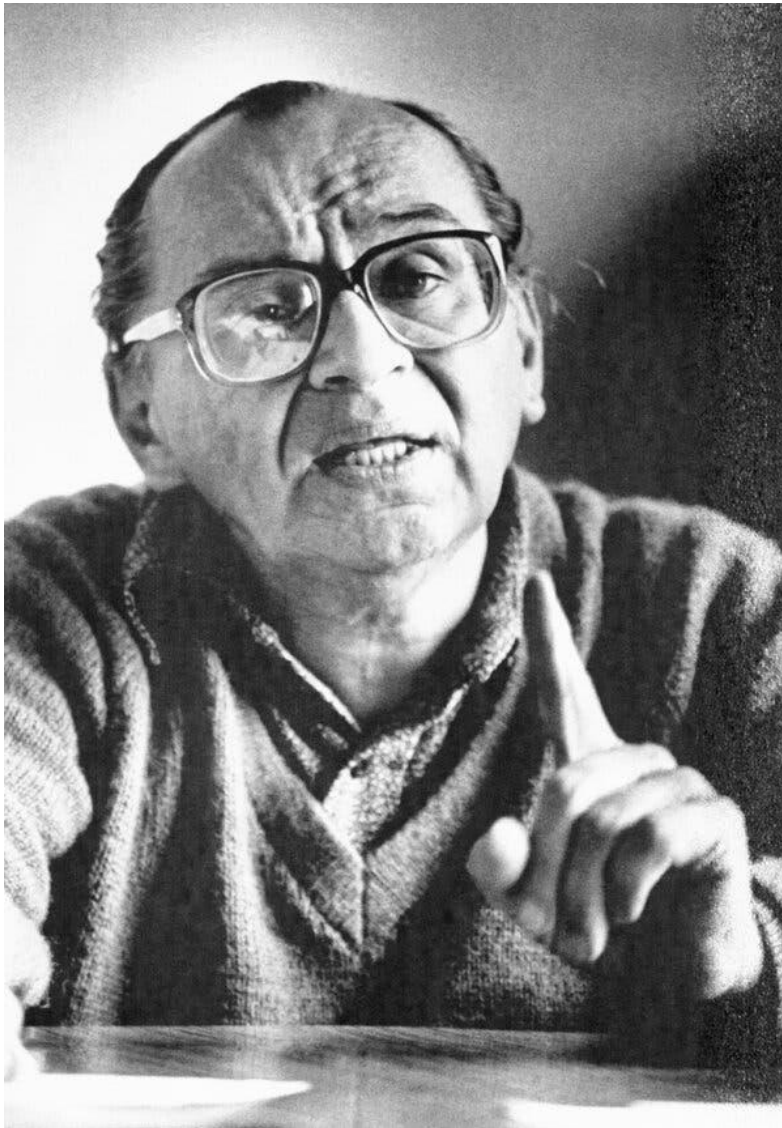


The Phoenix takes flight

Grounded yet hopeful

Edited by Viren Lobo

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Gustavo Gutierrez: Father of Liberation Theology

The Rev. Gustavo Gutiérrez in an undated photo. In his teaching and writings, he asserted that the God of the Jewish and Christian traditions exhibits a preferential commitment to the poor.

Foreword

Kerala is the land of Gods
And pristine beauty still preserved
Though development has taken its toll
With transportation and pollution the main culprits
There are other things flowing out of Kerala
Including the hiss of a poisonous snake
Good or bad for society
Depends on your take
The rats, snakes control
But the rat is also Lord Ganesha's vehicle
In this land of contradictions
The Phoenix too was sighted
Even as pesticide it's path blighted
GMO and cancer are bosom buddies
Everything in their path destroyed
Yet the ashes contain the essence for life to thrive
The dragonfly for the mosquito
And other nature traps too
A way to get out of this Chakravayuh ?

Viren Lobo

Background

The Changing Terrain of Human Rights: Nine Questions

1. Are human rights a (neo) liberal project or a “handmaiden” to capitalism?

Capitalism is the main economic system today, and most people have no alternative but to rely on capitalist markets to access basic resources. At the same time, many deep criticisms have been levelled against capitalism, the concentration of wealth and power that it seems to entail, and the exploitation of nature and workers, among other groups, on which it depends.

The idea of human rights that is dominant today emerged in Europe at the same time as capitalism, co-evolving with it. Rights, especially individual political rights and the right to property, arose as a new way to structure social relationships in capitalist society, and an original focus was on protecting private individuals (and their wealth) from abuses or overreach by the state.

Yes

- ...because human rights co-evolved with capitalism. The right to private property is often seen as paramount and attempts to “implement” rights often take this form, for example when traditional land tenure systems are converted to individual private titles to land in the name of defending peoples’ rights, but lead instead to them being forced to sell their land and permanently lose their rights to it.
- ... because corporations are actively working to capture existing human rights instruments and bodies for example by creating multi-stake holder platforms where more powerful actors dominate; pressuring human rights courts to recognize corporations as rights holders etc.
- ...because mainstream human rights work privileges individual civil and political rights, and procedural rights like the rights to participation or information, without challenging either the distribution of power in society or the foundations of capitalism, like private property, the exploitation of nature, the separation of productive and reproductive work, etc.
- ...because mainstream human rights work is based on procedural safeguards that mitigate (some of) the impacts of development projects, but don’t challenge the underlying system or question the logic behind these projects. The right to Free Prior and Informed Consent of communities, for example, has often been reduced to an empty process of consultation, without any real right to say no to “development”.
- ... because trade and investment agreements often pay lip service to human rights instruments, incorporating human rights clauses which appear to address the objections of unions, womens’ groups, or marginalised communities without genuinely protecting their rights in the case of conflicts with corporations.

No

- ... because anti-colonial and anti-racist struggles, communist and socialist struggles, struggles by indigenous people and frontline communities, have also used and shaped human rights. International instruments bear the mark of these struggles from below, for example where collective property rights and customary tenure systems are acknowledged.
- ...because human rights language has been used by oppressed groups to fight back against powerful actors and institutions, to build popular support for their movements, and to give greater legitimacy to their struggles.

- ...because human rights instruments and institutions have been used by oppressed groups to directly take on powerful actors and leverage national and international support for their causes.
- ...because, although civil and political rights took hold first, states today are also obliged to respect, protect, and fulfil Economic, Social and Cultural Rights (e.g. right to food; right to health). There are strong international obligations for states to advance these rights, and international and regional mechanisms are in place to enforce this.^[1]

What should we ask instead?

- What ways of understanding and defending human rights support existing power structures, and what ways can undermine or transform them?
- How can we ensure that human rights language and institutions are accessible and useful to the most marginalized people?
- What would an economic system organized with full respect for human rights look like?
- Given the authoritarian tendencies of some socialist states, how would a socialist or post-capitalist system ensure respect for individual freedoms and the rights of dissenting groups?

