JUSTICIA RONDERA Y DERECHOS HUMANOS, CAJAMARCA. UNDERSTANDING CONFLICT RESOLUTION IN THE *RONDAS* OF NORTHERN PERU

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There was a thief who had stolen some radios. We discovered who it was while we were investigating a different robbery. The patrols had organized a commission that was searching house by house. Everyone – if he's not guilty – accepts that and lets the patrols in. Well, we found the goods, hidden in a wall, covered over with paper. So the patrol detained the thief and brought him before an assembly of the whole community. In an assembly everyone participates, everybody votes. No leader can impose his will. There are different suggestions, we discuss, we vote. In this case they gave the thief a punishment: one week of community labor, helping to build a sports field at the school, and one week of night-time patrols. They also gave him five lashes to make him confess, because at first he didn't want to, even though we had all the proof we needed. Before he was punished, he had to swear before all the community, before the organization, that he would not steal again, under threat that next time his punishment would be much worse. And it worked; now he is a loyal member of the community.[2]

What is *ronda* justice? "It is to do what is just and real for every kind of problem, with the participation of the masses, making a profound analysis of the problem and rendering judgment in a public assembly of the community, the zone or the province, and then both litigants put an end to the problem, embracing each other"[3]

INTRODUCTION

To the peasants of the Peruvian Andes, deeply impoverished, long discriminated against, struggling to survive in a largely hostile world, what is the meaning of the word "justice"? During the late 1970s, beset by cattle rustling and theft in general, and in the face of a state judicial system which was at best distant and incompetent, and at worst thoroughly corrupt, the peasants of the small, disbursed, minifundista communities of the northern Peruvian Andean department of Cajamarca organized a system of local patrols, or *rondas*, and began to administer justice on their own. By the middle of the 1980s they had created what in essence was a parallel and informal legal system addressing virtually every kind of local dispute, both civil and criminal, not only the dramatic cases such as rustling, but also the much more common and mundane problems of everyday life: family problems, feuds between neighbors, petty theft, etc. Peasants spoke with great pride of what they had accomplished, claiming that what they had come to call "*justicia campesina*" or "*justicia rondera*," was more effective, quick, inexpensive, fair, and compassionate than the justice offered by the state. But critics pointed to alleged abuses. Dismissing peasant justice as barbaric and violent, they accused the ronderos of detaining and punishing people unjustly. The *rondas*, they charged, coerced confessions; frequently resorted to torture, and were excessively violent. For these critics, *justicia rondera* was not something of which to be proud, but something to be stopped.

The *rondas*, however, were never simply about justice. They were also about dignity, citizenship and political empowerment. The peasants of northern Peru have traditionally been politically marginal, despised and exploited. Mestizo amd Spanish-speaking, in a region almost devoid of recognized indigenous communities, they have been governed by officials named by the state and not by the people and have lacked an organized voice of their own. The emergence of the *rondas* in Cajamarca in the late 1970s gave them a new power and a presence and perhaps even more, new respect. For the first time local politicians began to take them into account as something more than a passive mass to be manipulated and repressed but not heard. The peasants speak proudly of how, with the *rondas*, they had learned to "*levantar cabeza*" – hold up their heads.

But by the mid 1970s the state was striking back. When the *rondas* captured suspects, state attorneys accused their leaders of kidnapping, when the patrols roughed up detainees, magistrates accused them of assault, time and again state officials charged them with "usurping functions" reserved to the judiciary. *Ronda*

leaders became more hesitant. Although "peasant justice" did not disappear, there was a sense that something had been lost. Today they speak nostalgically of the days when *justicia campesina* was at its peak; one of their most insistently repeated demands is that their "right" to administer justice be recognized by the state.

Their demand is one to which the Peruvian state has yet to respond, although the Peruvian Congress has recently been debating whether or not to acknowledge a "special jurisdiction" for peasant justice. Some *ronda* leaders and *indigenista* voices, arguing in line with Art. 169 of the ILO Convention on Indigenous and Tribal Peoples in Independent Countries, that peasant justice is an expression of cultural distinctiveness, have called for complete autonomy. Opponents have emphasized the dangers of legislating multiple systems of justice. Most of the bills before the Congress lie in the middle, struggling with difficult issues of empowering the *rondas* while defining jurisdiction and protecting human rights.

In this essay I direct my comments principally to understanding Cajamarcan peasant "customary law." I begin by describing in detail two difficult cases resolved by the *rondas*. Based on these and almost one hundred other cases which space will not permit me to describe,[4] I then offer an overview of what I believe to be the essence of *justicia rondera*. By and large, I believe *ronda* justice to be a good justice, but it is not without problematic aspects. In a third section I turn my attention to some of these.

TWO CASES OF ATTEMPTED RAPE

In the following pages I describe in detail two cases resolved by *ronda* assemblies. The crimes are quite similar —both were attempted rapes— but the social contexts and the reactions of the parties involved, as well as the way they were handled by the *rondas*, were dramatically different. No single case is, of course, typical. Nor do these cases tell us everything about *ronda* justice, but they do reveal much.

