

Opportunity, feasibility and effectiveness of a Solidarity Fund for Defenders of the Commons and ICCAs

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Final draft for comments

On average two people are killed every week defending their land, forests and waterways against the expansion of large-scale agriculture, dams, mining, logging and other threats. Often they have been forced from their homes or seen their livelihoods harmed by environmental devastation. Some victims were environmental protesters killed in crackdowns, others murdered by hired assassins because they lived on a desirable plot of land (Global Witness 2014).

As pressure on natural resources increases, land and environment rights defenders have become among the most vulnerable groups in terms of killing. These defenders...must be protected. They must be empowered because they are not only fighting for their lives but also for ours. - Antoine Bernard, CEO of the International Federation for Human Rights (FIDH)

BACKGROUND INFORMATION

Several organizations and individuals gathered in Spain in the occasion of the VIth General Assembly of the ICCA Consortium (Valdeavellano, October 6th 2013) and WILD10 Conference (Salamanca, October 8-10) and found themselves profoundly concerned at the amount of repression and suffering inflicted on the first line defenders of community “commons” in general and of territories and areas conserved by indigenous peoples and local communities (ICCAs) in particular. On that occasion, the Consortium approved the idea of setting up a ‘Solidarity Fund’ for people killed or severely harmed in the struggle to defend their community commons and ICCAs.¹ The Christensen Fund (TCF) later agreed to support this idea in the context of an on-going project by which it offers assistance to the Consortium. Some regional consultancies have thus been offered and a meeting has been called to discuss the idea of the Fund. This report is the result of one of such consultancies.

Challenges faced by the Defenders of Commons and ICCAs (DoCs)

Indigenous peoples and traditional caretaker communities are on the frontline in the struggle to preserve, protect, restore and defend their “commons”, including the territories, areas and nature they collectively conserve (ICCAs) on the basis of traditional knowledge and customary practices, laws and institutions.

Communities’ on-going defence of their commons and ICCAs from corporate interests, misguided development policies, top down conservation projects, mass-tourism, and land, water and nature grabbing is exposing them to various forms of discrimination, intimidation, abuse, and violence.

¹ This idea was initially conceptualized and proposed by Dario Novellino, a honorary member of the ICCA Consortium

The role of these community leaders and local activists is pivotal in countering the increasing pressure that many rural and indigenous communities face from extractive industries, monocultures and various forms of land, water and nature grabbing and unsustainable uses.

Often local efforts to counter such pressures are being matched by human rights violations, such as illegal detention, torture, beating and extrajudicial killings. In some regions, this is happening in the context of militarization of areas and territories via the deployment of national armies and para-military security forces backing the interests of corporations and private investors.

As of today, many cases of murder and severe harm perpetrated against the defenders of the community commons and ICCAs remain unsolved, with both instigators and executors of such crimes rarely identified and brought to justice. Wherever it takes place, this climate of impunity fosters the continuation of physical violence and the systematic elimination of members and leaders defending their community commons and ICCAs, weakening the resolve and the morale of the young generations, who feel increasingly vulnerable and unprotected. In turn, the risk of losing one's life in the attempt of protecting the community commons and ICCAs and the likelihood that that sacrifice will remain unrecognized and unpunished do represent a disincentive for people to engage in resisting undesired land conversions and "development" schemes and, in general, in governing and managing the commons and ICCAs.

EXISTING OBSTACLES, DISINCENTIVES AND REMEDIES TO THE VICTIMISATION of THE DEFENDERS

Major existing support avenues/funds for human rights defenders

Swedish International Development Agency (SIDA) has offices in the Ethiopia, Kenya, Sudan, Tanzania, Uganda, South Africa, Liberia, Zambia and Zimbabwe and it is presently supporting the National Coalition of Human Rights Defenders based in Kenya

HIVOS is an international organization based in the Netherlands with two regional offices in Nairobi (Kenya) and Harare (Zimbabwe). It seeks new solutions to persistent global issues and opposes discrimination, inequality, abuse of power and the unsustainable of the planet's resources. HIVOS also supports the work of the National Coalition of Human Rights Defenders in Kenya.

European Commission Democracy and Human Rights Emergency Fund (EIDHR) allows the Commission to give direct small grants of up to 10.000 euro per grant to Human Rights Defenders (HRD) at risk, be it individuals or organizations.

