Human Rights and Fundamental Freedoms: 20 Years After Vienna

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Human Rights and Fundamental Freedoms: 20 Years After Vienna
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Introduction

On October 3, 2013, the Center for Women’s Global Leadership (CWGL) hosted a daylong symposium to mark the 20th anniversary of the UN Vienna World Conference on Human Rights: Human Rights and Fundamental Freedoms: 20 Years After Vienna.

The symposium brought together human rights activists, academics, and experts to discuss the significance and achievements of the Vienna conference, present-day challenges facing human rights, and pathways forward. By situating the current context historically, the symposium aimed to identify that which human rights activists, movements, organizations, and mechanisms must tackle to address the intersecting challenges undermining human rights globally today.

This report aims to capture the debates and issues raised by the panelists and participants throughout the symposium.¹

The Vienna World Conference on Human Rights: Key Achievements

The second World Conference on Human Rights, held in Vienna, Austria from June 14–25, 1993, marked a significant moment in an ongoing movement for human rights. Participants adopted by consensus the Vienna Declaration and Programme of Action (VDPA) – a progressive, comprehensive, and forward-looking human rights document that contributed to advancing the understanding, development, and implementation of international human rights law.² Indeed, Vienna marked a moment in which human rights were further solidified and institutionalized, offering a common plan of action around which to unify globally.

The significance of Vienna is clear and manifold. At a normative level, the VDPA underscored the duty of States to protect all human rights and fundamental freedoms, regardless of the particular contours of a State’s economic, political, or cultural system and emphasized the primacy of human rights fulfillment over all other responsibilities of government. Importantly, the VDPA reaffirmed human rights as universal, indivisible (to be regarded on equal footing), and interdependent, addressing and firmly rejecting the historical divide that had emerged during the Cold War period between economic,

¹ Video recording of the full symposium can be found at http://www.cwgl.rutgers.edu/coalition-building/vienna20
social, and cultural (ESC) rights on the one hand and civil and political rights on the other. Though Vienna reaffirmed their indivisibility and, in fact, called for positive measures to strengthen the protection of economic, social, and cultural rights in particular, the division remains strong, particularly within the United States (US).

Vienna represented, too, a defining moment in articulating the relationship between poverty and human rights, with extreme poverty and social exclusion recognized explicitly as violations of human rights and dignity. This remains acutely relevant today, as inequality continues to grow and poverty and precarity (though the historical norm for many) deepen.

The VDPA also called for the establishment of the Office of the High Commissioner for Human Rights (OHCHR) and welcomed the decision of the Commission on Human Rights to consider the appointment of a Special Rapporteur on violence against women, strengthening the institutional architecture and formal mechanisms for the promotion and protection of women’s human rights. Additionally, Vienna spurred the development of national human rights mechanisms: prior to Vienna, ten existed with over 100 existing now.

A critical moment for feminist organizing and women’s human rights, Vienna marked a tipping point in feminists’ efforts to gain recognition of women as full and equal rights holders: “women’s rights are human rights” emerged at the center of human rights debates at Vienna, initiating an on-going process of integrating gender equality and women’s rights into human rights theory and practice. As a result, violence against women was powerfully recognized as a violation of human rights, laying the groundwork for subsequent feminist organizing on sexual orientation, the body, and gender identity. An additional upshot of feminist organizing at Vienna (and indeed of the understanding that “women’s rights are human rights”), the International Criminal Court (ICC) acknowledged violence against women as a crime under international law.

The VDPA also recognized, at a deeper level than had been done in previous human rights declarations, the role of non-State actors in perpetuating human rights violations. As southern feminists and other critical social justice actors have argued, in the post-cold war era, the State on the whole “no longer poses the principal threat to human rights…rather processes of militarism, [neoliberal] economic restructuring, and trade and financial liberalization are the primary causes of human rights abuses.” By acknowledging non-State actors, such as the private sector and the family as potential sources of human rights violations, the VDPA further dismantled artificial divisions between the personal and political and public and private life.

Moreover, Vienna represented a heretofore unseen inclusivity within human rights work: building on experiences in previous UN conferences, civil society groups customarily marginalized as actors within global human rights – viz women, indigenous communities, groups from the global south, migrants, and disabled individuals – organized, demanded, and claimed the space for themselves. In so doing, their work heralded a move toward greater inclusivity and diversity, thereby contributing to a

more responsive human rights framework. Nevertheless, ensuring that the human rights architecture and human rights bodies are representative of a diverse array of voices, experiences, and knowledge remains an on-going challenge.