2. Are human rights compromised by their colonial and imperial history?

The origin of the current international human rights system is usually traced to Enlightenment Europe. They are the product of a particular moment, during which their “creators” were also engaged in a massive colonial project, based on ideas of European social, cultural, and moral superiority. Today, they are often understood as positing a set of “universal” shared human values.

Yes

- ... because values associated with human rights, such as equality, the centrality of the individual as a bearer of rights, the emphasis on personal freedom over social responsibility etc. represent a fundamentally European vision about the relationship of individuals to each-other, and to nature. Human rights frameworks impose these – sometimes by force – as if they were objective and universal, even though they are inappropriate in many places and contexts.
- ... because human rights are linked with the imperial project. The term justifies ongoing neo-imperialism, and relies on implicit ideas of European/Western social, cultural, and moral superiority. Western colonial signatories of the Declaration of Human Rights mobilised military opposition to anti-colonial struggles that involved detention without trial, torture, execution of leaders, and withholding of fundamental elements of democracy to indigenous populations. Former colonial powers may appeal to human rights to justify resistance to land redistribution or other practices linked to decolonisation efforts.^[2]
- ... because their application is hypocritical, and continues to support colonial power. In the post-colonial period, most Western colonisers have denied culpability for the wreckage they left behind, opting instead to compel former colonies to comply with “universal” political and economic standards that have often benefited the Western world often at the cost of the former colonies.^[3]
- ... because the current mechanisms of international human rights law, especially sanction mechanisms, are built from this colonial history: they are most powerful in nations that were colonized, and they are often used to justify interventions (sometimes violent) from historical colonial powers like Europe and the US.

- ... because geopolitics and international power struggles, rather than legal or ethical considerations, often determine where human rights criticisms and sanctions emerge and who they are directed against. There are no impartial sanction mechanisms and the big powers commit human rights abuses with impunity – for example the International Criminal Court has targeted African leaders almost exclusively, while failing to bring charges relating to, for example, the US invasion of Iraq.

No

- ... because the inherent rights and dignity of individuals is not a modern western idea: different cultures and societies have talked about our rights and obligations to each other in ways that resonate strongly with human rights language today.
- ... because human rights are not static. Oppressed and marginalised groups, and non-western, non-imperial powers have played critical roles in shaping the international human rights system today, from the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) to the Guidelines to the UN Declaration on the rights of peasants and other people working in rural areas (UNDROP).
- ... because there are other political and ideological currents shaping human rights. Local communities, movements, and activists around the world have seen human rights as a tool with which to defend themselves, and have shaped the concept and practice of human rights by using it in this way.
- ... because human rights are more than just international sanction mechanisms, it has played a key role shaping the national laws and constitutions of many non-western and post-colonial states, where it has been embedded in local contexts with greater sophistication and nuance, helping countries like Bolivia and South Africa (among others) to think through their legal mechanisms for balancing different socio-political groups and helping to give voice to marginalized groups.
- ... because even within the limited sphere of international sanction mechanisms, there are ongoing struggles to make human rights protect the powerless from the powerful, and to reverse or redress historical injustices.

What should we ask instead?

- How can we decolonize human rights? How can we develop a contextualized understanding of human rights that re-connects with the history of emancipatory ideas in each country?
- How can marginalized people take power to use and shape international human rights language and institutions?
- How can we ensure that human rights undermine, rather than propping up, existing imperial and colonial power structures at the global level?

3. Is “universality” incompatible with community diversity and sovereignty?

Central to human rights is the idea that they are universal, rights that people have strictly in virtue of being human. Many societies, however, invoke other kinds of moral principles, from the value of hierarchy, to fulfilling one’s role within society, to respecting nature or divinity. In concrete situations, the dictates of these different moral principles may conflict, and where human rights frameworks are imposed this may be seen as undermining community sovereignty, or communities’, peoples’, and cultures’ protection of their own dignity, beliefs, and ways of life.

Yes

- ... because human rights argue for abstract and individual rights, which undermine traditional societies, cultures, and customary and indigenous systems which may grant greater significance to hierarchies, social roles, religious beliefs, etc.
- ... because a commitment to the equality or basic sameness of all people may be destructive to traditional morality, relationships, and community. Human rights undermine the traditional social orders within communities and put the needs of individuals before the needs of society, community, or family, laying the ground for social chaos and radical disorder
- ... because human rights advocates and campaigners are themselves not neutral: they enter into existing struggles on the ground and generally take a side. Human rights are used to protect the rights of certain groups or classes within society. Even well-meaning advocates may push for forms of rights or mechanisms for rights-protection that benefit certain privileged groups more than others.
- ... because human rights language, arguments, and instruments are often employed in ways that obscure or undermine existing social processes, or conflict resolution strategies. Resolving a struggle around access to a particular resource with reference to individual rights may run roughshod over traditional or customary management practices that have been practiced for hundreds of years and have provided just and sustainable ways of managing the resource, appropriate to its cultural and ecological context.

No

- ... because traditional, customary, and indigenous systems may be oppressive and discriminatory. Violence and discrimination should not be uncritically accepted just because they are “traditional,” and there is rarely consensus within a community, society, or culture about the value, significance, and interpretation of specific traditions.
- ... because human rights can provide a framework for thinking through how to weigh the different costs of traditional or customary practices to different individuals in society.
- ... because rights to cultural practices are recognised as well, meaning that many debates between the rights of individuals and cultural or community rights ultimately come down to dialogues between different rights.
- ... because embracing cultural relativism, and rejecting any vision of overarching human rights, may lead to fragmentation and tribalism, undermining the ability of communities to work together across difference for broader social change, even while finance capital is increasingly globalised and working across borders. A shared common language can be an invaluable tool in uniting different struggles.
- ... because many anti-colonial and post-colonial struggles draw on aspects of human rights to advocate for particular political, social and economic outcomes. Many movements, including for self-determination and community sovereignty, have made effective use of broader struggles either for political and civil rights as the inalienable rights of all individuals, on the one hand, or for socioeconomic rights that embrace substantive redistribution on the other.

What should we ask instead?

- How can we use human rights in ways that are sensitive to the relevance of traditional, customary, and indigenous values and norms, while supporting emancipatory change from within?
- How can we navigate conflicts between human rights and competing moral frameworks?
- In particular circumstances, which set of rights should take precedence, on what grounds, and how should “losers” be compensated?

- How can we support legal pluralism, customary law, and alternative interpretive traditions of law?

4. Are human rights movements and organisations compromised by accepting funding from elite donors?

Much human rights work is funded by states, international institutions, and even corporations with specific institutional perspectives on (and interests in) human rights. This funding is usually international in nature, only rarely domestic. While many small human rights organizations are community driven and receive no major funding, funders are undeniably helping to set the agenda on human rights. What role does this funding play in shaping human rights work, does it undermine other kinds of social struggle, and has it resulted in a “capture” of the concept of human rights by elite interests?

