



# HUMAN RIGHTS PRAXIS – REFLECTIONS ON THE PAST, PRESENT, AND FUTURE

Ravindran Daniel





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ISBN: 978-955-1489-24-3

Supported by: This publication is possible through the financial assistance of the European Union

Published by:

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All forms of Discrimination and  
Racism - Asia Committee  
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Printed in Sri Lanka – June 2019

Design and pagination: Wits Originals

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# HUMAN RIGHTS PRAXIS – REFLECTIONS ON THE PAST, PRESENT, AND FUTURE

**Ravindran Daniel<sup>1</sup>**

## **Introduction**

The evolution of international human rights law in the last hundred years or so is considered dramatic.<sup>2</sup> What is remarkable about international human rights law is its recognition of individuals as subjects. Classic international law governed the conduct between states and did not recognize the rights of individuals. The agreements made between states were premised on the idea that a sovereign state had the exclusive right to take any action it thought fit to “deal with its own nationals (personal sovereignty), with its own territory (territorial sovereignty) and to make use of the public domain (‘the high seas, the atmosphere and outer space’).<sup>3</sup> The 19<sup>th</sup> century saw the emergence of humanitarian intervention to protect minorities living in other states thereby challenging the notion of absolute sovereignty. Evolution of labour standards led to the establishment of the International Labour Office (ILO) in 1919. Prohibition against slave trade and the Slavery Convention adopted by the League of Nations in 1926 heralded the

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<sup>1</sup> The author wrote this paper in his capacity as a member of the review team to support its work in “Surfacing, documenting, and communicating important lessons from the Ford Foundation’s Strengthening Human Rights Global initiative”.

<sup>2</sup> Buergenthal Thomas, *The Evolving International Human Rights System*, *The American Journal of International Law*, Vol. 100, No. 4 (Oct., 2006), pp. 783-807

<sup>3</sup> Sieghart Paul, *The International Law of Human Rights*, OUP, Oxford, 1992 (p11).

first human rights treaty based on the principle of dignity of the human being. Despite these developments, the individual as a subject of international law did not prevail. The Charter of the United Nations, adopted in 1945, reiterated the idea of non-intervention in the domestic jurisdiction of any state.<sup>4</sup> As such, the evolution of international human rights law is also about the gradual weakening of the concept of unrestricted sovereignty.

The Universal Declaration of Human Rights adopted in 1948 was the first comprehensive international human rights document. The Universal Declaration has acquired the force of law as part of the customary law of nations. It has provided the basis for the elaboration of binding human rights treaties and non-binding guidelines / principles of human rights. These treaties and guidelines now constitute a distinct body of law known as international human rights law.

The declarations, covenants and conventions that constitute this body of law reflect various historical ideas and struggles, including: The 16<sup>th</sup> century European Renaissance, the American Revolution, the French Revolution, campaigns against slavery and the slave trade, the Industrial Revolution, socialist ideas, the suffrage movement, anti-colonial and nationalist struggles, the anti-apartheid movement, struggles against racism, civil rights movements, and various women's movements that arose across space and time to address discrimination based on gender and to establish women's right as human rights, processes that have now broadened to address discrimination on the basis of sexual orientation and gender expression. By and large the

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<sup>4</sup> Article 2, paragraph 7, of the Charter stipulates, " Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter, but this principle shall not prejudice the application of enforcement measures under Chapter VII." Thus the Charter provides intervention by the UN only under Chapter VII, when the Security Council regards the situation as a 'threat to the peace, breach of the peace, or act of aggression.'



various themes and concerns mentioned above continue to provide the basis for contemporary human rights practice.<sup>5</sup>

The human rights framework is constantly evolving. However, the basic structure that provides for the protection of human rights includes: UN initiated standards and mechanisms, regional standards and mechanisms, national constitutions and corresponding laws, national human rights institutions, bodies established to deal with transitional justice issues, ad hoc criminal tribunals, and the International Criminal Court.

Human rights NGOs and civil society groups working at local, national and international levels are an essential part of the human rights framework and are considered its “heart and lungs”.<sup>6</sup>

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<sup>5</sup> See comprehensive list of ‘Struggles and historical events’; Conferences, documents and declarations; and Institutions’, in Human Development Report 2000, UNDP, OUP, 2000 (27-28)

<sup>6</sup> Louise Arbour, North-South Solidarity is Key, *Sur Journal on Human Rights* V. 11 No. 20 Jun/Dec 2014.