The VDPA itself is seen as a critical organizing tool, providing robust language to use in local struggles and in holding governments accountable. Though critical to advancing human rights struggles for many, Vienna’s importance within the certain countries/places – such as the United States – was disregarded at best. Though acknowledging its significance theoretically, the VDPA’s applicability within the United States was often dismissed, reflective of a broader “exceptionalist” mentality and indifference to international human rights instruments and obligations. Though mainstream human rights organizations and the US government reflected this sentiment generally, arguably provincial in their approach to human rights (and particularly ESC rights), social justice groups and movements were not, demanding that the US be held accountable for human rights violations within its borders and beyond.

Though Vienna spurred a strengthening of the normative frame and the institutional human rights architecture, violations of rights – particularly those of indigenous communities, those outside of heteronormative structures, youth, migrants, and the disabled – continue unabated. For example, while South Africa’s path-breaking constitution guarantees the human rights of all peoples, including on the grounds of sexual orientation and gender identity, gender-based violence, including the rape of lesbians and the murder of gay men, endures. Indeed, the relentless lacuna between human rights policy on the one hand and the lived experiences of individuals and groups on the other was a central theme of the symposium and will be addressed further below.

Emerging Themes: Challenges for Human Rights Today

Twenty years after Vienna, though progress has been made, a myriad of challenges to the full realization of human rights remain. It is thus crucial to collectively grapple with ways in which human rights work can be strengthened in today’s context. What do human rights bodies, organizations, activists, and movements need to take on board or further reflect upon to advance the full realization of all rights?

1. The Private Sector and Corporate Power

The private sector is a heterogeneous entity and ought to be theorized as such: an analysis of the effects of a corner store’s activities on the realization, or lack thereof, of human rights will, for example, vary from that of a transnational corporation (TNC). That said, private sector actors ultimately face a profit motive, with women’s human rights, justice, and sustainability – critical concerns of human rights actors – taking a back seat to (or instrumentalized in the name of) capital accumulation and economic growth.

The private sector, though primarily TNCs, can and has undermined the right to development, national sovereignty, and self-determination. Private sector actors (at times in cahoots with the State) have also perpetuated violence against women (including through violations of labor rights) and women human rights defenders. While some

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1 For further information, see, for example, Bunch, Charlotte (2013) “Legacy of Vienna: Feminism and Human Rights,” presented at the International Expert Conference on Vienna + 20, Vienna, Austria, June 27, 2013.
governments make a relatively greater effort to address the impacts of private capital on the enjoyment of rights, others strike a different balance, underscoring the tight connections many governments have to private finance. Examples abound, though, in the context of Guatemala, private sector interests in extractive industries (in gold and oil) have contributed to the destruction of land and ecosystems, subsequently undermining the self-determination and livelihoods of indigenous communities. Communities and human rights defenders resisting these advances and defending territories, seeds, land, and water face threats, harassment, and violence by both the State and non-State actors. One then wonders on whose behalf are governments actually working? There is a deep sense that TNCs enjoy more protections (codified and legalized through the rules of the World Trade Organization and bilateral/multilateral trade agreements, for example) than do individuals and communities.

Extra-territorial obligations. Extraterritorial obligations – as outlined in the Maastricht Principles require States to respect, protect and fulfill human rights extra-territorially, including by regulating and otherwise holding corporations accountable for their human rights impacts. This frame provides an entry point for human activists to hold States accountable for their actions outside their border and, as such, address “contemporary cross-border human rights challenges, including global poverty, hunger and food security, and access to water.”

Similar views and experiences were expressed by respondents in regional consultations held by the United Nations Non-Governmental Liaison Service (NGLS) on the Post-2015 development framework. Many respondents noted serious concerns with the emphasis of the private sector in development discussions. The UN’s growing reliance on the private capital (through public-private partnerships (PPPs), for example) and rising tendency to place the private sector and civil society as equal actors in

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Emerging Themes: Challenges for Human Rights Today

Development are worrying many. PPPs, within policy discussions and in development and infrastructure projects, are seeing an upswing as traditional sources of development finance dwindle and/or become more uncertain, raising serious concerns about equality of access, affordability, governance, transparency and accountability, and the role of the State in development.

Furthermore, despite mainstream fanfare of corporate social responsibly (CSR), the development and regulatory impacts of CSR remain questionable, with recent decades showing how anemic voluntary and self-regulatory mechanisms can be. Indeed, private companies themselves have lobbied hard to thwart efforts for legally binding mechanisms, though calls for such instruments continue. A People Treatises on Binding Obligations on TNCs, for example, has been powerfully put forward, with Ecuador leading the charge. Binding rules for the private sector is a critical step in preventing human rights violations and tackling impunity. Such instruments, as well, would go a long way in fulfilling the responsibility of governments to protect rights holders from third party violations.

