

Integral Ecology and Justice

María Gabriela Hernández del Castillo

*"just how inseparable the bond is between concern
or nature, justice for the poor, commitment to society,
and interior peace"*

Attribute of St Francis of Assisi, whose being
and thought inspires the Encyclical *Laudato si'*,
on care for our common home.

In society, there seems to be a significant misapprehension regarding the profound link between nature and life and its impact on our overall quality of life. We often fail to recognize the deep interconnection between what we observe and experience and our very existence. This lack of comprehension contributes to the ongoing environmental degradation we witness today, as we persistently destroy the very nature upon which our lives depend.

It is crucial to undergo training that fosters an understanding and appreciation of our inherent interdependence with nature. This knowledge is vital for preserving all living beings, including ourselves.

In the upcoming paragraphs, I'll share some insights gained through my experiences in the National Assembly, the Academies of Sciences, and, most significantly, through interactions with people. I'll discuss the fundamental human right to a clean and healthy environment, examining it from a global perspective inherent to human existence. I'll also address the shared

responsibility of the State and its citizens, culminating in a reflection on the concept of Environmental Justice.

I. The environment as a human right

1. Laudato Si', "On care for our common home," is an encyclical penned by Pope Francis, Jorge Mario Bergoglio, in May 2015. Its name is inspired by the enduring exclamation of Saint Francis of Assisi, the patron of Ecology, who famously said, "*Laudato si', mi Signore*" – "Praise you, my Lord." This encyclical builds upon the ideas of previous Popes and aligns itself with scientific consensus, **urging every inhabitant of our planet to undergo a global ecological transformation.** Laudato si' calls for a shift in how humanity interacts with the environment and offers a holistic perspective on ecology that highlights the intricate connection between the cosmos and all life. The strength of encyclicals lies in their profound moral and ethical contemplation of matters critical to humanity, often uniting a significant portion of the world around these ideas. For this reason, Laudato si' will forever serve as a foundational reference point when discussing the turning point in humanity's response to the triple crisis of our planet: global warming, pollution, and biodiversity loss. Specifically, the encyclical encourages ecological conversion, which includes contributing to the shift to sustainable energy sources, and abandoning fossil fuels to reduce greenhouse gas emissions significantly. It also emphasizes economic assistance from more stable countries to aid others in transitioning toward cleaner energy solutions and promotes the development of circular economy models.

2. Paris Agreement on Climate Change. In December 2015, several months following the release of Laudato Si, the 27th Conference of the Parties on Climate Change, known as

COP27, was held in France. During this conference, the historic Paris Agreement on Climate Change was signed with a specific objective: to keep the global average temperature “well below” two degrees Celsius compared to pre-industrial levels. This agreement introduced three clear, ambitious, and enduring goals that have significantly influenced policy and regulations in recent years. The three primary objectives of the Paris Agreement on Climate Change are: **Mitigating or reducing** the emissions of greenhouse gasses responsible for global warming. **Adapting** to the effects of climate change, aiming to anticipate and reduce the risks associated with global warming while promoting resilience through proactive measures, education, and local action. And, lastly, promoting **green financing**. These first two goals need more economically developed countries with stronger economies assisting others in pursuing these objectives. Notably, the most significant outcome of this Agreement is the shared commitment among signatory countries to reduce their reliance on fossil fuels, the primary culprits behind emissions and global warming. This shift involves redirecting financial resources toward renewable energy sources. Additionally, it envisions a greener economy that incorporates larger and more efficient carbon capture technologies that enhance the environment’s sustainability. During the most recent Conference of the Parties, COP27, nations, in response to mounting scientific and public pressure to address the recent impacts of global warming, reaffirmed their commitment to limiting the global temperature increase to 1.5°C above pre-industrial levels. Governments are now facing pressure to review and bolster their 2030 climate targets within their national plans by the end of 2023.

3. The Amazon Synod, was proposed by Pope Francis in October 2017 and held in Rome in October 2019. It’s important for these reflexions to highlight the immediate connection between