The US Department of State has set aside a US \$ 1.5 million emergency fund to support human rights defenders globally. The fund provides assistance to activists who are facing extraordinary financial, legal or medical needs as a result of government repression.

The Embattled NGOs Assistance Fund - The US Department of State, together with the governments of Australia, Benin, Canada, Chile, the Czech Republic, Denmark, Lithuania, the Netherlands, Norway, Poland, Sweden, and the United Kingdom, launched the Lifeline: Embattled NGOs Assistance Fund. Together they have seeded the Lifeline Fund with almost \$5 million to begin a multi-year effort. The Fund's program is to provide emergency assistance to embattled NGOs for needs including, legal representation, appeals, and trial monitoring;

medical bills arising from abuse; transportation costs for prison visitation of incarcerated members; and replacement of equipment damaged or confiscated as a result of harassment. It also supports discrete advocacy initiatives that raise awareness of the difficult, often hostile environments in which NGOs and civil society operate.

Sigrid Rousing Trust funds projects supports human rights defenders including the victims of detention, torture and death penalty. It is currently funding diverse human rights programs in all Anglophone African countries.

Oak Foundation it is based in Geneva but has an operations office in Ethiopia. It provides core, project and seed funding in multi-year grants. Its International Human Rights Programme supports activist organizations involved in documentation, evidence collection, campaigns and strategic litigations. It also supports other local groups whose task is to empower human rights defenders, by improving their physical and digital security and by enhancing their effectiveness through a range of technology tools.

Agir Ensemble pour les Droits de l'Homme is based Lyon (France) and focuses on the global south. It manages an emergency fund for situations that meet three criteria: 1) a request concerning a human rights defender (member of a field association, but also a journalist, a lawyer, an union organizer...), 2) the person in danger is threatened because of his/her work protecting human rights, and 3) the situation presents itself as an emergency.

The Finish NGO Foundation for Human Rights (KIOS) is based in Helsinki and promotes human rights in developing countries by granting funding to human rights projects targeting especially vulnerable groups.

THE NEED FOR A 'NEW' FUND

The establishment of a new fund is justified by the following reasons:

- As of now, there is no available grant/fund to benefit the holders of 'customary rights' such as the defenders of ICCAs. Existing funds/programs are mainly associated with priorities dealing with human rights in general, civil rights and also environmental rights, which may provide a weak and fragile terrain to understand the specificity of 'customary rights'. 'Customary rights' are collective, culturally specific, locally situated and, thus, are not always taken in due consideration and fully understood within the framework of national legislation. Civil rights, in turn, are generally those dealing with the basic right to be free from unequal treatment based on certain protected characteristics (race, gender, disability, etc.) and, thus, do not provide a suitable legal framework to assess and understand 'customary rights'. Customary rights' are recognized by international law but, on the other hand, are often unrecorded, unwritten and, in several cases (depending on the region) are not fully recognized within the context of national laws². This justifies the explicit choice of choosing Defenders of the Commons and ICCAs (i.e. 'customary rights holders') as the direct beneficiaries of the proposed 'solidarity fund'.
- Human rights and environmental NGOs and other private and public institutions have

² Notions related to **customary** indigenous ownership of land and waters should not be confused with the legislative framework aiming at safeguarding such rights within the context of an official system of justice.

not yet managed to provide a 'safety net' to respond to the myriad of cases of Defenders of Commons and ICCAs (DoCs) being severely harmed or physically eliminated.

- Dedicated forms of financial support for the families of people who have been killed or severely harmed in the attempt of defending their land and resources are insufficient in terms of needed budgetary requirements.
- Some of the dedicated funds made available by few institutions are generally limited in geographical scope (only focused to a few regions), the duration of such aids is short-term, and application procedures may require that only organizations affiliated with the funding body can submit an application. In several cases, unsolicited applications are not accepted.

FUND'S OVERALL PROPOSED MISSION & SCOPE

It is proposed that the Fund embraces a multiple interrelated mission: prevention, compensation and reparation of damages and crime, and promotion of justice. And it is proposed that the Fund has short-term and long-term goals.

Some important beneficiaries of the proposed Fund's would be the **families of the murdered and harmed defenders** of communities' commons and ICCAs. They bear the long-term consequences of their loss, including loss of security and livelihoods, and often face a lifetime of poverty and marginalization. Those harms should be strongly counteracted.