Case 1

In March of 1992 a middle-aged peasant couple from an *estancia* in the valley of Chota traveled to town on business. They left behind their adolescent daughter, Julia García,[5] and her grandmother to take care of their house and fields. That

afternoon, Julia was working in the fields near her home when she was assaulted by a neighbor, Marcos Díaz. Díaz grabbed her, threw her to the ground, covered her mouth with his *poncho*, and physically attempted to have sexual relations. Julia, however, was able to wrestle free and shouted for help. Marcos's sister heard her and came to her aid, and Marcos fled. The two women immediately notified the *ronda*.

In general Díaz was well liked within the community. He was hard working, generous in helping his neighbor, and loyal to the *ronda*. Jovial and a bit of a clown, he had many close friends. He was, however, an alcoholic known for occasional erratic behavior, and he had in the past found himself in a number of difficulties, some of which had come before the *ronda*. On the other hand, Julia's parents were rather disliked. Her mother had a reputation as a loose woman, and her frequent affairs in the past had created a number of problems.

That night Marcos was hauled before an assembly of the *ronda*. All agreed that attempted rape was a serious offense and that Díaz was at fault. But the *ronderos* divided on what should be done. Basically, there were two positions. Some argued that he should be taken directly to the provincial capital of Chota and handed over to the courts. Sexual assault was a major crime, and Díaz deserved a major punishment. Moreover, sexual assault is taken seriously in Peruvian law, and there was a real risk that the courts might intervene anyway. If the community did not hand him over, the *ronda* could be charged with covering-up a crime. Others, however, opposed involving the state. If the courts assumed the case, Díaz might well end up in prison, perhaps with a lengthy sentence. Whatever Marcos deserved, such a punishment would gravely affect his family as well. Who would support his wife and children? Did they deserve to suffer too? Would the community have to provide for them? Moreover, the question was not simply one of punishment; it was also one of reconciliation, of rebuilding a relationship among neighbors which Marcos's assault had broken. It was necessary to avoid future difficulties. Those who took this position agreed that Díaz's offense was serious, but argued he should be punished within the community, with a severe beating, perhaps a *baño* (dunking in the frigid waters of the village pond), or nights patrolling and days of communal labor.

In the midst of this argument Julia's grandmother spoke up. The assembly, she said, had no right to decide until it had heard from Julia's parents. Because Julia was a minor, she was her mother's responsibility, and only her mother could say what would be acceptable, whether Marcos should be sent to the courts or pun-

ished in some other way. The assembly agreed, and resolved that Díaz "should receive a minor punishment" —nights patrolling and days working— until her mother returned.

Two day's later, with Julia's parents now in attendance, the community again met in assembly. This time, before the mass of *ronderos,* Julia's mother and Marcos announced that they had reached a voluntary agreement. She would accept a payment of fifty soles (about $20) in recompense for her daughter's damaged reputation. In addition, Díaz should be punished with six extra rotations patrolling at night and six days of communal labor, a considerable but, given the crime, relatively light punishment.. With great embarrassment, Marcos, solemnly and publicly, before the entire assembly, admitted his guilt, apologized, and accepted. Both then signed a written agreement in which they promised they would put aside their differences, neither would threaten the other, neither would criticize the communal authorities, nor would either go to state courts. If either failed to honor the agreement, they would accept whatever punishment the community deemed appropriate.

Why was Marcos let off so easily? From the community's point of view, the agreement was useful: it resolved a problem that otherwise might have become much more serious, while affirming at the same time that what Díaz had done was wrong. It reaffirmed as well the authority of the *ronda* assembly and kept the problem within the confines of the community. When I put this example to a gathering of judges, prosecutors, and *ronderos* from a number of villages, the *ronderos* were unanimous in their opinion that the *ronda* had acted wisely. In this case, they insisted, justice had been done; both parties had been satisfied, and social peace had been restored.

Yet the fact remains that for a crime the community and Peruvian law consider most serious Díaz was barely punished. Indeed, a state prosecutor (*fiscal*) present at the same gathering was vehement in his insistence that the *ronda* had acted inappropriately, for both moral and legal reasons. Attempted rape, he argued, is a very serious crime. For that reason Peruvian law considers it not just a crime against an individual, but also a crime against society and against law itself, i.e., against the state. In such cases the state has a duty to prosecute, and respect for the rule of law demands that it do so. I.e., what was a stake was not a particular attempted rape, but state's principled, legal assertion that rape is wrong. Not only had the *rondas* not administered justice, not only had they broken the law, but also they had stood in the way of justice.

A judge on the Court of Appeals offered still a third interpretation. For him, what the case revealed was the corruption of the *ronda*. After all, central to the agreement was a payment to Julia's family. Díaz had purchased forgiveness. Perhaps, responded a *rondera*, but payment was a traditional form of reparation, and what was important was that reconciliation had been achieved. Marcos had admitted his guilt, Julia's parents had forgiven him, and the two families now get along.