this event, the release of Laudato Si, and the Paris Agreement. The Synod's original aim was to *identify new paths for evangelizing the people of God in that region*. Interestingly, it ultimately translated into the practical application of the Encyclical Laudato Si through concrete proposals. The concluding document of the Amazon Synod portrays the Amazon as a region where *life is intimately interconnected with the land, which serves as both a life-sustaining physical space and a constraint on life*. The Amazon River basin and its numerous tributaries span nine countries: Bolivia, Peru, Ecuador, Colombia, Venezuela, Brazil, Guyana, Suriname, and French Guiana. Its vastness and ecological richness are crucial in distributing rainfall in South American regions and impacting global air patterns. Moreover, the Amazon stands as the world's most significant forest in terms of its capacity to absorb greenhouse gasses. During the Amazon Synod, the vulnerability of the Amazon to climate change was starkly highlighted due to exploitative extraction practices and their links to violence and the criminalization of those defending the Amazon. The synodal document emphasizes the need for a new sustainable development paradigm that is socially inclusive, combining scientific and traditional knowledge to empower traditional and indigenous communities, with a particular focus on women. This approach aims to harness technology for the well-being and protection of the forests. It is notable how the term “**ecological sin**”, was introduced in the synod's document, defined as actions or omissions against God, fellow humans, the community, and the environment. These sins manifest in acts that pollute and disrupt environmental harmony, violating the principles of interdependence and undermining the networks of solidarity among all creatures, ultimately contradicting the virtue of justice. The Amazon Synod significantly drew global attention to the Amazon, its complexities, and its threats to humanity. Its influence in this regard is undeniable.

4. Escazú Agreement. This is what the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean is known as, adopted in Escazú, Costa Rica, on **March 4, 2018**, and in force since April 2021. This agreement assures the right to access environmental knowledge, take part in decisions related to the environment, and secure the path to justice in environmental matters. Moreover, it works towards enhancing and upholding the aspects linked to safeguarding the rights for sustainable development and the opportunity to live within a flourishing and wholesome environment.

The Escazú Agreement is a groundbreaking regional environmental treaty for Latin America and the Caribbean. It's the first of its kind globally to encompass explicit provisions safeguarding the rights of human rights defenders in environmental affairs. Each State party has made a solemn commitment to grant access to legal and administrative channels for contestation and appeal, encompassing both the substance and procedure concerning

- a) any decision, action, or omission tied to the availability of environmental information;
- b) any decision, action, or omission connected to public participation in environmental decision-making processes;
- c) any other decision, action, or omission that either impacts or has the potential to affect the environment negatively or breaches legal provisions about environmental matters.

Of the 33 States eligible to sign the Treaty, 25 have done so. However, Venezuela has not joined the accord, which is paradoxical and implausible, as a non-democratic State cannot

genuinely commit to upholding these obligations, and one of the many fundamental rights that citizens forfeit under a regime that disdains democracy is the right to access justice and the freedom to seek and receive information.

5. United Nations General Assembly Resolution 76/300, dated July 28, 2022, is a historic recognition of the human right to live in a clean, healthy, and sustainable environment. On December 10, 1948, when the 217th General Assembly approved and declared the Universal Declaration of Human Rights, it acknowledged the rights inherent to all humans simply by virtue of their existence. These rights were elevated to a foundational status that demanded protection under a universal legal framework. At that time, the world had endured two devastating world wars, and the global consciousness, deeply scarred by the horrors of war, responded by establishing a comprehensive system to shield humanity from itself. Even worse and more atrocious, science and reality have sounded a grave warning about the perilous threat to life on Earth resulting from the environmental devastation we inflict upon nature. The triple crisis of humanity, encompassing global warming, pollution, and biodiversity loss, has the potential to jeopardize not only the right to a clean environment but also all other rights enshrined in the Universal Declaration of Human Rights. This underscores the vital importance of the United Nations incorporating the Right to a clean and healthy environment into the category of fundamental human rights, ensuring its protection within the framework of the international justice system.

II. State and Environment

6. The **State**, as the political structure established by the citizens within a nation, serves as the framework for communal living. It's a product of the citizens who've designed it to facilitate

their needs. The core purpose of the State is to benefit its citizens, and any notion of it serving malevolent intentions is inconceivable. Instead, the State should always strive to fulfill its fundamental role –the well- being of the citizens who brought it into existence. Elected or appointed State officials act as extensions of the State, with their primary duty being to serve the people and the nation. The rights inherent to every human being stem from their very nature; the State doesn't bestow them. Even when these rights aren't explicitly outlined in the State's legal framework, human rights hold precedence because they are derived from a universal order that transcends the State as a political entity. As an entity to serve a nation's citizens, the paramount duty of the State is to secure the guarantees that enable people to exercise and safeguard their fundamental rights. Simultaneously, citizens should be well-informed and educated about their basic human rights, allowing them to demand these guarantees from the State they helped create. This synergy between an informed citizenry and a State that protects their rights is the essence of a prosperous nation and a formidable State. By providing these safeguards, the State garners legitimacy and power and, in return, fosters the greater good of society. It is abundantly clear that in states where democracy falters, citizen power is marginalized, and the State deviates from its fundamental purpose -serving the nation- human rights are at immediate risk. Such violations have dire consequences, including poverty, destruction, and even loss of life.