In addition to this, however, beneficiaries should include the **communities of the murdered and harmed defenders** of the Commons and ICCAs, which are deprived of some of their most aware, active and generous members. Often, this has negative repercussions on the community's capacity to carry out collective actions of resistance. Generally, when charismatic leaders are killed, the struggle they had initiated experiences a drawback. In this light, the proposed Solidarity Fund should not only focus on the individual defenders and their families but aims at understanding and affecting the context in which the struggle led by such defenders is being carried out. In short, the Fund could tackle the overall socio-political environment in which a particular struggle has matured and identify and foster opportunities for the perpetrators of the crimes to be thwarted in their aims and for the struggles to continue in spite of the loss of courageous and charismatic leaders whose role was pivotal in pursuing communities interests and in bringing people's grievances to both national and international attention.

For instance, if a community was victimised because of the lack of collective land tenure, the Fund could support legal action to gain such tenure. If murders are continuing because of the lack of proofs and communication regarding the perpetrators, the community could be flooded with cameras and phones. If a company was allowing itself to intimidate illiterate peasants, a legal case could be elicited against them by a major legal cabinet in the capital city. All this could be accompanied by a barrage of national and international information, and campaigns to illuminate the criminal practices of the perpetrators.

In this light, the proposed Solidarity Fund is not meant to finance community development *per se* but could also support selected communities to continue their advocacy struggles specifically related to the protection of Commons and ICCAs. Such communities may face:

- Declined food production activities, and resulting malnutrition and hardship that constrain collective advocacy actions. This might be the case for people returning to their communities after periods of forced evacuation (e.g. due to militarization of their areas), and facing the challenge of rebuilding the basic conditions of their livelihoods.
- Inability to fully utilize their customary natural resources due to on-going insurgency, conflicts and militarization leading to the loss of livestock, agricultural improvements, crops and stored seeds as well as of their own dwellings and village infrastructures (e.g. schools).

In the above mentioned cases, the Fund (where the political and peace and order situation allows) could help to re-build the minimum level of well being and 'liveability' within a given community so that the DoCs and their communities can continue to pursue critical advocacy and collective actions to safeguard what remains of their Commons and ICCAs.

Funds' Short Term Goals

The Fund could assist individual Defenders of Commons and ICCAs facing immediate threats, so to improve their personal security. When risks of physical elimination are imminent, precautionary measures would be taken through the Fund's support, to minimize such risks. This is to say that 'prevention' should play a primary role amongst the Fund's key objectives. As mentioned, the Fund would conjointly aim at increasing visibility and awareness of the realities faced by the Defenders of Commons and ICCAs.

For DoCs who have been murdered, the Fund could provide support for their families. As it is not possible to envisage compensation for all cases of murders, the most needy and exemplary cases would need to be prioritized. Support may include but not be limited to school fees and tuitions for the young family members until completion of studies, as well as school material, stationary, etc. These could also include support for income-generating activities to be managed by the DoC's households such as purchase of quality seeds, livestock, preparation of home-gardens and the starting of small family businesses such as 'basic necessity stores', bakeries, etc.

Assistance for Individuals

More specifically the Fund could provide support for the following cases/occurrences³:

- ***Voluntary relocation***

The Fund could support the voluntary relocation of 'Defenders of the Commons' (DoCs) and their families to safe locations. Such assistance may include the purchase of facilities (telephones, computers, modem, etc.) and other equipment, needed by the DoCs to continue their advocacy 'from a distance' and to keep in touch with their community members and closed advocacy comrades. A monthly lump-sum amount could be provided to sustain the basic livelihood and family needs of the DoCs, during the period in which he/she will be forced to reside in alternative locations, for safety reasons.

- ***Legal assistance***

³ The kind of support being proposed matches some of the most common needs/threats experiences by DoCs, as well as by their families and communities in various regions and nations, such as those **being highlighted in the case studies from Asia, Africa and Latin America which have further informed this document.**

Legal fees to enable the DoCs to avail the service of professional lawyers.

- ***Medical Costs***

For DoCs who have been severely injured during an attack motivated by their work in defence of the commons and ICCAs, the Fund could provide assistance to cover medical expenses until the full recovery of the patient.

Assistance for communities

Assistance to impacted communities may include and respond to the following contingencies:

- ***Forced Relocation***

The Fund could assist groups of people and communities that have been forced to evacuate their settlement locations to avoid the risk of being assaulted, beaten and/or physically eliminated. In order to receive Fund's support, the cases of forced evacuation would need to be connected to a particular struggle in defence of Commons and ICCAs.