My students in the United States were troubled by yet another aspect, the lack of any indication that Julia herself had been consulted. Was the victim herself voiceless?

Case 2

In the following example, which occurred in an *estancia* in the district of Chugur, in August 1985, Jesús Rojas was punished for having attempted to have relations with Alejandrina Montes. Generally disliked but not hated by his neighbors, Rojas was known as an alcoholic who, when drunk, was given to violent outbursts. Montes and her husband hailed from the neighboring province of San Miguel. Impoverished even by peasant standards, they had come to Chugur to work. Rojas and Alejandrina had been having an affair for some time, under the protection of her employer's wife, but on the day of the incident in question, Alejandrina had rejected his advances, fearing that her husband, working nearby, might discover them. Indeed, her husband arrived just as his wife was struggling to resist Rojas. He immediately informed the *ronda*.

Judging the crime serious and fearing it might draw state intervention —attempted rape is after all legally a serious crime— the *ronda* leaders were hesitant to handle the case on their own. They decided to summon a number of nearby *estancias* to a joint meeting. In particular they called on the *ronda* of San Vicente, at that time the strongest organization in Chugur, presided over by a charismatic young militant in the leftist party Patria Roja (Red Fatherland). What then happened was described to me by a prosperous *chugurano* now resident in Cajamarca, who as a young man had participated in Ríos' capture and served as secretary at the assembly.

> I was only sixteen at the time and in secondary school. My father was a *ronda* delegate, but he was sick and sent me and my younger brother, who was only fourteen, in his place. Jesús Rojas lived (here). Alejandrina Montes and her husband lived (nearby). They were not from Chugur

but from Quebrada Honda, in the province of San Miguel. Mauro Gómez brought them here as his employees. Jesus Rojas tried to have sexual relations with Alejandrina. He had been her lover. I don't know for how long, or even whether the relationship was still going on.However this time she refused him because her husband was nearby and she was afraid he would discover them. But Rojas was drunk and had brought a rifle, so he tried to force her. And just then her husband came home and found them. Rojas was a social misfit, always difficult, and when he was drunk he would get into fights.

Montes and his wife came to my house to accuse Rojas. My father was secretary of the *ronda* at that time. He went to see the *ronda* president, and they decided to call a meeting of the committee to discuss what to do, because we had never had to deal with that kind of problem before. The committee concluded we needed a bigger assembly, with more *ronda* bases, to give it more weight, and in particular the *estancia* of San Vicente, where Ortega was president, to host the assembly. That same day, at night, the *rondas* met in a big meeting with a number of bases: San Juan Alto, Los Lagos, San Juan Bajo, San Vicente, and others.

But first we had to capture Rojas and investigate. Fortunately he had no idea that we were after him. If he had known he would have run away. Anyway, a group of *ronderos* got together. They named a commission of four or five to make the capture. I was 16. I was also in the group, and so was my brother, who was 14. We went to his house. By now it was night. We knew we had to trick him to get him to come out. The *ronda* president, was Jesus Rojas' *compadre*. So he knocked on the door, and said, "Come outside for a minute." He came out, but when he saw the rest of the group he suspected something was up and tried to run away. We grabbed him, threw him to the ground, and tied his hands behind his back. But when we asked him why he had tried to rape Alejandrina, he denied everything. He said he had been dead drunk, he didn't remember anything, and he hadn't left his house the entire day.

The assembly began that night. There were a whole bunch of bases, maybe 200 or 300 *ronderos* in all. The three people involved, the couple and Rojas, were initially kept outside. We explained the case, and informed the *ronderos* that the three were detained, and asked what should

we do. The assembly decided to investigate right there. We formed three groups to do the work. Each group would have at least three people, maybe more: a *relator*, or investigator to ask questions, a secretary and a president. In each group the members had to come from different bases, so that no one could suspect the groups were biased. I was the secretary of one group, and I was only 16 years old! The three were to be questioned separately, passing from group to group. Each group would question each person for about fifteen to twenty minutes. Then we would compare the results. It was a very effective way to investigate, much better than what the police do. It was the first time I was involved in an investigation and I was very impressed.

Jesús again denied everything. He said he hadn't gone anywhere, he didn't have a rifle, he had been drunk and he didn't remember anything. He hadn't left his house. But he also said he had only drunk one bottle of liquor, and he mentioned other things, so that it was quite obvious he did remember some things. In other words, there were contradictions in his testimony.

Once the investigations were complete, the three were brought together in front of the assembly. But before that the assembly had elected a committee to lead the proceedings, with a president to chair the debate. I was elected secretary. First the couple presented their complaint, their version of what had happened. Then the investigating groups gave their reports, reading what Jesús had said. Then Rojas was given a chance to talk. He denied everything. Again he said he was drunk, he didn't remember, how could anyone believe he would do such a thing, etc. It was full of contradictions.