Finally, the wealth of the private sector in general and TNCs in particular often afford these actors disproportionate voice and power in politics, with serious implications on a democratic politic. Clearly, those working to advance human rights must continue to deepen the understanding of the impact of the private sector – and particularly TNCs – on the fulfillment of human rights.

2. Neoliberalism as Ideology, Discourse and Practice

While Vienna stressed the obligation of States to work together to ensure an equitable and favorable economic environment conducive to the realization of all human rights, neoliberalism (the mainstream economic doctrine of the last thirty years) has severely undermined efforts. Indeed, the human rights community faces a central paradox: while the last twenty years have seen the construction of a far stronger institutional architecture for the promotion and protection of human rights, over the same period the dominant economic policies pursued by most governments have eroded the ability and/or willingness of States to fulfill their rights obligations. While for some the ability to implement policies that advance human rights are constrained and/or fully undermined by IFIs’ (neoliberal) policy prescriptions, others, such as the US, do not face similar constraints and, yet, choose to implement neoliberal policies (including austerity measures) nonetheless, suggesting that political ideology is also at play.

Similarly, governments, either voluntarily (of their own volition) or to comply with IFI requirements for funds (as noted above), have implemented austerity measures (or contractionary/pro-cyclical economic policy) in the wake of the 2008 financial/economic crisis. Though, interestingly, as Maria Sepulveda, the UN Special Rapporteur on extreme poverty and human rights, suggests, “some countries’ austerity measures are really ideological…governments are using the [financial] crisis as an excuse to implement...
a certain agenda.” A further upshot of neoliberalism (in contexts of crisis or not), austerity has undermined the enjoyment of rights: to wit, cuts in public spending and social protection measures have deepened, further eroding the right to food, housing, education, and health, with developing countries, marginalized/poor communities, and women disproportionately affected.10 Spurred by a neoliberal narrative that elevates the market as the best way to deliver goods (with government seen as a hindrance to progress), critical public goods and services have also been privatized.

As Vienna underscored, States must ensure that economic policies advance the ability of all to access human rights; policies of austerity run counter to this end, undercutting human rights principals of non-discrimination, progressive realization, and non-retrogression, and raising serious questions on the extent to which such policies were designed in a participatory, transparent, and accountable manner.11

It is important here to recall the extraterritorial nature of States’ human rights obligations. The 2008 financial/economic crisis – which arose because of particular policy and regulatory changes/choices within the US and Europe – reverberated worldwide and continues to impact the enjoyment of rights globally. As such, the crisis ought to be seen as a failure, in part, of the US to meet its extraterritorial obligations and fulfill its responsibility to protect human rights.

The inability of the mainstream economic model to ensure even the most basic human rights is striking and is of paramount concern to human rights activists. Human rights bodies must grapple seriously with the ways in which economic policy and ideology shape the ability (or lack thereof) of States to fulfill human rights obligations. Linking macroeconomic policies to the realization of human rights offers a normative reframe and a strategy to hold governments to account for the impacts of monetary and fiscal policy on human rights.

A source of neoliberal or profit/growth driven globalization, IFIs and the World Trade Organization (WTO) have also advanced policy prescriptions that have undermined human rights. For example, structural adjustment policies – promoted by the IMF and WB in developing countries for decades and now, again, in the wake of the 2008 crisis – further reduce States’ policy space and prevent the strengthening of the State in the provision of social services and fulfillment of rights. As noted above, the rules and regulations of the current multilateral trading regime have, in effect, allowed TNCs/private interests to extract capital and resources (including via land grabs) from (southern) countries while destroying livelihoods and ecosystems and providing little to no benefit to communities. Indeed, as feminists and others have repeatedly

underscored, (neoliberal) trade and financial liberalization processes have posed serious threats to human rights.

Illustrative of the intersection of economic and political decision making, those with power tend to operate in a hypocritical manner within global governance arrangements, with rights violations in the global south a consequence. For example, while the US, EU, and Canada have themselves provided vast amounts of subsidies to their own farmers for decades, this group is presently working to block (on the grounds that it is a subsidy) a recent farm bill tabled at the WTO by India to provide temporary price support to struggling farmers. Indeed, a discussion on human rights that fails to address the binding rules of the WTO and the influence of the IMF (as well as the G20) on the realization of rights is an incomplete discussion. As Vienna underscored, the fulfilment of human rights is the primary obligations of States. IFIs and the WTO should therefore undergo a radical paradigm shift: trade rules and agreements must advance (rather than undermine) human rights; indeed human rights ought to be the guiding principle of prescriptions, advice, and rules emanating from these institutions.