- ***Legal assistance***

For communities that have already initiated or are in the process of bringing their grievances to court to file cases against the crime perpetrating individuals (e.g., members of paramilitary groups, government officers) or corporations (e.g., mining companies, agribusiness enterprises), the Fund could cover the fees for the legal representation in court of DoCs and of other community members (e.g. witnesses)

- ***Meetings and cross visits***

The Fund support meetings and cross-visits between DoCs from different communities, municipalities, provinces, districts within the same region for the purpose of facilitating reciprocal learning and building strategic alliances and concerted advocacy actions and campaigns.

The Fund may also consider the possibility of providing small loans at no interest rate for cash-generating activities benefitting DoCs families and their respective communities.⁴

Funds' long term goals

Assistance for Individuals

- ***Training in photography, participatory videos and GPS technologies***

Dedicated resources could be set aside also to provide DoCs with basic technological tools to strengthen their on-going advocacy. Such tools may include photography, GIS and participatory videos techniques.

- ***Advocacy training on global campaigns through Internet***

In countries where internet freedom is restrained (e.g. China) information and education campaigns launched via Internet can be blocked and obscured, as well the promoters of such

⁴ Generally, the use of loans tends to make beneficiary communities more accountable and, thus, contributes to enhance in them as sense of responsibility in addition to a stronger desire of increasing their learning on how to manage funds responsibly, while building up trust with the Funds' holders.

campaigns might be identified, persecuted and detained. In these cases, training and information could be provided to Defenders of Commons on how to operate safely on the Internet and exchange secure messages with other activists.

Assistance for communities

- Defenders of Commons and ICCAs across regions enabled to influence global programs and laws dealing with bio-cultural diversity, indigenous peoples and traditional rights;
- Defenders of Commons and ICCAs receiving adequate legal and financial support in order to be able to secure their community rights, ancestral domains and ICCAs through the legal frameworks made available in their respective countries and by appealing to international standards, conventions and declarations;
- Threatened ICCAs communities being able to take 'globally-driven' information back to their local level;
- Supporting organizations developing flexible modes of thinking of what constitutes a culturally specific approach to the protection of the Commons and ICCAs;
- International advocacy and campaign groups acquiring more effective tools for integrating global advocacy strategies with locally grounded advocacy efforts;
- National and international organizations intensifying their efforts of communicating the importance of indigenous knowledge, local land and resources management systems and the value of ICCAs through increasing national and global information campaigns.

Other special initiatives that the Fund could support

“The Defenders of Commons and ICCAs’ Award”

A public ceremony could be held, possibly in the same location where DoCs have been injured or killed. This would be in concurrence with the giving of the awards to chosen 'defenders' and/or their families. Such ceremonies, as much as possible, should be officialised by inviting members of the local government (as well of national/provincial governments) to attend and have an active role in the event.

“The International Gathering of Defenders of Commons and ICCAs (IGDC-ICCAs)”

Every two years, if extra-resources are made available, the Solidarity Fund could support the organization of the 'International Gathering of Defenders of Commons and ICCAs'. This would be a high stake international event where the work and achievements of the Solidarity Fund are presented by the DoCs themselves to the Donors' Body of Trustees (DBT). The event would also aim at facilitating cooperation and exchanges of experiences amongst DoCs across international borders, in order to identify common lessons and become involved in processes of policy formulation, through the creation of communication bridges between them and key participants (e.g. policy makers, conservation agencies, international agencies, etc.).

Extensive communication campaigns to spotlight the Defenders of the Commons and ICCAs

Communication campaigns could avail themselves of close collaboration between the Fund and existing organisations that spread information on crimes and victimisation of human right defenders. A Dedicated Page on the Website of well-respected Institutions **and visible linkages to special pages of dedicated bodies, such as Global Witness and Survival International could be a minimum element of that, while highlights could include specific appeals by celebrities and/or making specific cases of victimisation the subject of movies, songs and/or public debates.** Spoken stories from Defenders of Commons and ICCAs can nurture and promote a lively debate on issues of common interest. Linking and networking through the Web should include local, national and regional entities with the final objective of influencing mainstream institutions at the global level to support DoCs and their specific claims. Importantly, a good diffusion of information and debate would help to maintain high the level of social indignation and weaken the culture of impunity that promotes the occurrence of victimisation and crimes.