Yes

- ... because funders have encouraged communities to seek legal remedies rather than fighting for community power or redistribution. These legal struggles are often long, expensive, and fruitless, taking energy out of movements on the ground.
- ... because philanthrocapitalist organisations and corporations are also involved in funding human rights work, making funding available specifically for human rights work that does not pose a threat to their profits. For instance the IMF and neoliberal government actors have directed human rights discourse towards discussions of “transparent institutions” - often focussing on privatisation and downsizing of government as a pathway to “fighting corruption” - while steering conversations away from socio-economic rights, redistribution, community rights etc. In the same way, neoliberal institutions have shaped discussions around access to resources to focus on individual property rights and often on transferable titles.
- ... because in the absence of sufficient local resources, poorer regions including much of Africa are reliant on international funding. For instance, the EU provides financial support to the African Commission on Human and Peoples Rights and the Inter American Human Rights System. This creates an opportunity for richer and more powerful countries to shape the human rights agenda at the global level, selectively supporting understandings of human rights that benefit them, or align with their vision of human rights.
- ... because, under the influence of these powerful actors, human rights have lost much of their radical potential and are often used in ways that fail to challenge – or which even actively strengthen – the power of global financial capital and local elites. Work on rights to resources, redistribution, and environmental justice, among others, are difficult to fund and many communities have abandoned or downplayed these frames in order to access resources needed to continue their work.

No

- ... because internationally funded human rights work represents only a small proportion of all the work being done on human rights globally – many major, active, community-driven organizations receive little or no international funding.
- ... because among those that do rely on external funding there are many movements that are politically savvy and make deliberate decisions and compromises in how they interact with funders. Some organisations choose not to access funding that requires them to compromise their principles while others strike different balances, using resources offered but trying to balance funders’ goals with their own.

- ... because human rights are fundamentally contested: that funders (investors, companies, and states with specific vested interests) are trying to influence movements by encouraging certain kinds of language and less radical interpretations of human rights does not mean that they have succeeded. Movements and other political actors use human rights language in ways that both resist (by actively calling out, critiquing, and refuting) and subvert (by accepting some premises and funding while operating in ways that also advance more radical goals) the goals of funders.

What should we ask instead?

- How can we increase the autonomy of movements and organisations working on human rights both on the domestic and international stage?
- How should we approach or engage with corporate funding? What should the relationship between funders and human rights organisations or movements look like?
- How should we approach and understand funding from states? What should we expect from Southern and poor states in terms of funding human rights work?
- How can human rights movements and organisations navigate the geopolitical challenges involved in accepting foreign or domestic state funding?

5. Does the “neutrality” of human rights impede emancipatory politics?

Human rights are often construed as neutral or “beyond politics”. Human rights are often considered “cross-party” and “beyond left and right,” but they may also be framed and understood as altogether outside of, or not subject to, power struggles between different groups and political identities. Particularly in regards to civil, political, and procedural rights, human rights are construed to be impartial and neutral, applying equally to all people and groups.

Yes

- ... because not all rights can be said to be neutral: civil and political rights are usually seen as neutral while social rights are necessarily tied to debates around economic system, distribution and redistribution, and have an unavoidably “non-neutral” tone.
- ... because an apolitical understanding of human rights cannot – on its own – support progressive politics. Many political discussions boil down to whose rights are prioritized at a given moment in time: framing abortion as a human an issue of “the right to choice” versus “the right to life” does not help to answer the question of whose rights should take precedence; progressive land reforms are often opposed (including through instruments like the Inter-American Court System) by landed elites who believe their rights are being violated in order to distribute land to indigenous and small farmer communities.
- ... because the “neutrality” of rights has led to them being co-opted: “Men’s Rights Activists” represent feminism as a violation of their rights; white supremacists refer to immigration as “white genocide” and argue refugees are violating their indigenous rights etc. Insisting on the neutrality of rights has created vulnerability to this kind of co-optation.
- ... because governments often use human rights as a justification or a pretext for international interventions. From the US government’s references to women’s rights as a justification for the invasion of Iraq to the recent use of human rights arguments to call for an intervention in Venezuela it is clear that human rights arguments and interventions are often used to political interests. Asserting the neutrality of human rights allows powerful actors to mask political decisions, and avoid political discussions.

No

- ... because neutrality is both strategically important and fundamental to the universal character of human rights – human rights can help to set the tone for, and guarantee the integrity of, political debates even where they do not give the answer to every political question. Your political opponents also have human rights which must be defended.
- ... because human rights can provide a standard against which all political programs need to be evaluated. The fact that they do not, on their own, determine a specific economic system or political vision is a strength: allowing human rights to become a “leftist” issue could be politically disastrous.
- ... because the neutrality of key rights allows, for example, lawyers and activists working in authoritarian regimes and conflict zones can gain a certain level of protection from political factors by using this frame and emphasising the politically neutral character of their rights. Recognition of human rights defenders, and the access it allows to a range of protective tools, is based on the acceptance of human rights as non-political standards. Thus, the neutral character of human rights is worth preserving and respecting.
- ... because defending even the most “neutral” and procedural rights can still be vital for guaranteeing, for example, the safety and freedom of activists, allowing political debate to continue. There is a place for neutral and impartial courts and institutions, also within the emancipatory project.

What should we ask instead?

- What is the role of impartial and neutral institutions in a political struggle?
- How does neutrality apply (or not) to economic, social, and cultural rights?
- When might appealing to the neutrality of human rights be strategically problematic, or undermine emancipatory goals? When might it strengthen them?

6. Does the human rights movement lean too heavily on legal instruments, or on international human rights law and institutions?

Human Rights is not just a language or a philosophical principle, it is linked with a range of international (as well as regional and national) instruments and institutions like the Inter-American Court on Human Rights, the African Court of Human Rights, the European Court on Human Rights, among others. Does over-heavy reliance on these institutions risk “legalizing” human rights, shifting attention away from other struggles, or narrowing the definition of human rights?

Yes

- ... because a focus on the technocratic and legalistic side of problems draws attention away from the structural roots of abuses. For example, an organization may support communities to obtain a land title, while neglecting broader questions of just distribution of land and redistributive reform. In the current legal system, people can very well be excluded from land ownership without any formal legal violation, and a focus on legal mechanisms can obscure this reality.
- ... because the procedural and legalistic language of human rights often limit their potential to frame demands for systemic change. Law is not ahistorical, apolitical or neutral. Instead, since its inception, it has protected (transnational) investments and allowed companies to profit from their control of resources.
- ... because “you can’t eat rights” - communities need access to food (or other resources), not a legal right to them. Legalistic struggles can be a costly distraction, leading nowhere. Even if a legal right is granted, there is still a separate set of battles to fight in order to implement a judicial decision, UN declaration, Constitution or legal reform.

- ... because successful movements have fought for their rights without leaning on legal structures or processes: e.g. without having or claiming legal rights, shack dwellers' movements in South Africa have been undertaking a kind of "bottom-up redistribution" by arguing directly for their access to land.
- ... because new rights and instruments alone will not fundamentally challenge the systems of power, including capitalism, that structure societies today and focusing on these instruments and the institutions takes valuable time and resources that movements and communities could better use in struggling for social, political, and economic change.