Then the president opened it up for discussion. A *rondero* got up, "In my opinion this is clearly a crime." Another got up, "I believe we should punish him with 'mass discipline' (*disciplina de masas*). Because of the contradictions everyone believed he was guilty so it did not take much time. There was not a lot of debate. Finally the president said, "It's time to vote. Is he guilty or a crime? Has it been proven?" The vote was unanimous: guilty! No one voted no, and only a few people abstained, his relatives and compares. "What should his punishment be?" Again the assembly voted. "Mass discipline."
(The author: What is "mass discipline"?)

> The *ronda* has its by-laws. It's laid out in the by-laws. Two lashes form each person present in the assembly. But there were two hundred, maybe 250 people at the assembly. That meant 500 lashes. That's a tremendous torture. It could have killed him. But that is what the assembly voted.
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> After the first ten or twelve lashes, when his back was already bleeding, he looked up. "I remember now. It's true. I did it." He admitted it. He accepted his responsibility. With that, one of the women, one of the leaders got up. "I move that only the married women here continue with the punishment." The assembly agreed. There weren't that many married women present, maybe only thirty, but that was still another sixty lashes or so.
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> In all, Rojas received maybe seventy lashes. By then he was really bleeding. When it was over he promised he would never do anything like that again. Then the president asked the assembly if the punishment was enough. But the *compañeros* from San Juan Alto and San Vicente (two bases known for their militancy) said no. He needed to be made to work too. The assembly voted again, this time to give him four nights of patrolling and four days of community labor in San Vicente, then *cadena ronderil* (or *ronda* chain) from base to base, "2 by 2", two nights patrolling and two days working in each base. I think it was something like fifteen days in all, working all day and patrolling all night. It was a very heavy punishment. The chain was to end in San Juan Alto, just in time for their *ronda* anniversary celebration. I wasn't there, but they told me that when he was brought before the assembly in Lingán, he turned his back, pulled down his pants, and said, "See what they did to me. I recommend that none of you ever do what I did."

Rojas was not the only person punished. Alejandrina was also judged to be at fault, for having had an affair, and so was her husband, for — in the words of informants— not having controlled his wife. Each was made to give a light whipping to the other, in front of the entire assembly. The employer's wife was also judged guilty for having protected the relationship.

> (Her husband) was also told to give two lashes to his wife, because she was a gossip who had helped to create the problem. When he was about to whip her, in front of the whole assembly, she cursed him and

> threatened, "If you touch me you know what I'll do to you!". But that didn't stop him. He gave it to her, good and hard.

Rojas's punishment was severe in the extreme. But punishment alone was not sufficient. The matter could not end without formal reconciliation, or *arreglo*. All involved had to promise, in writing and in public, never to repeat their errors, to forgive each other, not to create problems for anyone in the *ronda*, nor to complain to the state. With great ceremony, the parties, the various *ronda* committees, and many of the assembled peasants signed the *Acta* which brought the case to a conclusion.

PEASANT JUSTICE: AN ANALYSIS AND INTERPRETATION

What is proper, what is just, and how one pursues justices are conceived differently in different societies and different legal orders. As Clifford Geertz has argued, "the 'law' side of things is not a bounded set of norms, rules, principles, values of whatever from which jural responses to distilled events can be dawn but part of a distinctive manner of imagining the real".[6] To understand any particular legal order, the rules, procedures, and ways it handles disputes, one must first explore the "legal sensibility" which underlies it. Legal facts are about justice but they are not simply facts; they are a distilling of events, a selecting and an ordering constructed in response to that "legal sensibility" which shapes them. "Whatever it is that the law is after it is not the whole story ... legal facts ... are socially constructed".[7] Thus, "a comparative approach to law becomes an attempt ... to formulate the presuppositions, the preoccupations, and the frames of action characteristic of one sort of legal sensibility in terms of those characteristic of another".[8]

Western justice has long been animated by a search for "fairness" understood as impartiality; its vision is that all persons be treated equally before the law. That it seldom measures up to this ideal is, of course, obvious. Still, justice is supposed to be blind —symbolized in the figure of a draped woman, ostentatiously blind— folded, holding in her hands the scales of justice. To this end Western criminal law has sought to remove the person as individual from consideration. What is to be considered is the crime, defined as narrowly, precisely and objectively as possible. The only questions are whether the facts demonstrate that a crime was committed and the accused committed it. In a like fashion, procedures must be fair and impartial, based on a presumption of innocence. Punishment, too, must not be arbitrary;

any particular crime should call forth a carefully prescribed range of punishments, which must be proportional to the evil done. Physical violence, either as part of the process or as punishment, is condemned.

Clearly, in terms of an abstract ideal of "fairness" as impartiality, as the application of defined rules to "objective" situations, neither of the above cases measures up. In each, as important as the crime itself was the character of the accused —how he had behaved previously, how he related to others in the community, particularly the victims, and how he related to community and its organizations. Though the crimes were quite similar, in one case the guilty party was barely punished, in the other he was whipped within an inch of his life. In what sense was this "justice"?