FUND'S OPERATIONAL MODALITIES AND TYPOLOGIES

The proposed 'Solidarity Fund' would accept both solicited applications by selected nominators (e.g. regional teams in charge), as well unsolicited applications. The Fund would mobilize a dense network of trusted field-based individuals and organisations that the ICCA Consortium and affiliated organizations and partners have in their respective regions.

Defenders of commons and ICCAs often have limited or no access to Internet and knowledge and/or capacity to deal with application procedures for accessing small grants and/or human rights emergency funds being circulated through the Web. The Fund must thus rely on networks of trusted local and international organizations, associations and individuals -- starting from, but not limited to the members of the ICCA Consortium -- to identify and reach out to Commons and ICCAs Defenders in critical areas around the World. The Solidarity Fund would also need to have relative rapid procedures to process the hearing, verification, adjudication and release of funds to respond to emerging situations. However, it must be pointed out that handling and administering multiple grants for different regions and for a wide range of beneficiaries is a complex and time consuming task, especially with respect to the monitoring/implementation of each single grant and to the reviewing of all documents (narrative reports, financial reports, etc.) to be submitted by different grantees. For reasons of proximity, language and needed rapidity of process, it is suggested that the operational modality are run regionally while a global small board oversees the overall functioning. This also entails that, when possible, the management of the fund in specific regions should be devolved to well-established organizations, which have a proven record in managing multiple grants for several local beneficiaries within the same region. Such, role, for instance could be played by Samdhana Institute for South East Asia.

In line with its mission, scope and operational modalities briefly described, it is also proposed that the Fund disburses resources as '**emergency grants**' and '**small grants**'. Emergency grants (between 2,000 and 10,000 euro) would be released with haste to address critical situations as they occur, such as: costs for hospitalization and medical and surgical operations and costs for transferring individuals to safe locations. Emergency grants should be released between 3 to 7 days after receiving the call for support and after the case has been heard, verified and adjudicated by the regional node liaising with the Fund.

Small grants (between 10,000 and 50,000 euro) would require the submission of proposals. If such proposals receive approval, the transfer of the grant would take place within a period between 60 and 90 days from the day in which the proposal has been received. Depending on the degree of urgency, time for approval and fund transfer can be speeded up.

Options for the Implementation of the Fund

Below is a list of options related to the creation and implementation of the Solidarity Fund.

1) A Fund with a field-based operational arm

This type of Fund is directly managed by a board of trustees composed of outstanding and trustworthy individuals. In addition to employing a Fund Coordinator and a Financial Administrator (see option 2), it also hires and assigns trained field personnel in specific and critical locations where the Fund intends to operate. These field staffs are employed to monitor and respond to field contingencies as they come into being, so to ensure the maximum level of promptness in responding to emerging needs. The field personnel, which could be named as 'Regional Fund Facilitators' (RFFs) may or may not be members of local/national organizations, and must have a proven track record on human and indigenous right issues. They are individuals of unquestionable integrity who will be directly engaged in the identification of DoCs and ICCAs in their respective regions of assignment. They establish direct connections with communities under risk and with their defenders and/or with organizations supporting them (grassroots movements, missionary groups, local indigenous organizations, etc.), making them aware of the existence of the Solidarity Fund. Subsequently, he/she would inform the Fund's Board of Trustees (BT) about the particular situations/cases that require immediate assistance.

RFFs may receive a salary (according to the local wage/salary rates) or a simple honorarium for field missions and reimbursement of travel and food costs incurred. They may also receive basic financial retributions for the time invested in preparing reports and for the organization and gathering of data amongst the impacted communities. The RFFs would thus receive paid assignments in the form of 'small contracts' whose content and clauses must be discussed and agreed by the Fund coordinator and BT. The Fund would cover the cost of insurance for RFFs, in view of the risks they are facing in the performance of their duties.

The RFFs may help affected communities and individual defenders to implement short, medium and long-term responses to the threats faced and prepare specific proposals to be submitted to the DBTs via the Fund Coordinator and Financial Administrator.