No

- ... because human rights instruments, laws, and mechanisms – and national legal frameworks informed by them – can shape new social relationships and re-structure society. UNDRIP and UNDROP have this potential, and new laws and relationships are already playing out on the ground in many places as a result of these international declarations.
- ... because legal instruments and mechanisms can be a powerful tool for marginalized people and communities. International human rights law and other legal instruments can raise rights against the abuse of power by owners of land, factories, and businesses.
- ... because no law is self-implementing or self-interpreting: laws on their own do not solve social problems but organisations and movements can support people and communities to bring about the enforcement of laws that protect them; to develop interpretations of laws which challenge existing power structures; and to fight for the creation of laws which can lead to further change. While law alone will not bring about systemic change it can be a vital tool in the right hands.
- ... because legal instruments and mechanisms can provide importance structure or guidance for mediating conflicts before, during, and after emancipatory change.

What should we ask instead?

- How do we ensure that legal struggles do not side-line other pragmatic and political struggles? How can we ensure that struggles go beyond technical legal battles and lead to the actual realization of rights on the ground?
- What should the relationship be between legal strategies and other kinds of mobilization or social struggle?
- What can we learn from progressive legal texts and provisions, such as the Constitutions of Ecuador, Bolivia, South Africa? What about ideas of collective rights, the rights of nature, indigenous jurisdiction, or the rights of future generations?

7. Given that marginalized groups are often struggling against, or actively threatened by, their own states, does it make sense to treat the state as the guarantor of human rights?

International human rights law conceived states as the main "duty-bearer" of human rights, ultimately responsible for respecting, protecting, and fulfilling human rights, including by preventing human rights abuses within their borders. As many movements struggle for radical visions of emancipation and/or redistribution which may be viewed as a threat by their governments, is it still realistic to think of the state in this way?

No

- ... because many disenfranchised and marginalized groups are struggling directly against the state, as part of the framework oppressing them. Most states globally are structurally linked to capitalism, and to the interests of capital. In many places the welfare apparatus of

states is being weakened as military, policing, and surveillance aspects strengthen while in other places, a strong welfare state never developed. In this context, talking about strengthening states in order to better defend human rights is very problematic.

- ... because many states are undemocratic, and even those which are nominally democratic often have major democratic deficits and are captured by special interests including local and international elites. This makes them unreliable guarantors of human rights.
- ... because many communities are striving to build their own territorial autonomy, directly self-implementing human rights rather than trying to seize the enforcement capacity of states to protect their rights. From the Slum Dwellers movements mentioned above to The Autonomous Administration of North and East Syria (Rojava), communities are looking for ways to implement transformative and emancipatory projects, often informed by visions of human rights, without looking to the state as a guarantor of their rights.

Yes

- ... because, although states may be corrupt or undemocratic, the state represents the will of the people. In many states, this is the role and responsibility stated in the constitution and other core legal documents. In spite of the problems with existing states, some kind of democratic state structure provides peoples' best chance of controlling their environment.
- ... because democratic states are the only large-scale existing structure we have that is, in theory if not in practice, accountable to the people: the continued functioning and legitimacy of a government depends on it serving its citizens, including protecting their rights.
- ... because the existing international human rights architecture is a product of modern national states, and intended to partially address the challenges of repressive or violent states violating the rights of their citizens. While states often defend their actions by appealing to their sovereignty, international human rights systems provide mechanisms for marginalized or oppressed citizens to appeal to authorities outside their own state, in order to put pressure on their government to respect their rights. If states were not conceived as the main guarantor of human rights, this tool would be lost.
- ... because there are major geopolitical forces – from empires to states – which are less accountable and democratic than states. Autonomous communities at a smaller scale may lack the resources to defend themselves against these other interests.

What should we ask instead?

- How to re-imagine/define the state to achieve an emancipatory human rights project? How can we transform the state? What would a state with human rights at its centre look like?
- What can be achieved at the level of the local autonomous community, and when is the state needed? What would or could non-statist forms of human rights protection look like?
- What does peoples' power look like beyond or outside a nation state?
- What is the relationship between democracy/democratic control and human rights? What is the relationship between democracy and emancipatory politics?

8. Do emancipatory struggles need international human rights instruments and institutions?

Many important struggles for both emancipation and human rights play out at the local and national level. Many movements are focused on defending and enhancing community sovereignty, but what is the role for existing and new mechanisms at the international level, and why?

No

- ...because human rights institutions at the international level – within the UN and regional systems – are technocratic, legalistic, and bureaucratic. Social movements and affected communities have very limited participation on UN human rights processes. Their nominal presence serves only to give the illusion they have a seat at the table, while their ability to influence processes is minor compared to states and even trade and industry lobbying associations.
- ... because human rights institutions are political bodies and their decisions reflect powerful states' interests - states do not interact on equal footing in such spaces in spite of the formal equality between them.
- ... because these bodies tend to reach decisions reflecting the mainstream consensus on human rights and legal thinking – they are rarely radical and therefore have no emancipatory potential.
- ... because in rare cases where an international human rights body does produce a progressive decision or instrument, the implementation always depends on states themselves.
- ... because the existence of dedicated human rights spaces at the international level allows states to segregate and contain discussions of human rights. States take major collective decisions on issues like international trade, investment, the environment etc. – which have major human rights implications – in specialized international spaces. In those spaces, governments systematically refuse to engage in a dialogue about human rights obligations, arguing that this discussion should be restricted to the Human Rights Council and other human rights specific spaces.

Yes

- ... because, although direct citizen and movement involvement in UN Human Rights spaces is limited, it still far outstrips the level of direct involvement possible in other international governance processes.
- ... because we need these institutions to put pressure on states to fulfil their human rights obligations, especially in the context of rising authoritarianism and an increasing trend towards repression of social movements and human rights defenders. On many occasions human rights institutions have spoken up for peoples' rights and provided critical strategic support to marginalised and victimised groups.
- ... because these spaces will continue to exist whether movements engage with them or not, and abandoning them would mean leaving critical decisions about human rights policies in the hands of governments and, in the era of increasing multistakeholderism, representatives of corporate and private interests.
- ... because, although there is room for improvement, these spaces nonetheless provide a space where states must talk about human rights, and where there are processes and systems in place to allow affected communities and other constituencies to confront them directly with human rights concerns.
- ... because these spaces are contested ground. They can be, and have been, shaped by voices from below who have helped to create new instruments which can be used to support more emancipatory claims.

What to ask instead?

- How can international human rights instruments and organisations strengthen local and national struggles? How can we strengthen the voices of affected communities, marginalised groups, and grassroots communities in these spaces?

- How can we combine work within human rights institutions with effective mobilization on the ground? How do we ensure that the international level strengthens struggles, rather than drawing energy and attention away from them?
- How can we use formal institutional spaces for emancipatory purposes? What is the role of internationalism in emancipatory visions?