Finally, the manner in which a national economic and political elite is served by an international neoliberal project must be further examined. In the context of Egypt, for example, the economic and political elite captured the opportunities of the transition, underscoring a democratic (and distributive) deficit in decision-making on economy and development policies. State wealth and opportunities were redistributed to a new elite class of public and private actors (and, subsequently, to their relations) without distributive regard, with democratization and participation remaining exclusionary. Neoliberal prescriptions globally overlapped with the interests of local economic and political elite, underscoring the longstanding links between the national (political and economic) elite and an international neoliberal development project and military industrial project. This is an important area of further inquiry for human rights.

3. Violence against women and women’s human rights defenders in the context of increased militarism

Gender based violence (GBV) and particularly violence against women and women human rights defenders (WHRD) – committed by both State and non-State actors – remains a pervasive and pernicious challenge to the realization of human rights. In order to tackle violence head on, human rights must address three forms of interconnected violence: direct, structural, and cultural violence. Direct/personal (a man hits a woman) and indirect/structural violence (violence that is embedded within the fabric of society, such as racism, sexism, and homophobia) are underpinned by cultural violence (the narratives and mindsets of a society and people). Tinkering around the edges of legislation, therefore, is simply not enough; dismantling cultural violence is central. Toward that end, human rights activists and movements must address patriarchy in a serious, systematic, and intersectional manner. As “violence against women is one of the key means through which male control over women’s

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12 For more information, see Erakat, Noura “On Neoliberal Development, Human Rights, & the Arab Uprisings” available at http://www.nouraerakat.com/blogi.html
agency and sexuality is maintained,”14 violence must be theorized through an intersectional lens, with patriarchy a critical component.

Against a global backdrop of increasing militarism and conflict, an example in Colombia was shared: in a 40+ year conflict between the FARC and government, both the State and paramilitary guerrillas have committed violence against women, communities, and human rights defenders, causing widespread displacement and loss of land and livelihoods. When women demanded accountability for, and protection from, paramilitaries, the response by the State was notably problematic: offering heavily armed “security” personnel, the State contributed, perversely, to the increased militarization of affected communities and the country as a whole, with detrimental effects for women and girls.

Furthermore, when remedy was sought outside of Columbia – at the Inter-American Court of Human Rights15 – targeting deepened, with both the State and the paramilitaries deeming the women and communities as “disobedient insurgents”. Indeed, though critical to the advancement of human rights, human rights defenders and particularly WHRD have increasingly been under attack, with their right to “promote the advancement of plural and inclusive societies and [be recognized] as a crucial pillar of a free society”16 threatened. The targeting of individuals or groups when seeking redress and justice ought, therefore, to be a critical area of further reflection for human rights activists.

Furthermore, despite the significant impacts of conflict on women’s rights and the critical role women play in peace building, women are often not represented in formal

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15 The Organization of American States established the Court in 1979 to enforce and interpret the provisions of the American Convention on Human Rights – of which Colombia is party. Its two main functions are adjudicatory and advisory in nature.
Peace negotiation teams or on equal footing in reconstruction and recovery processes. Peace and security are human rights issues and the inclusion of women in all decisions and processes in conflict prevention, peace, and reconstruction is an obligation of the international community enshrined not only in Vienna and the recent CEDAW General Recommendation #30, but also in numerous Security Council Resolutions (SCR), including the flagship UNSCR 1325 on women, peace, and security. It is critical here to underscore that the formal end of war and the signing of peace agreements do not guarantee peace for women within the home or community, problematizing the notion of peace (peace for whom?) in a wider context of increased militarism. Widespread violence (against women) often continues or increases in the aftermath of conflict: “to assume that with the declaration of peace comes an immediate cessation of violence would be incorrect; for women, the militarization of gender relations that accompanies war often results in higher incidence of violence after conflict.”

A deeper exploration, therefore, of the ways in which patriarchy (and other systems of oppression), conflict, and neoliberal or profit-led development intersect to undermine peace and (human) security is warranted.

Attacks on social movements and human rights defenders, increased military interventions, and ongoing conflicts exemplify the ways in which militarism influences how we view our communities, public life, and specific countries. A culture of growing militarism – the normalization of the use of violence to settle disputes and enforce political and economic interests – is inextricably linked to and further exacerbates all forms of GBV. Within this context, the intersection of GBV and masculinities deserves further inquiry, at both a discursive and material level.

All forms of GBV must be recognized and eradicated and all actors perpetrating such violence must be held to account in both contexts of conflict and those of relative peace. Toward these ends, building and strengthening solidarity and support across human rights activists – including specifically women human rights defenders – fighting to end violence in all its forms is essential, expanding our understanding of violence and conflict and the ways in which these play out in gendered ways.