2) A Fund being managed by an *ad-hoc* board liaising with a variety of specialised existing organizations/networks

The Fund works as a regular Foundation responding only to demonstrated cases of need that fit its mission. It is managed by a Body of Trustees (BT), being composed of outstanding and trustworthy individuals who are highly respected at the international level. These individuals might be key representatives of well-known human rights organizations, humanitarian organizations, NGOs with a proven long-term record on activities focussing on indigenous peoples' and farmers' rights, etc. The BT – whose members serve as full volunteers -- elects its own chair and other positions, as required.

The Fund employs two major figures: a full-time Coordinator in charge of pulling together proposed requests/applications, after properly assessing them and he/she produces reports on the activities and initiatives being supported through the Fund. This person should not be a member of the Board of Trustees and would, in fact, respond to the Board; 2) a full time Financial Administrator in charge of preparing a clear and accurate business plan which should be grounded on realistic budget figures and expected costs to be incurred in every selected region on which the Fund would focus. Also this person should not be a member of the Board of Trustees and would, in fact, respond to the Board.

The employed Fund Coordinator and the Financial Administrator work closely with a wide platform of organizations and institutions with specialisation in land rights issues, human rights issues and campaigns, legal defence issues, transparency of transactions and – most of all – the recognition and support of the commons and ICCAs. In communication and collaboration with hundreds of field based activists and practitioners and their supporters, the employed staff would identify and/or receive and rapidly screen relevant cases that merit an emergency or small grant response. The Coordinator and the Financial Administrator work in tandem to mobilise relevant regional networks and, if appropriate, the Board of Trustees, for the examination and approval of proposals, assessment of all financial contingencies and the adjudication of funds. Through this close interaction with diverse field-based realities it is expected that the Fund Coordinator will develop the capacity to identify “DoC danger hot spots” and the particular signals that precede the physical elimination of DoCs. Taking such signals carefully into account, the Coordinator, in close coordination with the Financial Administrator, could take the initiative to assign emergency funds to preventive measures via emergency grants. Such relevant signals may include: **a)** the de-legitimation and defamation of charismatic leaders and defenders through false accusations, e.g. of being connected with guerrilla movements or of being involved in attacks against police, state military forces, etc. **b)** the filing of cases against defenders for crimes that they have not committed, **c)** threats of imminent death through cell texts, written notes and other means.

The Fund Coordinator and Financial Administrator may be administratively employed by one of the organizations and institutions with whom they would work and respond to their management operations and governing bodies as well as to the Fund’s BT. The organisation may be stable or– alternatively – the Coordinator and Financial Administrator be hosted by a variety of them on a rotational basis.

3) A Fund in support of an existing Fund

In this option the Solidarity Fund acts as a support and/or chapter of an already existing, well functioning fund that supports environmental and human rights defenders. A fully functioning new institution (e.g., a separated Board of Trustees) is not needed but agreements are entered into with the organization holding the existing fund to make sure that the financial resources they will be receiving from the Solidarity Fund are ethically managed and dispensed and used only for Defenders of Commons and ICCAs, according to specific guidelines and definitions that the ICCA Consortium and other partners would provide. It is to be seen in which way the Solidarity Fund would actually “exist” as separate from the Fund that would administer, adjudicate and disburse the specific resources.

4) A Fund attached to one or more UN organizations and mechanisms

The Fund is attached to a specific UN mechanism such as the Commission on Human Rights and is closely managed by the Fund's Board of Trustees in close coordination with key individuals such as the Special Rapporteur on the rights of indigenous people and the Rapporteur on the situation of human rights defenders.

It must be pointed out that, in 2001, the Commission on Human Rights decided to appoint a Special Rapporteur on the rights of indigenous peoples, as part of the system of thematic special procedures. The Special Rapporteur's mandate was renewed by the Commission on Human Rights in 2004, and by the Human Rights Council in 2007. Current UN Rapporteur for the Rights of Indigenous Peoples is Victoria Tauli Corpuz (Filipina).

In 2014, with resolution 25/18, the Human Rights Council, decided to continue the mandate on human rights defenders for a consecutive period of three years. In June 2014, Mr. Michel Forst (France) was appointed by the President of the Human Rights Council as the UN Special Rapporteur on the situation of human rights defenders.

In the fulfilment of their mandates, Special Rapporteurs promote good practices, including new laws, government programs, and constructive agreements, as well as the implementation of international standards and declarations.

While the possibility exists, it is not clear how the Solidarity Fund could be attached to existing UN mechanisms and there is a reasonable apprehension as to the independence and speed of operation of a Fund tied to UN operations.