9. Should corporations be "duty bearers" directly responsible for guaranteeing human rights?

In human rights law, states are the only actors with direct legal duties in relation to human rights. By signing on to international human rights instruments, states assume obligations to respect, protect, and fulfil human rights. Neither individual citizens nor non-state actors like corporations are directly bound by international human rights law; when states ratify treaties they undertake to put in place domestic measures and legislation which criminalise certain kinds of violations of human rights under domestic law, and to ensure that human rights standards are respected, implemented, and enforced at the local level.

Yes

- ... because in many places, companies are becoming so powerful that they are able to avoid national judicial decisions by “forum shopping” abroad.^[4] Many corporations are larger and more powerful than states, and operate in multiple jurisdictions, making it unrealistic to expect states to impose laws on them.
- ... because in some situations, corporations are already taking on state-like functions. This being the case, they should also have certain obligations, so that companies can be held accountable for human rights abuses.
- because corporations already have legal personality according to domestic legislation in many countries and they are in a position to sue states based on arbitration clauses in trade agreements.^[5] Formalizing this de facto power would allow the imposition of clearer limitations and constraints.
- ... because the fact that, under the current human rights regime corporations cannot technically “violate” human rights (because they are not duty bearers) downplays the seriousness of the situations communities are experiencing on the ground. Politically it is important, and more faithful to the facts of their experience, to say that corporations are violating their human rights.

No

- ... because corporations do already have the responsibility to respect human rights, which are universal.
- ... because allowing corporations to be “duty bearers” of the three classic state obligations under international human rights law (respect, protect and fulfil human rights) would imply recognizing them as public authorities. The recognition of states as authorities is based on peoples’ sovereignty – in principle the people control, or can control, the state. It does not make sense to impose state-like responsibilities on corporations unless citizens can control them in this way, too.
- ... because making corporations directly responsible for respecting, protecting and fulfilling peoples’ human rights would mean a legitimization of capitalism, ceding democracy altogether. Although corporations have immense powers today, these are technically given to them by states: corporations can sue states, for example, only because states have signed trade and investment protection agreements (with other states) which allow this behaviour. This does not undermine sovereignty in the same way as granting direct human rights obligations to corporations would.

- ... because states often do have the power to act as more effective guardians of human rights, but refuse to exercise their sovereignty against corporations and markets, often because of extremely close alliances between corporations and governments.^[6] Governments have the power to nationalize corporations, enforce tax rules, limit foreign land ownership and impose environmental obligations, but rarely do so.
- ... because abandoning the state as the primary guardian of human rights would only make it more difficult to demand that they meet these obligations.
- ... because turning corporations into duty bearers runs the risk of putting people's access to fundamental rights, such as water or housing, at the mercy of the market.

What should we ask instead?

- How can the human rights movement hold companies accountable? What tools, instruments, and spaces are needed for this?
- How can the human rights movement challenge the corporate capture of the state and reclaim the state as the people's sovereign, which is dedicated to protecting their interests?

[From a brainstorming session *The Changing Terrain of Human Rights: How have authoritarian forces become so strong?* organised by Food First Information and Action Network (FIAN) and Transnational Institute (TNI), Amsterdam, Netherlands, 9-10 December 2018]

Dedication

Gustavo Gutiérrez, Father of Liberation Theology, Dies at 96

Once considered revolutionary, his notion of empathy and advocacy for the poor has become a central tenet of Catholic social teaching.

<https://www.nytimes.com/2024/10/23/world/americas/gustavo-gutierrez-dead.html#:~:text=Gustavo%20Guti%C3%A9rrez%2C%20the%20Peruvian%20priest,He%20was%2096.>

By Bill Friskics-Warren

Published Oct. 23, 2024 Updated Oct. 24, 2024

Gustavo Gutiérrez, the Peruvian priest and scholar who was regarded as the father of Latin American liberation theology, a far-reaching school of thought and action born of solidarity with poor and marginalized people, died on Tuesday in his apartment in Lima, Peru. He was 96.

The cause was pneumonia, said Leo Guardado, a friend and former assistant who is now a theology professor at Fordham University.

Father Gutiérrez, a Dominican priest, was best known as the author of “Teología de la Liberación,” a landmark work of social and theological analysis originally published in Spanish in 1971 and first available in English in 1973 as “A Theology of Liberation.” In that book, he asserted that the God of the Jewish and Christian traditions exhibits a preferential commitment to the poor.

The book anticipated movements in the United States to establish housing and health care as basic human rights, and it continues to be taught in seminaries and universities.

RIP Judy

I met Judy once
That too amongst a crowd
But that face stood out somehow
A jolly smile
Amidst the chaos around

During our latest visit Judy was missed
As sickness kept her confined
While we kept her in our memories
Tender thoughts came to mind

Rest in Peace dear Judy
Your last days would have been quite a trial

Viren Lobo

Part I

**Facets of an Ecosystem Approach to Sustainable
Development**



PTi file photo showing a leopard hunting

Dear All,

This connects to issues related to a proper perspective on ecosystem stewardship beyond the narrow confines of the Rights based and other perspectives that Finance Capital provides.

<https://www.hindustantimes.com/books/beyond-the-hunt-the-maneater-of-udaipur-101730124887741.html>

This is an issue affecting multiple landscapes of the country and at least three States where we in IELA are working at present namely Rajasthan, Maharashtra and Uttarakhand as well. Lack of Habitat for herbivores makes this an issue where domestication provides fodder for Cattle.

The question of Coexistence of man and animal is not just a tool to counter issues related to denial of forest and other rights in the name of wildlife conservation, it is essential for the long term growth of mankind itself (viewed in a historical perspective) .

Getting a handle on this, will provide the link between thematic related issues such as this one and ecosystem related issues of which this is a part in certain landscapes.

Regards

Viren

Dear All,

Following up on my post on leopards. This one hits much closer home as the food of elephants and those of human beings (living in or near the jungle are pretty close).

<https://m.economictimes.com/news/india/three-more-wild-elephants-die-in-mps-bandhavgarh-toll-rises-to-10/articleshow/114822584.cms>

To me this issue is either raising the question about the hype on millets or a malicious streak in tribals fed up by the damage being caused by the elephants.

The solution given for now seems to indicate the former as the tribals would also be compensated for damage to crops done by elephants, so why poison the crop ?

We are exploring whether a participatory approach to land use planning in forests based on Community Forest Rights would provide more optimal solutions for peaceful coexistence of man and elephant. This however cannot compensate for more than normal pressure on better off forests to which elephants are either being diverted to or find through their natural instincts. Without looking at issues at key points in the Corridors traversing the entire country, it is next to impossible to deal meaningfully with this issue.