Rondera justice, unlike the western ideal, does not consist of a set of clearly defined rules about how cattle rustlers should be punished, how contracts should be enforced, how damages should be assessed and repaired, or how a husband should treat his wife. Among the peasants of Cajamarca there do exist broadly shared general values, sometimes clearly understood but often vague, sometimes reflecting community consensus but often contested, sometimes consistent or even derived from state law, at other times in contradiction to it. These norms do shape general patterns, set limits, and become evident in debate. But seldom do they define specific solutions. Similarly, there also exist generally followed procedures, some relatively institutionalized, some no more than tendencies, but all flexible. Those who recur to peasant justice and those who make decisions —whether leaders or community assemblies— exercise wide discretion. Thus any effort to reduce peasant justice in Cajamarca to a set of specific rules or a blueprint of peasant due process in the ideal sense described above will ultimately fail, because it will miss the essence of what peasant justice is about.

What defines peasant justice in Cajamarca is neither specific norms nor general procedures; but rather the end to be achieved. *Justicia rondera* aims to protect the minimum integrity —and hence survival— of peasant communities, and of the families which constitute those communities, by resolving or at least containing conflicts which might otherwise tear those communities apart. It is about reconciliation, restitution, and restoring equilibrium, not just between disputants but also between disputants and the community as a whole and its institutions. It is thus a reaffirmation of the social contract in which the parties to a dispute promise to be good citizens and to recognize the authority of communal structures. It is in the broadest sense "reconstructing communal peace".[9]

In general its primary purpose is not to assign guilt and punishment. What it does is seek to resolve conflicts by putting them in their larger social contexts, by reconciling opposing parties, and by finding solutions which are at least minimally acceptable to all in the sense that all can live with them. This does not mean that guilt is unimportant. It is, it must be acknowledged, and it may be punished, even severely, as it was in the second case described above. But the end is neither guilt nor punishment per se; it is reintegration into a strong community, so that community life can be preserved.

At heart *ronda* justice is not so much a defense of, or even an expression of, indigenous tradition or cultural identity as a defense of community integrity. To that end it is both pragmatic and eclectic. It is a search for what will work. But neither is it arbitrary, for it is shaped within a moral discourse accompanied by a process of reflection. Still, seldom is it the application of fixed rules. Values and norms are important because they shape a sense of what is morally acceptable.[10] Neither is the establishment of fact —he or she did what— central. What occurs is rather a debate which hinges on placing events —contexts, personal relations, as well as immediate facts— into a moral framework. Different participants will invoke competing norms in a discussion in which values are changing and contested, influenced by shared community traditions, state laws, and national and international discourses, as well as by local, regional, and national power relations.

However, *justicia rondera* is not just about non-violent reconciliation and good will. Social pressure is an integral part of reconciliation; consensus can be imposed. Public shaming is a powerful weapon, and physical punishment is an integral part of the *ronda*'s justice. When the community judges that one or more of the parties to a dispute is at fault —and the matter may be civil or criminal— it demands that those so considered accept and reflect upon their responsibility. This acceptance of responsibility is fundamental. Reconciliation without acceptance is impossible. Punishment is symbolic of that acceptance; indeed, the *ronderos* call their punishment "exemplary" (*castigo ejemplar*).

Many, of course, have made this argument. Indeed, it may be the single most common assertion among students of customary law. But the issue is more complex, for in the *rondas* at least three levels must be taken into consideration.

Most disputes are *intra-communal*, in that they involve families within the same community. Generally they concern small things, which often do not even reach the level of *faltas* (misdemeanors) under Peruvian law: problems between hus-

band and wife, or with in-laws or children; feuds among neighbors; small robberies from the fields or the wash-line. Resolution is varied, informal, and the problem can be solved in many ways, by different forums. However, as disputes become more serious, two institutions stand out: the Justices of the Peace and the *rondas*, usually working together but at times in competition. Often there is a kind of "division of labor". Justices of the peace attend to most family problems, sometimes minor disputes between neighbors, and witness contracts. *Ronda* committees and assemblies consider questions of property, more serious feuding, petty theft, and the like.

Many disputes, however, transcend individual communities and are *inter-communal*. Such disputes can be much more complicated, for they are not simply problems between individuals; they carry with them the danger of confronting villages against each other. They are thus often politically sensitive. It is at this level that *ronda* procedures have become most formal and institutionalized in quasi-explicit rules: where the problem will be heard, who will chair the assembly, who will administer punishments, etc.

Finally, the *ronda* must also manage *relations with the state*, and with state judicial institutions (including the police, public ministry and courts, as well as prefectures) which are ever jealous of their prerogatives. *Ronda* justice is not an independent, autonomous justice. It is an informal justice, intimately connected with the state and state justice, in a relation marked by tension. As the peasants seek to protect their autonomy, as they seek to manage conflicts were state justice has failed, state repression is an ever present threat. Yet the relationship is not entirely conflictive, for both the *rondas* and the state share an interest in maintaining order, and they have frequently found it advantageous to cooperate, even collaborate with each other. The state uses the *rondas* to investigate, to capture wanted criminals, to resolve problems it considers unimportant, while the *ronda* uses the state, to legitimize its actions and back its authority. But the relationship is always a tense one, fraught with danger for the peasants. The *ronda* thus seeks to maintain a certain distance from the state, attempting to define spaces of autonomous jurisdiction in order to avoid state repression.