4. Inequality, Poverty and Redistribution: The Urgent Need for Implementing Economic, Social, and Cultural Rights

The divide between economic, social, and cultural rights on the one hand and civil and political rights on the other continues to be strong, particularly in the United States. Historically, too, mainstream human rights organizations in the US (such as the American Civil Liberties Union (ACLU)), though relatively progressive regarding civil and political rights, failed to address ESC rights on an equal footing, a reflection of the complex and, at times, exclusionary/problematic history of human rights.

The divide is further deepened by a belief that, unlike civil and political rights (of
which more laws are presently in place), the adjudication of ESC rights is impossible or too onerous – though, of course, this has been disproven. This is coupled, too, with an underlying ideological aversion to that which the implementation of ESC rights would require, namely a redistribution of wealth and power: Unlike civil and political rights, the implementation of ESC rights necessarily requires a collective effort in order to secure an individual right. For example, the right to food can only be guaranteed with a collective appropriation of resources in order to secure an individual’s right to food. A reconfiguration of power and a serious redistribution of wealth, though insufficient, would be a required start, as would a radical reformation of global financial/economic governance.

As noted earlier, a significant challenge for human rights today is gross (and growing) inequality – an upshot of particular (neoliberal) economic policies.20 Within the US, for example, 46 million people (conservatively), or roughly 15% of the population, live in poverty and the country has seen the highest increase in inequality of any industrialized nation in recent years: using 2007 figures, the top 1% in the US owns 40% of the wealth, while the bottom 80% owns 7% of the wealth.21

It should also be noted that inequality has risen within contexts of aggregate growth. The inverse relationship between aggregate growth and equitable socioeconomic development is well known, highlighting the need for human rights to be critically concerned with distributive justice and substantive equality. Such a framing rightfully situates poverty and inequality as human rights violations and an issue of (re) distributive justice. However, swinging in the opposite direction, many States have increasingly responded to growing levels of inequality and poverty by criminalizing the affected: homelessness, precarity, and pan handling are framed as issues of criminality, rather than violations of rights. Such a framing precludes a discussion on root causes and the need to provide services (fulfilling ESC rights obligations). Though Vienna addressed poverty in human rights terms, implementation continues to be inadequate both within national borders and outside. On the latter, human rights activists should continue to remind States of extraterritorial obligations and their implications on poverty: “the extraterritorial obligations framework offers an important basis for States to work collectively to tackle the structural and systemic dimensions that underlie and perpetuate extreme poverty and global inequality.”22

Relatedly, the links between the realization of human rights and consumption and production patterns must be illuminated and revisited. The principle of sustainability, brought forward in a comprehensive way in the 1992 United Nations Conference on Environment and Development, has been continuously watered down and must be seriously addressed if ESC rights are to be realized. Recognizing the historical responsibility of the global north in emission of gases that have contributed to climate

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change, climate justice requires a serious rethink in the foreign, economic, and climate policies of developed governments.

Remedies for violations of ESC rights exist at both national and international levels though, through universal ratification of treaties, could be further strengthened. The Universal Periodic Review (UPR), situated within the Human Rights Council, is one mechanism at the international level for redress, hearing States’ human rights records and issuing recommendations for improvements. While a government may pay little heed to the decisions and/or recommendations of the UPR, the UPR’s recommendations can be used as an advocacy tool for social movements working to demand accountability, as is being done in Spain. Additionally, in May 2013, a new complaints mechanism of the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights (ICESCR) entered into force, allowing individuals and groups to file a complaint to the Committee on ESC rights if their own government fails to remedy the violation, though it is only available to those residing in States which are parties to the ICESCR and its Optional Protocol. It is sobering to note that its civil and political rights equivalent was developed nearly 40 years earlier.

5. Diversity, Voice, and Inclusion in Human Rights Movements

Social justice movements, such as national liberation struggles in the global south, propelled the United Nations to focus on human rights; women were critical to these movements. Movement building to counter human rights violations, including violence against women, tackle poverty and inequality, and demand accountability is critical.

How can the human rights framework be a more effective mobilizing, organizing, and educational tool, addressing the often seen fragmentation of progressive movements? Increased inclusivity and plurality within movements, reflective of the full range of human experiences, are essential, as is the active involvement of communities and individuals directly affected. Moreover, an intersectional approach to movement building is crucial, recognizing the manner in which race, gender, class/caste, sexuality/gender expression, origin, and other identities intersect to produce distinct experiences and violations. Human rights movements should ensure that differences present within groups are not ignored (lest tensions be exacerbated), but rather celebrated and reflected throughout the very vision of organizing and justice. Recognizing
individuals’ vibrant differences within a reimagined solidarity would ensure greater diversity and voice and move toward human rights movements in which justice as an analytical lens is better incorporated.