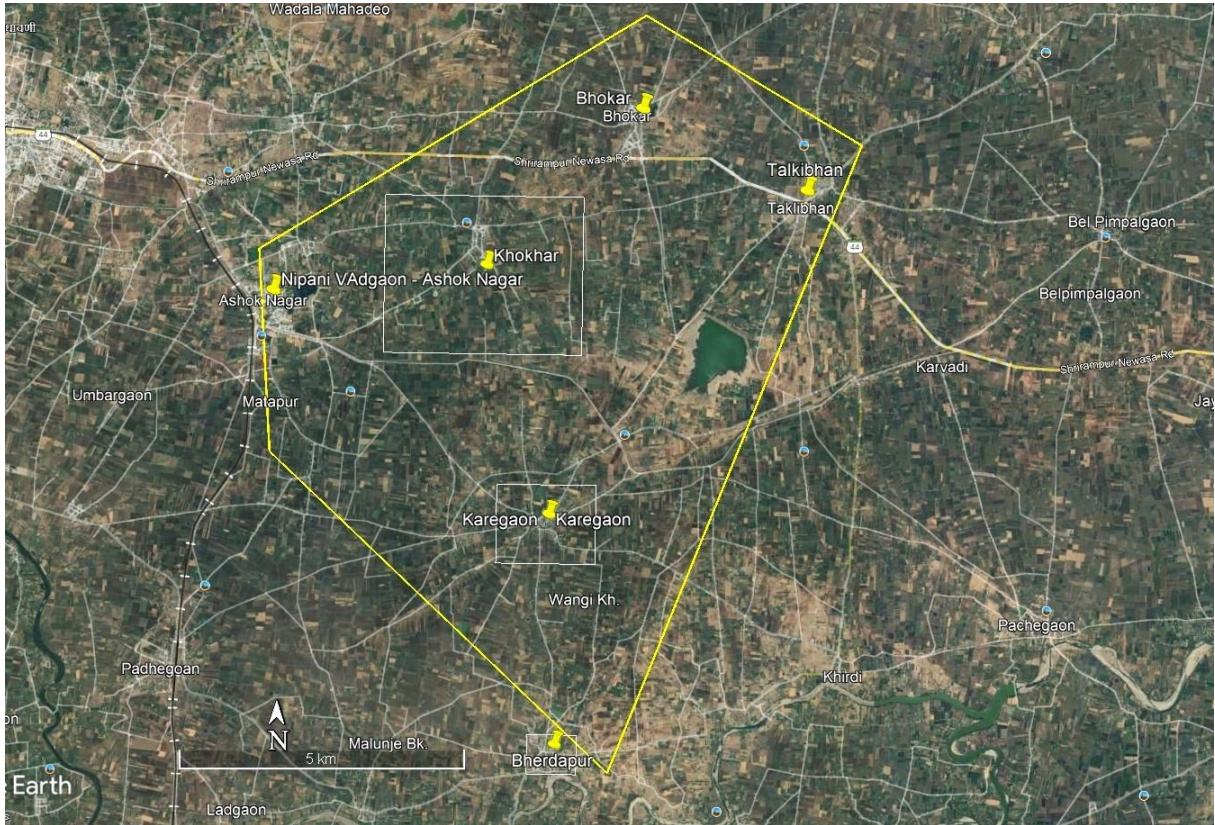
However a decentralised look at specific ecosystems does help to break down the issue into manageable ones keeping in mind the totality of course.

Regards

Viren

Part II

A Perspective on Ecology and Livelihood



Development of a Framework to Measure Ecological Footprints

From Production to Consumption based on the Relevance of Community Based Ecosystem Stewardship for development of sustainable and cost effective life support systems

Problem Statement :

Ways to measure Carbon, water, energy and ecological footprints have been developed as a guide to sustainable livelihoods on this planet. However existing methods to measure footprints do not take into account the integration between production systems and consumption systems. General yardsticks are provided. While this is a good start to create awareness, we need to be able to measure the footprint from production to consumption. Geospatial tools allow for community participation in tracking all facets of production. Given proper incentive and framework design for monitoring indicators, communities can be roped into this process both at the production, transportation and consumption levels. Certainly the basic infrastructure is in place to allow for data entry of this type. Cost effective monitoring systems have to be built in to make this happen in real time.

Project Goal and Objective :

Goal: Development and facilitation of a Participatory approach to upgrading capacity of relevant stakeholders in Gujarat, Uttar Pradesh, Uttarakhand, Maharashtra, Jharkhand and Rajasthan for Ecosystem Valuation through a multipronged approach to livelihood and sustainability questions related to ecosystem services and related decisions on appropriate land use, programme implementation, monitoring and evaluation in line with the necessity for active engagement with Agenda 2030.

Overall Objective: Community centric ecosystem valuation based on the interplay between scientific principles and community knowledge and potential for Capacity building of local communities, academic institutions, government and other institutions for Concrete realisation of agenda 2030 through its manifestation in the decisions on land use and programmes undertaken in the States of Jharkhand and Rajasthan.

Objective 1: Building on studies done by Dr Leena in Gujarat and Uttar Pradesh to develop and outline for studying Ecological footprints from Production to Consumption to develop in community centric basis for measuring ecological footprints in selected pilots of Gujarat, Uttar Pradesh, Uttarakhand, Maharashtra, Jharkhand and Rajasthan covering tribal, pastoral, small and traditional fishers. small and marginal farmers and labour originating from such pilot regions.

Objective 2: Development of Participatory Ecosystem Footprint Assessment and valuation tools for Ecosystem specific Thematic programmes related to Food, Nutrition, Health, Education, and Overall Well Being around the promotion, development and protection of the local biodiversity, its relation to appropriate land and water use and related energy and nutrient requirements in selected pilots in Gujarat, Uttar Pradesh, Uttarakhand, Maharashtra, Jharkhand and Rajasthan covering issues related to forests, pasturelands/rangelands, dryland and irrigated agriculture, wetlands and montane ecosystems and communities covered in Objective 1.

Objective 3: Use of Geo-Spatial tools and AI for real time ecosystem footprint assessment and valuation to facilitate land use decision making by local communities, implementation, monitoring, documentation and evaluation of the work of stakeholders in diverse ecosystems across the selected pilots covering issues outlined in Objective 2.

Objective 4: Development of Federation of women and Children from Gram Sabha to the landscape level so that the same can participate effectively in matters related to Ecosystem valuation and related decision making in programmes being developed by Panchayati Raj Institutions at village, Block and District level. In the case of children, involvement of the schools in which they are being educated to develop effective learning centres on issues related to the local ecosystems and the 17 SDGs so as to develop leadership skills for the future.

The principles of the slogan *Think Globally Act Locally: Act Locally Spread Globally* is being reflected in the operationalisation of the goal defined above.