Analysis and Feasibility of the various options

A comparison of the above proposed options reveals that there are 'pro' and 'cons' to be considered with relevance to each option.

Option 1 is the most articulated although not necessarily the most feasible. This option provides for the identification and retribution of local field based personnel, so called Regional Fund Facilitators (RFFs). They are the implementing arm of the Fund, working in tandem and coordinated by the Fund's coordinator who responds directly to the Board of Trustees (BT). The advantage of this choice is that the Fund coordinator and Financial Administrator, because of the assistance provided by the field personnel, might be able to work more efficiently and more speedily on concurrent tasks. On the other hand, to have Regional Fund Facilitators assigned to different regions is not necessarily an assurance of efficiency. Managing human resources is a complex task and may create additional burdens. This is related to the relative autonomy, skills and capacities of the RFFs. The major disadvantage of this choice has to do with the significant on-going expenditures that the Fund will have to afford to sustain the work of the Regional Fund Facilitators.

Option 2 appears to be the most feasible, as it strongly relies on a network of well respected existing organizations which, because of their different expertise and specific approaches, have much to provide due to the richness and diversity of their experiences. As it is understood all these organizations and their representative individuals, according to their own capacities and agreed tasks, would provide free advises and recommendations to the

Fund's Board of Trustees, so to ensure that financial resources will properly and effectively meet the objectives of the Fund and the need of local Common and ICCAs Defenders and their communities. The advantage of this option is the limited use of funds to cover human resources, since only two full-time staff (a Fund Coordinator and a Financial Administrator) would be employed and they would liaise between the Board of the Fund and the network of supporting organizations. In the eventuality that the Fund will grow in terms of geographical scope, it may become difficult and overwhelming for a single financial administrator to concurrently manage budgetary issues from different regions. If this option is prioritized, then one should be prepared to the possibility of employing an additional part time accountant, particularly when the overall financial/administrative workload becomes unmanageable by a single individual.

Option 3 is perhaps the simplest, since the responsibility of managing the fund is fully entrusted to another existing fund that would already possess well established mechanisms for adjudicating and disbursing financial resources. The disadvantage of this option is that the key beneficiaries (defenders of the Commons and ICCAs) might be merged together with other environmental and civil rights defenders, to the extent that the specific dimension and goals for which the Fund was initially created may become less relevant and, overall, diluted.

Option 4 assumes that the Fund is immediately located in a well-recognized institutional context that would instantly provide it with an aura of credibility and a 'high profile'. But again, this is not necessarily an assurance of efficiency. As it is well known, bureaucratic procedures and political requirements engulf UN mechanisms. Cumbersome formalities related to dispersal and management of funds might have the final effect of slowing down the Solidarity Fund's operations, constraining its responsiveness to needs that are by their very nature urgent, unpredictable and to be tackled with flexibility and creativity.

Independently of the type of option that will be chosen, the Fund should make an attempt to engage the National Human Rights Commissions in each selected region, for the promotion of the rights of DoCs and ICCAs Communities under risk, as well as in all activities supported through the Fund, including Fund's Award Ceremonies, press conferences, press releases, etc. For instance, national Human Rights Commissions may facilitate dialogue with concerned government agencies to: **a)** demand accountability, reparations and compensation over specific cases of human rights violations, forms of land grabbing, people's dispossession, forced relocation, extra-judicial killings, etc., **b)** develop protection strategies for individuals and communities at risk, **c)** request the public disclosure of key documents relating to investment projects in the impacted areas, **d)** advocate for demarcation and titling of indigenous ancestral lands, **e)** assert and protect indigenous peoples' rights to give or withhold Free Prior Informed Consent (FPIC), **f)** make grievance mechanism more effective, **g)** request the punishment of those responsible for the harassment or intimidation of DoCs, **h)** call for the cancellations of business concessions on the ground of their crime and violations against the DoCs.

In the world's most repressive regions with weak judicial systems, it may prove impossible to work hand in hand with the relevant Human Rights Commissions at the national level. Similarly, exposing the names of organizations and individuals receiving support from the Solidarity Fund can be counter-productive thus making DoCs even more vulnerable to attacks and increasing surveillance. In these cases, the Fund, through the assistance of its network of supporting organizations, should adopt a low profile approach, negotiating directly while

individuals, communities and representing organizations, avoiding – therefore - the involvement of government bodies and public exposure.