The essence of *justicia rondera*, as a justice which seeks reconciliation over and above guilt and punishment, which aims to reaffirm the social contract by acknowledging the importance of community institutions, which attempts to manage both intra- and inter-communal relations, and which collaborates with the state while trying to keep the state at bay, can readily be seen in the written

arreglos —literally "repairs" — which formalize conflict-resolution. Every dispute settlement —whether by *ronda* committee or village assembly— concludes with a written agreement between the parties and witnessed by *ronda* authorities. A typical *arreglo*, for example, reads as follows:

> En el local Central de Rondas del Centro Poblado de..., siendo las 9 de la noche del día Sábado 25 de mayo, nos encontramos reunido el Comité Central de Rondas, representantes del sector no. 3, 6, y 4, esto con una finalidad de llegar a un arreglo de un pequeño problema que según constan en denuncia en el cuaderno de denuncias, de una parte el señor..., y de otra parte el comité sectorial del sector No. 4, así mismo se afirmaron y se disculparon y así mismo se comprometen no más hacerse problemas entre ronderos y familiares, olvidando todo lo sucedido, de igual manera ellos se encargan de advertir a sus esposas a no hacerse problemas referente a estos tipos de problemas. De lo contrario, si alguna de estas partes no cumple este compromiso, se sancionará con un turno de ronda por los 6 sectores y un día de trabajo en obras públicas o se juzgará de acuerdo al problema.

Note that the above *arreglo* makes no mention of what the problem was, why it occurred, who was guilty, or whether anyone was punished. What it stresses is that all involved have acknowledged there was a problem —whatever it was— and they have agreed to put it aside and live in peace. And the *arreglo* includes an explicit threat: if any of those involved breaks the agreement, he or she will be punished, perhaps severely.

In these, it is typical. Almost never do *arreglos* lay out the nature of the problem; only occasionally do they explicitly assign guilt. Those are part of the past, and unimportant. What is important is the future. Almost every *arreglo* I have read includes the same elements: 1) an acknowledge of responsibility by all involved; 2) a promise not to repeat the problem and to live in peace (often accompanied by an explicit promise not to make problems for *ronda* leaders or to go to the police); and 3) a conditional threat of punishment in the future for anyone who continues to create problems. It is building future peace that is the ideal of *justicia rondera.*

SOME WORRIES ABOUT RONDA *JUSTICE*

This image of a reconciliatory justice resolving conflicts, rehabilitating wrongdoers, reaffirming the social contract and creating communal peace is, of course, the vision of an ideal, one pursued by the *rondas* but not always achieved. On balance I have been impressed by the almost Solomonic wisdom of *justicia rondera*, by its generosity, by its emphasis on reconciliation rather than vengeance, by its sense of justice as re-incorporation —an aim to which Western justice often pays little more than lip service. By and large, Cajamarcan peasant justice is a good justice, both on the terms of the peasants and my own. It is far more effective and accessible, and hence more able to meet peasant needs, than the official justice of the state. At the same time, it is central to the larger process which is the *rondas*, a process which has done much to empower and hence to give a sense of dignity and grant citizenship to the peasants.

But *Justicia rondera* is also a problematic justice, one which does not always live up to its ideal. It is frequently weak, sometimes partial, discriminatory against women, and frequently violent —sometimes extremely so. We do it no favor if we pretend that its rhetoric, which describes the ideal, is its reality, and we ignore its problems, just as we are unfair if we dwell on its problems and ignore its achievements.

Reading *ronda* minute books (*Actas*), I have been surprised by the frequent weaknesses of *ronda* justice, at how often parties have refused to reconcile their disputes, at how often one side or the other has gone to state courts, at how frequently *arreglos* have not been honored. Large numbers of disputes are never even seen by the *rondas*; others drag on for months if not years, re-emerging to frustrate the *ronderos* in assembly after assembly. Indeed, what emerges from the *ronda* minute books is a picture of a justice which is as often weak as it is effective. Much of this weakness stems, of course, from the *ronda*'s informality, its lack of recognition by the state, and from the state's persecution of *rondero* leaders. But its weaknesses are also rooted in the social structure of the northern Peruvian *sierra*.

The peasant *estancias* of Cajamarca are not tightly inter-woven, organic communities, united by a sense of cultural uniqueness and solidarity. Spanish-speaking and mestizo, the basic social and economic unit is not the community but rather the nuclear family. Villages are collections of minifundista families, interrelated with extended family and fictitious kin in networks of reciprocity. They are often

deeply divided and conflictive.[11] At the same time, in the northern *sierra* of Peru there are few legally recognized "peasant communities." *Estancias* are defined by law as annexes to districts, governed by a "lieutenant governor" named by the state. Finally, few peasants, or peasant families, are simply peasants.. Most have one foot in the countryside and the other in the cities, in the mines, or in the jungles, to which they migrate seasonally or for lengthy periods to supplement their rural-incomes.