Underlining hypothesis:

https://ielaind.org/wp-content/uploads/2017/05/Valuation-of-Ecosystems_-IELA_Habitat_Case-studies-from-different-States.pdf

The paper above illustrates the problem being faced when Economic systems based on cash/ market transactions are applied to the process of Ecosystem Service valuation. The work of IELA and its partner organisations indicate that involvement of women and children in the ecosystem valuation process would help bring to bear the vast amount of local and traditional knowledge embedded with local communities and update them with multidisciplinary expertise in a manner that is consistent with dealing with the current issues and problems being faced by local communities in the process developing transformational ecosystem stewardship for sustainable livelihoods and overall well being. What is needed now is an alternative Ecological footprint in tune with nature's cycles which can considerably reduce the cost of production and provide cost effective eco friendly options for diverse communities in rural and urban areas.

Proposed Programme:

Phase 1

Development of a framework for measuring Ecological Footprints:

Based on the experience of Dr Leena Gupta, this phase lastly about one month to 45 days will be to consolidate the considerable experience gathered by her to develop a framework which can be used to measure the Ecological footprint in pilot locations of Gujarat and Uttar Pradesh, so selected because of the necessity of being able to provide objective measurement to parameters which are already operational in the field.

Phase 2

Field testing of framework and generation of qualitative and quantitative methods of assessment

The framework so tested will be field tested in the pilot locations mentioned in Phase 1 to generate qualitative and quantitative methods of assessment which can be more generally applied in other locations as well. This is expected to take about 4-5 months.

Phase 3

Integration with other processes taking place in Gujarat, Uttar Pradesh, Uttarakhand, Maharashtra, Jharkhand and Rajasthan

This phase is expected to start in April 2025 and continue till March 2028.

Expected outputs:

Phase 1:

Ecological framework outline

Phase 2:

Field tested report of Ecological Framework and integration with other process for development of a larger three year proposal.

Part III

Spiritual/Ecological Connections & Our Common Home



Diwali a post harvest festival indicating the triumph of light over darkness

This time round Diwali and Halloween are on the same day

<https://www.indiatimes.com/trending/social-relevance/diwali-2024-what-happens-when-diwali-and-halloween-fall-on-the-same-day-a-meme-fest-unleashestrick-or-treaters-get-laddus-644885.html>

This time a cultural fusion

For some a reunion

The Festival of light

And trick or treat

Minus the fright ?

Does it make for a connoisseurs delight

If so please sit tight

36 hours or 12

As sections of mother earth's history we delve

India expels six Canadian Diplomats

<https://www.mea.gov.in/press-releases.htm?dtl/38420/India+expels+Canadian+diplomats>

<https://www.newswire.ca/news-releases/rcmp-statement-on-violent-criminal-activity-occurring-in-canada-with-connections-to-agents-of-the-government-of-india-817991033.html>

The Khalistani connection between Canada and India ? Foreign hand at work in undermining India ? The links are over a century old, that time it was the Gadar party. A failed attempt at a coup due to a leak. Is the Government following in the Glorious British tradition of crushing 'secessionists' or has a conception of freedom distinct from the Imperialist concept.

To me it is a line of action to divert from the implications of the farmer's struggle. Do not know enough to establish all the links on the Canadian side. Post the Haryana study we want to do a thorough study on the farming question and its reflection in the farmers agitation. Why has this severe question not impacted the elections in the way it should have ? How have caste questions managed to blur the sharp class contradictions emerging ? Tarun Kanti Bose's study on Haryana will help to provide clarity on how the caste questions need to be looked at from the class angle as also other identity questions like the issues related to Women and Muslims. This will clear the air to look at the class issues more sharply naming farming question and Industrial issue as well. I think that will help us get clarity on the overall Government stand to promote urbanisation and Corporatisation to the detriment of farmers and other toiling masses. All of whom are pushed to Proletarianisation as sharply pointed out in Tarun Kanti Bose's book Marginalised but not defeated.

Have placed this here instead of the next chapter due to the following

- a. I do not wish to pursue the political line that simply cries wolf but prefer to pursue the line of thought related to the farming question in India and its links with global farming issues. Farmers from Punjab have gone to Canada, bought land there and they are the third largest linguistic community in that country. Why do such 'progressive' farmers from India see Canada as the way forward and not India ?
- b. Complex cultural Issues are evident and sharpening as a result of the Global economic crisis. Dealing with these in some form is a precondition to taking the real community based political issues forward.

In a way therefore am making this the backdrop of the issues highlighted in the next chapter.

Part IV

Politics of different kinds



Making way for the tiger ?

Should Tribals be relocated from protected areas ?

<https://www.newindianexpress.com/xplore/2024/Oct/13/should-tribals-be-relocated-from-protected-areas>

An existential question but the answer cannot be found in existentialism.

This is not only about tigers but the other wildlife we are talking about as well.

To me the role of decentralised governance principals is find the answer to this existential question not just from the point of view of survival but as a path to a better quality of life. Modern Geo spatial tools, internet, mobile and developments in renewable energy make this possible. How the essence of these can be pulled out to enhance the debate/ discussion with local communities and reduce areas of confrontation moving towards joint participation in a

better more humane and just world. 😊

Regards

Viren

Five years on the guardian of the Amazon Forests yet to get justice

<https://survivalinternational.org/news/14086>

Five years after **the killing of Paulo Paulino Guajajara**, an Indigenous Amazon Guardian who was gunned down by illegal loggers, his family still waits for justice.

Paulo's death was **widely covered by the world's press**, but despite the global outcry, the killers have never been brought to trial. Two men, Antônio Wesly Nascimento Coelho and Raimundo Nonato Ferreira de Sousa, have been charged, but not tried.

Paulo Paulino, known also as Kwahu Tenetehar, was shot in the neck and died in the forest after an ambush by loggers. His colleague, Tainaky Tenetehar, was shot in the back and arm but escaped.

The **Amazon Guardians** have **patrolled their territory** in the eastern Amazon, which has been heavily invaded by loggers, for more than 15 years. Uncontacted members of the **Awá people** also live in the territory.

Dedollarisation: Is the Dollar losing its dominance ?

<https://www.jpmorgan.com/insights/global-research/currencies/de-dollarization>

Key takeaways

- De-dollarization entails a significant reduction in the use of the U.S. dollar in world trade and financial transactions.
- Some signs of de-dollarization are evident in the commodities space, where energy transactions are increasingly priced in non-USD currencies.
- Globally, new payments systems are facilitating cross-border transactions without the involvement of U.S. banks, which could undermine the dollar's clout.
- USD's share of FX reserves — the most commonly analyzed barometer of dollar dominance — has decreased, notably in emerging markets.
- However, while diversification away from the dollar is a growing trend, the factors that support dollar dominance remain well-entrenched, and meaningful de-dollarization will likely take decades.

After India Brazil decides not to join China's Belt and Road Initiative

<https://www.thehindu.com/news/international/brazil-becomes-second-brics-country-after-india-not-to-join-chinas-bri/article68809530.ece>

In a major setback to China's **Belt and Road Initiative** (BRI), Brazil has decided against joining Beijing's multi-billion-dollar initiative becoming the second country **after India** in the **BRICS** bloc not to endorse the mega project.