7. Venezuelan Constitution: The current status of human rights in Venezuela. Venezuela's current constitution was established in 1999 and amended in 2009, allowing for the continuous re-election of popularly appointed positions without affecting the core content of fundamental human rights enshrined. Still, the 1999 Constitution is comprehensive and up-to-date regarding fundamental human rights. For the purpose

of this discussion, Article 127 of the constitution establishes the right and duty of each generation to safeguard and preserve the environment for the benefit of present and future generations. It affirms that every individual has the right, both individually and collectively, to enjoy a life and environment that are safe, healthy, and ecologically balanced. Remarkably, this constitutional provision recognized the Right to a Safe Environment as a fundamental human right 21 years before the United Nations formally acknowledged it, emphasizing its transgenerational nature. Additionally, well ahead of the publication of the Encyclical *Laudato Si*, the Venezuelan Constitution had already called for ecological conversion. It also placed the responsibility on the State to protect the environment, biological diversity, genetic resources, ecological processes, national parks, natural monuments, and other ecologically vital areas while emphasizing sustainable development as a foundation for territorial planning and human activities. Furthermore, the Constitution seemed to anticipate the authoritarian and undemocratic tendencies of those in power at the time. Title VIII introduced a means for citizens to safeguard the Constitution, regardless of whether they held official positions. This concept, doctrinally referred to as Constitutional Justice, ensures that the Constitution cannot lose its validity due to forceful actions or unauthorized repeal attempts. It empowers ordinary citizens to collaborate in reinstating its validity even if they lack official authority. This constitutional provision, focused on Constitutional Justice, has formed the bedrock of the Constitution's defense in Venezuela over the past 23 years. It empowers both me and you, the readers, to contribute to upholding the guarantees of our human rights, including the right to a safe, healthy, and ecologically balanced environment.

8. Objective liability in Venezuelan legislation. Venezuelan environmental legislation stands on a strong foundation and addresses many environmental issues. The interpretation of the constitutional provision places the human being and the well-being of current and future generations at the forefront of protection. In cases of environmental offenses, both criminal and civil actions are initiated. Two critical instruments are the Organic Law of the Environment of 2006 and the Criminal Law of the Environment of 2012. Venezuelan law establishes objective responsibility, meaning an individual can be held responsible for an act, even if they didn't intend it (*dolo*) or act recklessly or negligently (*culpa*). It's enough to prove the trespassing act. In the case of legal entities, whether public or private, their officials or managers can be held responsible and may only be exempted if there is no causal link or an external, non-attributable cause. This aspect of our environmental justice is essential to understand why, during democratic times with an autonomous and ethical judicial system, state and non-state actors involved in oil and mining activities were particularly attentive to environmental concerns and meticulous in their accident and damage prevention plans. The criminal and civil consequences hold significant weight due to their objective nature. Venezuelan environmental legislation also allows judges to issue **precautionary measures** to prevent or mitigate damage. These measures may involve **restitution, repair, and risk elimination**, and they can effectively prevent or rectify harm, provided we have an independent and ethical judicial system. Another notable feature of our legislation, particularly relevant in an increasingly interconnected world, is its **extraterritoriality**. This means that criminal law and its objective standards apply to individuals and legal entities for offenses committed within Venezuela's borders and in foreign countries if the consequences or risks of the event affect Venezuela.

III. Citizen and Environment

9. The carbon or ecological footprint. This environmental indicator involves conducting an emissions inventory, representing the total amount of greenhouse gases (GHG) generated by an individual or a country's everyday activities and economic endeavors. The primary greenhouse gases in the atmosphere include carbon dioxide (CO₂), water vapor (H₂O), nitrous oxide (N₂O), methane (CH₄), and ozone (O₃). These gases naturally occur in the atmosphere and capture the sun's heat. However, their heightened presence due to human activities intensifies the absorption of solar heat, which is then dispersed in the atmosphere as radiation. This process creates the greenhouse effect, leading to an increase in Earth's temperature.