The continued work of making the links – both geographically, linking local, national and international struggles and thematically, through the construction of an interlocking/systemic critique of rights violations – remains a pressing need and an important ingredient to strengthen movements and organizations advancing human rights. The United Students Against Sweatshops (USAS) is an example of an organization and structure that could be adapted: campus worker justice (local) is linked to garment worker solidarity (international) and both are coupled with a call for "Wall Street" to leave campus (a move toward a systemic critique). Equally, further work to break down the silos in which human rights/social justice work is often placed is needed to strengthen movements. Toward that end, donors ought to fund civil society organizations in a manner that supports movement building, rather than undermines its emergence.

The importance of youth leadership and involvement within movements, particularly around issues of student debt, youth unemployment, the environment, and the links with international capital is unmistakable. Young people have been and presently are engaged in a variety of social justice movements, leading the efforts with energy, nimbleness, and creativity. The Occupy Movement, Los Indignados, and the demonstrations and uprisings in the Arab region offer examples of youth leadership and engagement. Used in clever and inclusive ways, social media can be a powerful mobilizing tool, supporting youth engagement, civil disobedience, direct action, and the democratization of knowledge.

Transformation in power relationships requires strong and organized movements; indeed movements are required for the deep culture and mindset shifts needed for social justice and human rights to be fully met - a sentiment echoed throughout the symposium. Therefore, though arguably necessary for the long haul, human rights organizations must adapt to the demands of movements and a changing geopolitical and technological landscape to remain relevant. Space for a diverse and multipolar leadership, particularly from the rich body of social justice and human rights organizing in the global south, is essential to sustainable movements and organizations.

6. Epistemological and Ontological Questions: The Implications for Human Rights

Three primarily ontological questions arise when examining the relationship between human rights and development: 1) What are human rights and what is “the human”?: 2) What is development?: and 3) What is democracy?

Unilateral integration into one way of thinking or being undermines diverse histories and masks our wide-ranging visions of the ways society ought to be organized and the values in which our relationships (with others and the earth) ought to be grounded. The very discourse of development presupposes an underdevelopment from which one can, as the story goes, theoretically emerge. Can human rights discourse and practice accommodate diverse (or alternative) epistemologies in a genuine and robust way to authentically challenge this? In other

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23 United Students Against Sweatshops at http://usas.org
words, can human rights adequately face a colonial/Eurocentric epistemic hierarchy that privileges both certain knowledge and certain ways of knowing, resulting often in epistemic injustices, and instead promulgate a transformative vision of inclusion?

Reiterating the framing question itself, the varied definitions of development as a concept and discourse ought to be better understood (and integrated) by human rights groups. Though speaking to the Guatemalan experience, the following narrative rang true in other contexts. While Guatemala is extraordinarily rich, with over 500 different species and a wealth of resources, it is categorized as impoverished by colonial markers of “progress,” raising the following questions: “What is development? Who determines the answer? More pointedly, one could argue that countries rich in resources and alternative epistemologies are, in fact, systematically impoverished through particular policies and ideologies that privilege growth and profit. To wit, in the context of Guatemala, water intensive mining and extractive industries – supported by WTO and bi/multilateral trade deals – undermined indigenous communities’ self-determination and livelihoods, the intersection of development, economic ideology, and human rights again illustrated. The struggles to defend livelihoods face familiar criminalization, with indigenous human rights defenders labeled as terrorists, threatened, and violated.

As reaffirmed in the VDPA, the international community must respect the value and diversity of indigenous cultures and identities, and the obligation to remove obstacles to the achievement of all human rights, including the right to determine one’s economic and social organization. Human rights groups and movements would do well to reflect the concerns/visions of indigenous and others challenging the ways in which neoliberal/capitalistic/colonial visions of development, both discursively and in practice, undermine human rights.

7. Co-optation and Discursive Challenges

There is a need to be vigilant about, and critical of, the ways in which human rights as a discourse is being pushed to advance ends that are, in fact, an affront to human rights. Cooptation, the use of language for one’s ends, is a challenge faced by human rights. Human rights, particularly women’s human rights have, perversely, been used as an imperialist strategy to justify foreign occupation, support oppressive/rights violating groups and regimes, subvert trade rules, gain access to resources and markets, and defend the sale of small arms and a violent gun culture.

Similarly, international financial institutions and groupings (such as the IMF and the G20) – via most recently the Post-2015 process – are coopting human rights and development language to advance their own agenda. IFIs and the exclusive groupings remain important sites for human rights work, including through a deeper examination of the often subtle yet
pernicious disconnect between a rhetoric of human rights and the impact of their policies. Exposing the pretense is a critical step, yet movements and organizations must aim to move beyond, employing creative and interlinked strategies to demand accountability. For example, though the UPR is presently a space in which States’ human rights records are reviewed, perhaps human rights activists could suggest an expansion in mandate/purview to include review of IFIs’ and WTOs’ policies; after all, these organizations are made up of governments.