Community structures reflect this reality. There is an ever-present tension between family (both nuclear and extended) interests and community needs, a tension in which family interests often prevail. The peasants are proud of their *rondas*; the organization, its history and struggles, and its *justicia*. But at the same time they distrust and question their leaders and do not want them deeply involved in their personal affairs. Moreover, because the *rondas* are an informal organization and *ronda* justice an informal activity, not effectively recognized in state law, they have never been able to impose their hegemony. To resolve their personal disputes peasants have turned to the *rondas*, but they do not have to; they have always had the option of recurring to other institutions: the police, catechists, justices of the peace, or state courts.

Moreover, not every *ronda* leader is selfless and dedicated. In *estancias* which are divided, conflictive, and often rent by factionalism, some have used their positions to advance personal and factional interests. Assemblies can be and sometimes are manipulated by dishonest *caciques*. While almost every *rondero* I have interviewed has expressed great pride in *justicia rondera* in the abstract, about specific cases I have heard repeated complaints. "In this case our justice was bad". "He was a manipulative leader". "Ronda justice isn't the justice of the assembly; it's the justice of little groups". Manipulation, partiality, *caciquismo* may be only a minor theme in *ronda* justice —and abuse and corruption are certainly no more prevalent and probably less so than in the judiciary— but they are not insignificant.[12]

Manipulation, partiality and *caciquismo* are not the only problematic aspects of peasant justice in Cajamarca. Reflecting traditional attitudes toward the role of women in Peruvian peasant society, *ronda* justice is also frequently discriminatory against women. Toleration of physical violence by husbands against wives and children is but one case in point. Historically such violence has been endemic. Fortunately, many *ronderos* have become more aware of the problem, it is often discussed in *ronda* assemblies, and over time the organization has become

far less tolerant of such violence than in the past. But discrimination against women goes beyond just the toleration of spousal violence. When I present the first of the two cases discussed above to my students, a large percentage of whom are inclined to support the idea of peasant justice, many — particularly the women— are outraged that attempted rape could be forgotten after a mere promise and a few dollars. To them reconciliation suddenly seems less important if it comes at the cost of forgiving —for the students tolerating— the abuse of women. I have found cases of *rondas* refusing to allow couples to separate, even when a pattern of spousal mistreatment was obvious. Women are also discriminated against in matters relating to property. Nor is it just a question of outcomes; it is also one of process. *Ronda* presidents and committees are always male; women's committees have little power; and in assemblies women have difficulty making their voices heard. The *ronda* is still largely, though not exclusively, a masculine institution.

Then there is the question of violence. By and large, I have been impressed by how non-coercive *ronda* justice is: in the vast majority of cases there is very little physical violence. After all, the goal is not vengeance but correction. Most punishments tend to be quite mild: a few nights patrolling and a few days communal labor, perhaps a half-dozen lashes with a leather whip, enough to hurt but not to do physical harm. This lesser violence is not unlike the spanking one gives a misbehaving child. It symbolizes, first and foremost an acceptance by the person being punished of responsibility for his or her actions, as well as acceptance of the legitimacy of community institutions, i.e, the *ronda*. The peasants argue that such punishments are certainly far better, less damaging, perhaps even less violent, than incarceration, which breaks up families, produces new economic hardships and breeds resentments.

However, *ronda* justice can be far more severe, a fact largely unacknowledged in the literature. Serious violence occurs under two circumstances. First, recidivists, who in repeating their crimes show their unwillingness to reincorporate into village life and their disrespect of *ronda* institutions, can be treated quite harshly. This is particularly true of cattle rustlers. Stealing a cow is more than just taking a bit of property, it is a serious threat to peasant economic survival. A first- time thief is likely to be treated quite leniently, although he will be required to return the animal or make payment. A thief who repeats his crimes, or who becomes part of professional rustling gangs, will be treated far less gently. Thieves who refuse to emend their ways have been beaten severely —sometimes so severely as to leave permanent damage— banished, or even disappeared.

To grasp fully the nature of the *ronda's* use of violence, one must first understand the role it plays in the process of resolving disputes. Most violence occurs not as a part of punishment, but as part of what the peasants label "investigations." However, for the peasants, the word "investigation" has a particular meaning. Central to *ronda* justice is that those adjudged responsible for something must accept responsibility for what they have done; without such acceptance there can be no reconciliation. The purpose of investigations is to obtain, at least verbally, precisely that acceptance. In investigations the end is not so much to discover the facts —which in any case the *ronda* often already knows or thinks it knows, and which are not really that important— as it is to pressure those perceived guilty to confess. A suspect is dunked in a river, or whipped, until he says, "I did it." And then it ends. Taken before the assembly, there is no further punishment. When I have asked why, I am usually told "because we have already punished him enough," or simply, "because he accepted". And that acceptance has made reconciliation possible. If a suspect is obstinate and refuses, worse if he has a history of refusing, he will be punished severely until he says, as did Jesús Rojas, "I remember now. I did it."

