraine, and I wish to repeat the statement issued by ASIL President Catherine Amirfar expressing solidarity with the Ukrainian people and with others in the region who may be put in harm’s way, calling for withdrawal of Russian forces and a return to peaceful resolution of the dispute.

I will now give a brief introduction of the speakers of the roundtable.

Maha Hilal is a scholar at the Institute for Policy Studies in Washington D.C. addressing human rights issues related to the War on Terror, including the role of racism in prosecution, the consequences of Islamophobia, and the need to address causality of forced migration.

Noura Erakat is a human rights attorney and an associate professor at Rutgers University. Her research interests include human rights law, humanitarian law, national security law, refugee law, social justice, and critical race theory. Her publications include: “Racism, Whiteness, and Burnout in Antiracism Movements: How White Racial Justice Activists Elevate Burnout in Racial Justice Activists of Color in the United States.” Her multimedia productions include the Black Palestinian Solidarity video and website as well as a multimedia production on Gaza in Context.

Nia Holston is a lawyer and activist working at the Abolitionist Law Center, which seeks to end excessive criminalization policies and unjust convictions impacting minorities, denial of political rights to prisoners, “death by incarceration,” exposure of prisoners to toxic waste (denying them the right to a healthy environment), and solitary confinement.

Azadeh Shashahani is legal and advocacy director of Project South, which seeks to protect and defend immigrants and Muslim, Middle Eastern, and South Asian communities. She is the author or editor of several human rights reports, including a 2017 report titled “Imprisoned Justice: Inside Two Georgia Immigrant Detention Centers,” as well as law review articles and book chapters focused on racial profiling, immigrants’ rights, and surveillance of Muslim-Americans. Moreover, she has served as an election monitor in Venezuela and Honduras.

Welcome to all of you! Before we commence the discussion, I wish to give a brief introduction explaining the scope of the international right to solidarity.

I. BRIEF OVERVIEW OF INTERNATIONAL SOLIDARITY

International solidarity is the expression of a spirit of unity among individuals, peoples, states, and international organizations, encompassing the union of interests, purposes, and actions, and the recognition of different needs and rights to achieve common goals. The right to solidarity may be regarded as prompting consciousness about the interconnectedness of peoples and recognition of our ability and responsibility (states, non-state actors, and civil society) to engage and cooperate with each other to address transnational common challenges like climate change, man-made and natural disasters, pandemics, inequality, crime and corruption, and the protection of refugees and asylum seekers, women subjected to violence, as well as those subject to detention.

Currently there is a Draft Declaration on the Right to International Solidarity that will be presented later this year to the UN Human Rights Council by the independent expert on international solidarity, Obifor Okafor. Rosa Freedman has identified a “second wave of third generation rights,” that also includes *the right to peace*, recognized a Declaration by the UN General Assembly, *the right to development*, which is currently being elaborated into a convention, and *the right to a healthy environment*, recognized by the Human Rights Council.

This is a type of “human rights imaginary” that is representative of the legal traditions of the Global South that are oriented toward group rights and collective duties. The aim is the emancipation of oppressed and vulnerable groups in order to guarantee the right to live with human dignity. Solidarity is closely tied to the freedoms of expression, association, and assembly because civil society groups often seek communication of their claims for recognition of the need to address violations through a variety of forums, including transnational platforms.

Given the rise of polarization and fragmentation across societies at present, a key challenge for solidarity is how do we prevent it from being interpreted in an exclusive manner to sustain national, nativist, or intragroup segregated community orientations to the detriment of other groups? For example Carol Gould identified the problem of unitary solidarity; this may be exemplified by rejection at the border of asylum seekers in the name of “European Solidarity.”

This is opposed to network solidarity, which seeks recognition of overlapping cross-border local to global solidarity initiatives demonstrating a common empathy, such as environmental civil society groups campaigning to save species in another part of the world, or pacifist women’s grassroots groups in one country calling for demilitarization in another country or groups addressing labor rights or women’s rights across borders.

I turn now to the panel to discuss concrete examples of solidarity actions in practice- identifying both progress and remaining challenges.