Linked to the above and equally pervasive is the argument that rights are an exported western imposition. Though understandable (as rights have been coopted to advance an arguably Eurocentric vision of progress), we must remind governments that rights are undisputedly universal and innate within the human person, their promotion and protection the legitimate concern of the international community. All humans, bar none, have the right to claim human rights, struggle in society for those human rights, and enjoy human rights. While local groups must always lead these struggles, international solidarity is critical, too.

Conclusions and Ways Forward

Social change is a complex process and sites to push for change are manifold. Human rights activists are pushing for change in various ways: on the streets, within the United Nations and at national/local legislative processes. It is critical to keep in mind that while the United Nations and governments can be seen as vehicles for change, ultimately conditions in people’s lives will be changed by what pressure we can build as movements utilizing, for example, the VDPA in our efforts.

The Post-2015 process is one avenue, among others, where human rights activists are pushing for change – fighting to ensure that human rights shape the discussions and are at the core of the final agreements. Indeed, effectively integrating the universally recognized normative frame of human rights is critical to ensuring that human rights are at the heart of the post-2015 sustainable development agenda and regression from commitments made in the VDPA and other international human rights declarations does not occur.24

The Post-2015 sustainable development agenda must also be rooted in the principles of non-discrimination and equality and concerned with rising levels of inequality and deepening poverty. Toward that end, it is imperative that the structural hindrances to real progress are addressed: these include macroeconomic policies that are predicated on/benefit from inequality and thus further induce it as well as certain orthodoxies that limit the role of the State to deliver essential social services. Ensuring that the Post-2015 sustainable development agenda includes binding and common, but differentiated obligations for governments (around, for example consumption/production) would go far toward this end as would ensuring that the three dimensions of sustainable development (environmental, social, and economic) are equally and universally addressed by all States.

In the ongoing development debates, the spirit of Vienna should be brought. While the loss of precedent is a danger, there is no need to reinvent the wheel: there is a rich normative body of human rights work and governments should be urged to implement the full range of existing international, regional, and national human rights instruments – including, but not limited to CEDAW, ICESCR, ICCPR. It would be good, as human rights activists, to reflect further on this and devise stronger strategies to challenge government recalcitrance.

The human rights framework is neither static nor monolithic. It is dynamic and indeed meant to evolve to respond to our diverse claims as human beings and our sense of injustice. The inclusion of excluded voices and experiences – in order to transform the very fabric of the framework – is vital should human rights be able to adequately respond to the increasingly urgent demands of the present moment.

What does this all mean for human rights?

Grappling with the opportunities and challenges enumerated above, human rights activists continue to struggle for a reimagined politic and economy, one that ensures the realization of all human rights. The following recommendations aim to outline areas of work to be taken on and/or further strengthened in order to advance the full realization of human rights. While the recommendations are intended for human rights activists and groups, their content is relevant for other actors advancing human rights, such as the UN system, governments, and funders.

The thrust of the recommendations is based on the overarching belief that human rights activism must examine human rights violations as systemic failure. Toward that end, human rights actors should explore work in, further reflect upon and/or deepen existing projects, programs, and organizing on the following:

Economics, Global Economic Governance and Human Rights

- **Macroeconomic policies.** The impacts of economic policies and financial flows – trade, debt, foreign direct investment, taxation, and aid, for example – remain a critical site for human rights work and inquiry. Human rights activists should examine the impacts of macroeconomic policies on human rights, including the effects of austerity on the enjoyment of rights.

- **International financial institutions.** Relatedly, the impact of the policies promoted by the international financial institutions and the WTO on the
access and fulfillment of human rights must be highlighted and addressed. In addition, increased advocacy to ensure that the extraterritorial obligations of states and the private sector – as outlined in the Maastricht Principles – are addressed is a necessary priority.

- **Neoliberalism and a global elite.** The connection between a national/local political and economic elite and an international neoliberal/capitalistic development project remains a crucial area for further inquiry in the context of human rights and growing inequality.

- **Private sector.** Those working to advance human rights would be well served to continue to research, document violations and better understand the complex role of the private sector – and particularly transnational corporations – in violating, shaping and promoting the ability of peoples to realise human rights. Private public partnerships, in particular, must be scrutinized. To challenge impunity, binding human rights obligations for the private sector should continue to be advocated for and ultimately implemented.

- **Consumption and production.** Relatedly, the link between human rights on the one hand and consumption and production on the other must be illuminated and revisited.