SOLIDARITY FUND'S EVALUATION

Learning by doing at multiple levels would be a signature feature of the Solidarity Fund. The initial assumptions about what works, what does not work and why and the nature and the long term process of change to be achieved would be observed at local, regional, national and international level in institutions as well as in the societies at large. Particular attention would be devoted to changes at different levels that mutually reinforce each other and to ways by which empowered communities and defenders of commons and ICCAs manage to empower other 'defenders'.

In different regions, the Fund will link with a variety of initiatives seeking to support similar objectives. In each region the Fund would facilitate the establishment of 'learning groups' of DoCs capable of defining, solving problems and sharing the knowledge that they have gained so that it does not have to be relearned over and over again. The Fund would also identify groups of DoCs that can encounter new situations and learn how to creatively and effectively deal with them on their own.

Evaluation of the Funds' activities could be organized through an informal multi-level strategy. Specifically, the envisaged process would include: **1)** systematic evaluation (on a six months basis) of the activities carried out at the local levels to assess those interventions that are more likely to succeed as elements for scaling up at the regional level. This would include the identification of any barrier to success as revealed in first pilot year; **2)** progressive engagement of institutional stakeholders and continuous follow-up of their perceptions and attitudes towards the Fund's achievements (lessons learned during implementation will be fed into the advocacy strategies of the network of supporting organizations, so to generate the political support needed); **3)** open processes of review of Fund activities by local communities and DoCs during regional meetings and in the context of the 'International Gathering of Defenders of Commons and ICCAs'; **4)** points 2 and 3 should lead to participatory assessment of Fund's outcomes by all key stakeholders to be summarized in the yearly report prepared by the Fund's coordinator.

RECOMMENDATIONS AND FINAL NOTES

It is recommended that the envisaged yearly budget to sustain Funds activities across regions should not be lower than 1 Million Euro. For its first year of implementation the Fund may focus on a selected region, to test its capacity to deal with complex tasks and its operational mechanism.⁵

The first year of implementation should be regarded as an 'experimental year' for the Fund implementation and thus only one or a few selected regions could be chosen. The Fund's

⁵ The costs involved in the organization of the 'International Gathering of Defenders of Commons and ICCAs' is not included in the yearly budget specified above and should be procured through other sources.

budget would increase in successive years with the extension to other regions and to increased numbers of interventions. On the basis of the experience of the first year, the Fund's Board of Trustees assesses the status of the Fund and its impact and proposes changes accordingly.

The ICCA Consortium and/or other similar organisations willing to promote and support the establishment of the Fund may provide inputs, recommendations and advice, as well as needed administrative support.

There might be region-dependent operational limits regarding the implementation of the Fund. Regions in a post-conflict scenario may require a different approach from regions where the conflict is unresolved and on going. In areas remaining under the control of armed groups and paramilitaries, a strong negotiation with State and government institutions engaged in the resolution of such conflicts, might be necessary. For instance, the operation of the Fund in countries such as Myanmar and Vietnam faces the risk of becoming highly politicised. The struggles of the Karen peoples in Burma and of so called 'Montagnards' of Vietnam's Central Highlands overlap with issues related to national sovereignty. In such countries, Fund's attempts to assist 'defenders' are likely to be interpreted by State authorities as a way of supporting insurgency. In African countries, the lack of an official recognition of indigenous peoples as a distinctive category may also run counter to the objectives that the Funds aim at achieving. This is why the network of civil society organizations working in tandem with the Fund's Board of Trustees will have to play a pivotal role in identifying suitable strategies for the Fund to be implemented in various regions according to the different political contexts and legal/judicial frameworks.

Acknowledgements

Grazia Borrini Fayerabend, ICCA Consortium International Coordinator, has provided critical, extensive and valuable comments to the first draft of this report. Informal discussions with Marcus Colchester, Forest Peoples Programme (FPP) Senior Staff, have further contributed to identify some of the most pragmatic issues with which the Solidarity Fund shall contend.

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A note on the author



For the past 30 years Dario Novellino has dedicated his life to sustaining the indigenous peoples' struggle for self-determination in Southeast Asia, and particularly on the Island of Palawan (The Philippines). His effort to foster indigenous traditional resource rights have resulted in concrete local processes empowering local communities and protecting them from a number of attempts at exploiting their environments in destructive ways. He received his Master in Social Anthropology from the School of Oriental and African Studies (University of London) in 1995, and his

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