II. COMMENT TO MAHA HILAL

You have called for an end to war and militarism as a show of solidarity toward the 82.4 million forcibly displaced persons in the world. The head of the Norwegian Refugee Council, Jan Egeland, has called for an increase in donations to humanitarian organizations that remain severely underfunded compared to the generous funding given to military weaponry, moreover he underscores the long drawn-out nature of forced displacement, for example the current largely elderly displaced communities in the Ukrainian border territories have been subject to shelling and have lacked water, electricity, and services since 2014. He also gave a speech in the UN Security Council in which he addressed the plight of fourth-generation Palestinian refugees inhabiting a refugee camp established seventy-three years ago in Lebanon and the fact that the first Syrian refugee babies born in Lebanon’s Bekaa Valley or in Jordan’s Zaatari camp are now ten years old.

Question: How do we design a solidarity strategy to address protracted situations that may not be war, but rather “unpeace” as identified by Mark Leonard?

III. COMMENT TO NOURA ERAKAT

There is a perception that transnational solidarity may be easier for people in the sense that they demonstrate affective solidarity for people subject to oppression in other nations than to exhibit empathy for other groups within their own nations due to political polarization, class divisions, religious antipathies, and racism. It may be suggested that nations are increasingly facing an internal crisis of fragmentation of common values.

Question: You have addressed the Black-Palestinian Solidarity and described them as entwined struggles for freedom. Given that the Black Lives Matters group was actually defunded on account of its transnational support of the Palestinian struggle, can you offer some reflections on the costs and benefits of engaging in solidarity actions at the domestic level versus at the transnational level?

Question: Michelle I. Gawerc has suggested for solidarity actions to succeed, it is important that there be separate collective action by the dominant group, in this case Israelis supportive of Palestinian rights, or white Americans supportive of African American rights, or men engaging on behalf of women’s rights, given their ability to engage in protest actions with a greater scope of freedom than the Palestinians or African Americans, or women themselves who may be subject to risks due to excessive security measures. Do you agree with her perspective?

IV. COMMENT TO NIA HOLSTON

It is one of the ironies of the age of globalization and interconnectedness that we are witness to an escalation in use of solitary detention in prisons and immigration detention centers around the world. States justify their use of solitary confinement as disciplinary punishment for convicted prisoners or detainees, to isolate a detainee during the pre-trial stage of investigation, as part of coercive interrogation, and is often applied to those suffering from mental illnesses, and has been applied to migrants, pregnant women, and teenagers.

Solitary confinement causes anxiety, depression, anger, paranoia, psychosis, self-harm, and suicide. Prolonged isolation can destroy a person’s personality and their mental health and its effects may last long after the end of the period of segregation. The United Nations special rapporteur on torture issued a report in 2011 finding that solitary confinement longer than fifteen days should be considered a violation of the United Nations Convention Against Torture

It is well known that African Americans and Latinos have higher rates of solitary confinement and that the use of solitary confinement increased by 500 percent during the COVID-19 pandemic.

The Abolitionist Law Center which is a supporting organization of the Solidarity Not Solitary Campaign took the case of Russell Maroon Shoatz, a seventy-year-old who was locked in solitary confinement at various state prisons for twenty-two consecutive years, and nearly thirty years non-consecutively. As an example of network solidarity, the Nobel Peace Prize laureates Jose Ramos-Horta, Mairead Corrigan Maguire, Archbishop Desmond Tutu, Jody Williams, and Adolfo Perez Esquivel called for his release. In May 2013, Shoatz filed a federal civil rights lawsuit asserting that the state correctional officials were subjecting him to cruel and unusual punishment and violating his due process rights by continuing to subject him to solitary confinement.

Question: Can you discuss why the Shoatz case was successful and what are the lessons learned from pursuing a solidarity strategy grounded in the framework of constitutional law?

V. COMMENT TO AZADEH SHAHSHAHANI

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

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

VI. CONCLUSION

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

PEOPLE'S TRIBUNALS: HOLDING POWER TO ACCOUNT

doi:10.1017/amp.2023.12

By Azadeh Shahshahani¹

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

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

¹ Legal & Advocacy Director with Project South and a past president of the National Lawyers Guild. Shahshahani has been involved in multiple people's tribunals domestically and internationally as a member of the jury. The author would like to thank Anne Madeline Boring, Jon Michael Babineau Jr., and Jillian Nelson for their contributions to the research. This piece was originally published by the National Lawyers Guild.

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