**Distributive Justice**

- **Inequality and distributive justice.** With gross and deepening levels of inequality, distributive equality and justice and the fulfillment of economic, social and cultural rights (holding positive obligations on States) remain a pressing challenge for human rights. Indeed, continuing to fight for the same level of protection and implementation for economic, social, and cultural rights as afforded to civil and political rights is critical toward addressing distributive injustices.

**Gender-based Violence and Militarism**

- **Violence and Patriarchy.** In order to tackle violence head on, human rights must address three discrete yet interlinked forms of violence: direct, structural, and cultural. Rooted in unequal power relationships and various systems of oppression, including patriarchy, violence should be theorized in an intersectional manner and patriarchy should be a consistent lens of analysis for human rights works. In addition, states must held accountable for the ongoing impunity related to gender-based violence in the context of militarism

- **Conflict.** Violence committed by both State and non-State actors, including paramilitary forces (at times in cahoots with the private sector) in the context of conflict/insecurity must be the concern of those advancing human rights. In other words, peace and human security must be better understood as human rights issues and incorporated throughout human rights work.

**Epistemological Concerns**

- Human rights groups and movements should reflect a full range of epistemologies, including those outside Eurocentric conceptions of progress and modernity. The visions and values of indigenous communities in particular should be better mirrored in human rights movements.
Conclusions and Ways Forward

Strengthening Human Rights Movements

- **Movement building and leadership.** Movement building should be inclusive: an intersectional approach, which recognizes individuals’ vibrant differences, is critical for stronger human rights movements. Youth leadership should be valued and encouraged and epistemologies/practices from the global south elevated. Space for a diverse and multipolar leadership must be better cultivated if human rights are to reflect the full range of human experience.

- **Popularize human rights.** The disconnect between institutionalized human rights jargon on the one hand and the articulation of demands of justice by those outside governmental formal structures on the other is worrying. Further popularizing human rights, through, for example, human rights education, will go a long way in supporting inclusion.

- **Decentralized direct action and civil disobedience.** Movement building would be further strengthened by supporting direct action and civil disobedience. Increasingly led by community leaders (as opposed to one organization or another), human rights organizations should reflect upon better ways to support and promote such actions and the communities in which these emerge.

- **Funding for human rights.** Civil society organizations, including particularly women’s right groups, are critical to the advancement of human rights. Donors should provide robust funding to women’s rights organizations of all sizes and fund groups in ways that support collaboration and movement building. Efforts to resist de-politicization of social justice work (caused in part by neoliberal discourse and funding structures) must be redoubled.

Bolstering Redress and Accountability

- **Universal ratification.** Human rights activists should continue to call on States to ratify all human rights treatises, including particularly CEDAW, and implement these fully at national level. States parties should heed the recommendations of human rights treaty bodies.

- **The Optional Protocol to the International Covenant on Economic, Social, and Cultural.** The OP to the ICESCR established a complaints mechanism, which ought to be utilized by human rights activists as a means to uncover, amplify, and remedy violations. The Inter-American Court of Human Rights offers another space in which to seek justice.

- **The Universal Periodic Review (UPR).** The UPR is one mechanism at the international level where States’ human rights records are examined and recommendations for improvement offered. Human rights activists can use this process as a means to shed light on government action (or inaction) and to hold governments to account.
Appendix 1: Agenda and Speakers

The Symposium was broken into three panels, which focused on discrete yet interlinked themes: 1) Women’s Rights as Human Rights; 2) Poverty and Inequality; and 3) Human Rights, Democracy, and the Right to Development.

Welcome:

Robert Barchi, President, Rutgers, The State University of New Jersey

Keynote:

Anthony Romero, American Civil Liberties Union
Radhika Balakrishnan, Center for Women’s Global Leadership, Rutgers University
Moderator: LaShawn Jefferson, Ford Foundation

Women’s Rights:

Charlotte Bunch, Rutgers, The State University of New Jersey
Patricia Guerrero, Liga de Mujeres Desplazadas
Bernadette Muthien, Coalition of African Lesbians
Anita Nayar, United Nations Non-Governmental Liaison Service
Moderator: Zakia Salime, Rutgers, The State University of New Jersey

Poverty and Inequality:

Ejim Dike, US Human Rights Network
Bhumika Muchhala, Third World Network
Ignacio Saiz, Center for Economic and Social Rights
Moderator: Savi Binsath, Center for Women’s Global Leadership, Rutgers University

Human Rights, Democracy, and Right to Development:

Noura Erakat, Temple University
Norma Maldonado, Asociacion Raxch’ och’ Oxlaju Aj (Tierra Verde 13 Aj)
Atieno Ndomo, United Nations Millennium Campaign
Moderator: Nelson Maldonado-Torres, Rutgers, The State University of New Jersey

Closing:

Abena Busia, Rutgers, The State University of New Jersey