10. Each citizen and State must inventory their carbon footprint and seek neutrality, that is, our way of life should ensure that our personal or collective emissions do not exceed the capacity of the atmosphere or the environmental systems we've created to absorb them. One significant concern in the scientific community in Venezuela is the absence of data to measure these emissions accurately. Such measurements are crucial for developing an effective Mitigation and Adaptation Plan, enabling us to set and assess goals and commitments in line with the Paris Agreement and to work collectively as a nation. It's important to remember that environmental responsibility is not solely the state's responsibility; it rests on the entire nation. To instill a commitment to achieving a neutral ecological footprint among a nation's citizens, they must be informed, actively engaged, and have legal security provided by the government. The situation becomes even more complex when the state itself is involved in environmental degradation, both directly and indirectly. Unfortunately, this is the case in Venezuela. While there isn't a

scientific record for greenhouse gas measurements, it's reasonable to assume that the policies related to oil and mining activities, as directed by the current leadership of the Venezuelan state, are highly detrimental to the environment. Incidents such as oil spills in freshwater bodies (like Lake Maracaibo and the Guarapiche River), grasslands and coastal waters, gas emissions in the eastern and western regions, and mining activities south of the Orinoco River, which includes coal, silica, and other materials, have been carried out with little regard for the environment and the communities affected. Reparations are often neglected, and responsibility for addressing the damage is rarely assigned. Even more alarming is that Venezuela has experienced one of the most rapid and extensive losses of natural and urban forests in recent years.

11. Global experience has demonstrated that to decrease personal or collective carbon footprint, it's most effective to start by taking local actions that can eventually be adopted as official policies. For instance, planting trees offers multiple benefits to communities. It establishes small urban forests that absorb emissions, reduce temperatures by around 12 degrees Celsius, and provide recreational spaces. Cultivating a culture of recycling, reusing, and reducing consumption should begin at home and be continuously reinforced and improved. It's heartening to observe that each new generation is increasingly conscious of these principles as they become part of the global community.

12. Political Proposal on the Environment for Venezuela. The foremost priority lies in reinstating the National Constitution and reestablishing democracy to foster democratic and environmental institutions. Without freedom and guarantees, no human rights can thrive, and under an oppressive regime, the exploitation of natural resources becomes inevitable,

paralleled by crimes against humanity. Venezuela already boasts modern environmental legislation encompassing contemporary environmental preservation and sustainability principles. However, while adaptation and mitigation standards are integrated into existing environmental laws, enacting the **Climate Change Law** to fulfill the prerequisites for accessing green funds is essential. Furthermore, for enhanced protection and access to international justice, it's imperative to sign agreements such as the **Escazú Agreement** (mentioned earlier) **and the Minamata Treaty on Mercury**. The latter agreement secures scientific and economic support to counteract mercury contamination south of the Orinoco and assist the victims of such pollution. Turning to our vast **oil** reserves, we must devise a strategy to ensure they remain a lever for sustainable development, especially as cleaner energy sources and technologies rapidly replace their use. This necessitates rigorous monitoring of equipment and processes to prevent disasters, neutralizing gas flaring or venting, and investments in renewable energy. As for **mining**, experts emphasize the need for its containment—restricting it to specific areas to minimize environmental impact and permanently excluding it from national parks, monuments, riverbeds, and other specially protected regions. The reintegration of miners into their communities will require a comprehensive national plan on par with the one implemented for the Venezuelan diaspora.

National Parks, Amazonia, and Forests. Colombia, our neighboring country with similar resources and nature, has successfully pursued an environmental policy to achieve emissions balance by 2030, with a significant focus on its forests. In Venezuela, around half of our territory is encompassed by national parks, areas under special protection, natural monuments, and urban forests. Additionally, we have a remarkable natural heritage, including a portion of the Amazon rainforest within our borders.

Our nation has a unique background in promoting vast forests, exemplified by Los Pinos Caribe in Uverito. We can foster the **environmental tourism** industry by prioritizing the conservation and expansion of our national parks and forested areas. Venezuela stands out as a destination like no other, offering a diverse range of landscapes, from the Amazon to plains, jungles, mountains, dunes, snow-capped peaks, and *morichales*. This showcases that Venezuela is more than just a dictatorship or an oil-rich nation. We can leverage our God-given natural advantages to rank among the top 10 countries in biodiversity and freshwater reserves. The most effective and sustainable approach for Venezuela is to harness its abundant natural wealth, which is currently under threat due to state actions. Concerning **environmental justice**, it's paramount to act promptly nationally and internationally. Environmental crimes can evolve into crimes against humanity when they harm current and future generations. The **indigenous communities'** authority and dedication to protecting their habitat should never be overlooked. Justice should be upheld by supporting their organizations and collaborating on strategies to reclaim territory from armed groups. To ensure a better future for those who will follow us, we must administer justice to the environment by increasing education and imposing penalties on those who have exploited Venezuela's natural resources.