Brazil, headed by President Lula da Silva, **will not join the BRI** and instead seek alternative ways to collaborate with Chinese investors, Celso Amorim, Special Presidential Adviser for International Affairs, said on Monday (October 28, 2024).

Brazil wants to "take the relationship with China to a new level, without having to sign an accession contract", he told Brazilian newspaper O Globo.

Part V

Health, Happiness and the Hope Gene



Poem about SEAOC

By

Roy Lobo

SEAOC Fellow 2024



I am told that the best structural engineers association in the world is SEAOC

Don't just take my word for it, just ask around the Block

Founded in 1932 is has been around for more than 90 years

With rules and guidance enshrined in its By-Laws and Policy and Procedures

That are followed and managed by the Board of Directors and committee

Chairs

Who volunteer valuable time and knowledge sometimes at the expense of

their own Affairs

The strength of SEAOC lies in its committees,

VALUES

People

- Community for members
- Equity, inclusion, diversity, and engagement within the profession
- Openness, accessibility, and opportunity within the Association
- Inspiring future generations and emerging leaders

Practice

- Technical development and advancement of knowledge
- Structural engineering excellence
- Professional ethics and integrity
- Sustainability and resilience

Position

- Advocacy and promotion of the profession
- Collaboration and leadership with like-minded professional groups and agencies
- Relevance, growth, and stability of the Association

that charts Direction

Whose structure is comprised of three branches, People, Practice, and Position

All of which play a vital role, for absent one, the association may not Stand

And its influence and outreach will fail to Expand

Being in earthquake country, you may at times be on Shakey Ground

And should the big one come, God forbid, you will still be Around



Recommended Options for
Improving the Built Environment
for Post-Earthquake Reoccupancy
and Functional Recovery Time

FEMA P-2090 / NIST SP-1254 / January 2021

For new construction we have even moved on,
from Life-safety, to Functional Recovery

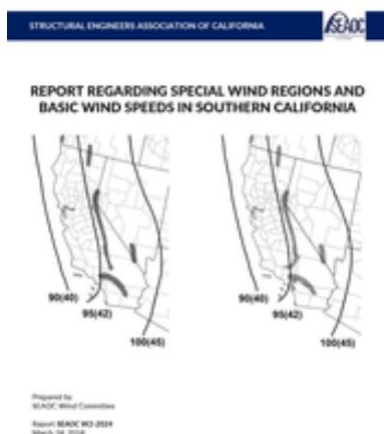
So daily activities can continue, without being a
part of History

We also need to protect our existing
Infrastructure

So they can withstand and survive the next big natural Disaster

Be it Gravity, and seismic or wind, designs need to balance both resilience and
Sustainability

So as structural engineers, we need to use are creative Ability



The wind committee has developed new wind maps,
for special wind Regions

So buildings and structures still stand, no matter the
Seasons

Kudos to the
Committee, who
Vulnerable
Published on the
hit the Street

SEISMICALLY VULNERABLE EXISTING BUILDING FACT SHEET SUMMARY					
DEFICIENCY	SBC LIMITED/NO DUCTILITY	NDC NON-DUCTILE CONCRETE	SWCF WOOD FRAMING	RWC REINFORCED CONCRETE WALLS	PRAMP PRECAST CONCRETE PANELS
ERA	Least Common Pre-1963	Most Common Pre-1963	Most Common 1963-1971	Most Common 1963-1971	Most Common 1963-1971
TYPICAL BUILDING					
TYPICAL EARTHQUAKE DAMAGE					
RISK RATING					

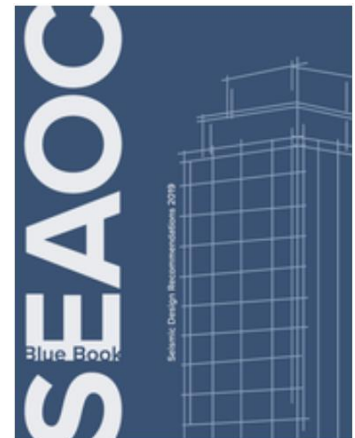
Existing Buildings
have come out with the
Buildings Fact Sheet
SEAOB website, that just

Copies are also available, in digital or paperback

For quick reference when talking to clients, to help keep you on Track

To understand seismic principles, you turn to the SEAOB
Blue Book

And should you volunteer to write an article, they will
have you on the Hook



SEAOB also came out
with the wind and
structural seismic design Manual

Which for the designers, or SE test taker,
including myself, has been of extreme Value

Every year SEAOB celebrates its accomplishments at the Convention

To recognize excellence in Structural Engineering, and demonstrate your latest
state-of-the-art Structural Innovation

Accepted papers, are all archived in the SEAOB convention Proceedings

And if you are feeling bored, it makes good bedtime Reading

It is also a good time, to meet and catch-up with other structural Engineers

And share a meal, and perhaps a drink, with your fellow Peers

Like it or hate it, there is the invariably the Ashraf CSI holiday Party



And no matter your age or stature, you will come away hail and Hearty

In closing I would like to thank the SEAOC Board, the staff, the committees and all the volunteers that make this great Event

And I am sure you will agree with me, that is, time well Spent



Viren Lobo who was influenced by liberation theology during his college days did an MBA from Institute of Rural Management Anand. He has been working the development sector since he passed out from there in 1985. Employer, employee and other contradictions observed by him during his thirty year stint at Society for Promotion of Wastelands Development (SPWD) forced him to examine the relevance of Marxism as a way of looking at reality in relation to change he sought to bring. During the course of his work covering more than twenty States, he noticed a link between the livelihoods and ecology which he pursued strongly as Executive Director SPWD. The limitations of existing organisations to deal with the complex questions society posed motivated him to set up Institute of Ecology and Livelihood Action as the transition needed to address issues he was looking into at that time. The contradictions arising out of the a series of Bills that were passed during the last five years encouraged him to use the enforced sedentary life imposed on him to use his creativity to write plays. These were the first of a series which have helped serve the purpose of putting on paper the complex dilemma and diverse social opinions he came across.

About Especioza Trust:



Especioza Trust is named after my great, great grandmother who widowed at an early age brought up her only son Aogustinho (seated in centre). Shortly after a family reunion in December 2013, we got news that the family home at 84 Porvorim had been illegally sold to a builder. My aunt Marie stepped in and after getting the required mandate from the family not only got the family home back but the previous ancestral home of 85 Porvorim as well. Since then it became her project in memory of her widowed great grandmother till her death on her mother Amy Lobo's 117th birthday (25th July 2019). Since the informal trust set up by her could not achieve fruition I decided to keep the struggle and memories alive by carrying on her mission to bring unity within the family and dedicate the work of the Trust to all widows and single women of the world. My Aunt/Cousin Hazel Cardozo the daughter of Liban Pinto one of the two brothers born on my birthday (6th September) has helped me to give this project shape. The other brother Lucian in whose name the house was, also happened to be born on my birthday as well. The spiritual connection and the necessity for me to step in also come from a lot of other quarters which need not be documented here.

Viren Lobo