At the same time, it is during investigations —when angry peasants confront people who have often repeatedly defied the community and are frequently hated— that *ronderos* face the most risk of simply losing control. In such moments, violence becomes violence for vengeance's sake, and it can be extreme. It is this that makes the problem of violence so difficult: it can occasionally be extreme, it may be disproportionate to the crime —as it was in the second case noted above— but it is not easily abandoned, for it is constitutive to the process of reconciliation, i.e, to peasant justice, itself.

WHAT IS TO BE DONE?

What emerges from all this is thus a peasant justice which is to some extent ambiguous, an ambiguity felt, I suspect, as much by the peasant *ronderos* themselves as by myself. By and large, I repeat, *justicia rondera* has been a good justice, finding common sense yet moral solutions to all kinds of problems, in lines with norms widely shared by the peasants and quite consistent with my own values as well. By and large it is a justice which enjoys great legitimacy among the peasants and of which they are duly proud. But it is also a justice which is often weak, unable to impose its hegemony when disputants want to go elsewhere, unable to resolve many of the problems that come before it, and unable to enforce

its resolutions. It is also at times corrupt and manipulative, it is frequently discriminatory against women, and it is not infrequently quite harsh and violent. And it is a justice ever threatened by the state.

One of the problems I have had is reconciling this vision of ambiguity with the rhetoric of the *ronderos*. In an almost mythical language, the peasants project an image of a *justicia rondera* which is much more coherent, much more decisive and just, and stronger than what I believe it really is. Yet the rhetoric is not untrue. What it expresses is an ideal; it is what the *ronderos* would like their justice to be. For the peasants of Cajamarca *justicia campesina* lies at the heart of the *rondas*, it is a fundamental part of their *rondero* identity, central of their perception of how they have become citizens. It is also a strategy in their never-ending struggle with the state. By presenting an idealistic rhetoric, the *ronderos* are affirming that they are meaningful participants in the modern world. At the same time, in presenting an idealized vision, the *rondas* are defending, or looking for, a space to be real actors in the modern world before a state which denies effectively their recognition and legitimacy. Thus, the rhetoric is the voice of the *ronderos* demanding to be recognized by the state; the reality is the day-to-day, sometimes messy struggle to *construir la paz comunal*. □

Notas

1. *Ph.D., Political Science Department, Purchase College, SUNY, USA.*

2. *Quotations are from peasant* ronderos, *many of them leaders, interviewed between 1995 and 2001. At the request of many of the interviewees, I have chosen not to identify them by name.*

3. *¿Qué es la justicia rondera? "Es hacer lo justo y real de todo tipo de problemas, con la participación de las masas haciendo un análisis profundo y dando el fallo del problema en asamblea pública de la estancia, zona o nivel provincial y ambos litigantes definen el problema estrechándose las manos".* Informe del primer Taller Nacional sobre rondas campesinas, justicia y derechos humanos. *Lima: CEAS, 1992.*

4. *This analysis is based on a review of the minute books or* Actas *of four communities in the Cajamarcan sierra, supplemented by copious but less systematic ancillary documents (notifications, agreements, letters, etc.) and by interviews with peasants and* ronda *leaders over a space of six years.*

5. *Names of persons and place locations have been changed throughout.*

6. *Geertz, Clifford, "Local Knowledge, Fact and Law in Comparative Perspective," in* Local Knowledge, *1993, p. 174.*

7. *Ibíd., p. 173.*

8. *Ibíd., p. 218.*

9. *The phrase is borrowed from Hans Jürgen-Brandt.* En nombre de la paz comunal, *Lima: Fundación Friedrich Naumann, 1990. See also Giselle Huamaní, Martín Moscoso, Patricia Urteaga, "Rondas campesinas de Cajamarca: La construcción de una alternativa,"* Debate Agrario. *3(1998):63-86.*

10. *Huamaní, Moscoso y Urteaga.* Op. Cit.

11. *Díez Hurtado, Alejandro,* Comunidades mestizas: tierras, elecciones y rituales en la sierra de Pacaipampa (Piura), *Lima: Pontificia Universidad Católica del Perú, Piura, CIPCA, 1999; Guillermo Salasm "Entre litigios y predicadores: desarrollo y escena política actual en comunidades campesinas de Cajamarca," in Juan Ansión, Alejandro Díez and Luis Mujica (eds),* Autoridad en espacios locales: una mirada desde la antropología, *Lima: Pontificia Universidad Católica, 2000; Antonio Peña Jumpa.* Justicia comunal en los Andes del Perú: el caso de Calahuyo, *Lima: Pontificia Universidad Católica del Perú, 1998.*

12. *Unfortunately, the limited space permitted in a conference paper do not allow me to present examples.*