## THE FIRST PHASE (1948 – 1966)

The first phase is seen as the standard setting phase marked by the adoption of the Universal Declaration of Human Rights in 1948. The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) was adopted in 1965 and came into force in 1969. For the first time in history a binding treaty defined racial discrimination and state parties to the treaty pledged themselves to take all necessary measures to eradicate it. The CERD also created the first human rights treaty body, setting the precedent for human rights treaties to include a mechanism for monitoring compliance of provisions contained in the treaty.

The next step was the adoption of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966. Both Covenants came into force in 1976. Similar to CERD, both Covenants included a requirement that all states submit reports on how they put the provisions of the treaty into practice. The reports submitted by a State to a treaty body are an integral part of its obligations under the treaty. This obligation is derived from the principle that States ratify human rights treaties in good faith and are willing to subject their laws and human rights record to international monitoring. Normally, the first report is submitted within one or two years of ratification of a treaty. The initial report is followed by a periodic report every three or four years.

However, during this phase, the UN Human Rights Commission, the main human rights body established under the UN Charter, was reluctant to act on human rights violations. It decided to limit its role to promotional activities and resolved that it had no power to take any action with regard to complaints concerning human rights.<sup>7</sup> During this period only a limited number of international NGOs, based mainly in the Western world, were active in the UN Commission on Human Rights.<sup>8</sup>

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<sup>7</sup> Tolley Howard, *The UN Commission on Human Rights*, Westview Press, Colorado, 1987 (p17).

<sup>8</sup> The International Commission of Jurists (ICJ) and the International Federation of Human Rights (FIDH) were the most prominent international NGOs.

## THE SECOND PHASE (1967 – 1991)

This period encompassed the height of the Cold War including phases in which there was detente and also the collapse of the Soviet Union in 1991. Human rights discourse was dominated by Cold War rhetoric, with the Western bloc stressing civil and political rights and the Eastern bloc advocating for economic and social rights. However, despite the Cold War differences, the first major UN sponsored International Conference on Human Rights was held in Tehran in 1968. The major achievement of this conference was the acknowledgment that human rights are indivisible and interdependent.<sup>9</sup> The Tehran conference also focused on the issue of racism including apartheid and colonialism and extended the human rights discourse from individual rights to collective rights. Less than a hundred NGOs participated at the Tehran conference, a reflection on the attention given to NGOs by the states and the UN and also the state of human rights NGOs at that time.

### **Changes at the UN Human Rights Commission**

The UN Commission on Human Rights gradually moved away from its no-action policy. A major breakthrough came with the UN Economic and Social Council's adoption of resolution 1235 in 1967. It authorized the Commission to address violations of human rights and fundamental freedoms and included an agenda item entitled 'the question of violation of human rights and fundamental freedoms,

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<sup>9</sup> Proclamation of Teheran, Final Act of the International Conference on Human Rights, Teheran, 22 April to 13 May 1968, U.N. Doc. A/CONF.32/41 at 3 (1968).

including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries'. The resolution also authorized the Commission to make a "thorough study of situations which reveal a consistent pattern of violation of human rights". Resolution 1235 paved the way for what is now known as public procedure for dealing with situations that reveal consistent patterns pertaining to the violation of human rights. The resolution also enabled governments and NGOs to speak at the Commission about specific situations and highlight human rights violations. However, the Commission interpreted gross violations to include only racial and colonial domination, which initially confined public statements to apartheid regimes in South Africa and Namibia and territories occupied by Israel after the 1967 war.

Things came to a head in 1974, when the UN Commission was forced to address the Chilean Junta's overthrow of President Salvador Allende Gossens's government and the resulting repressive regime. Members of Non-Aligned Movement (NAM) and the Soviet bloc countries demanded action from the Commission, as did various NGO leaders. The International Commission of Jurists conducted a fact-finding mission and Allende's widow, Hortensia Bussi de Allende, addressed the Commission as an NGO representative. Consequently, the Commission appointed an ad hoc group to study and report on the country's situation. In 1978, the Commission replaced that ad hoc group with a single rapporteur. The Chilean initiative set the precedent for studies on specific country situations. Under what is known as the 'Country Mandates' the Commission and its successor, the Human Rights Council (HRC), have appointed rapporteurs to deal with dozens of country situations (in 2016 HRC is engaged with 14 country situations).

In the '70s, military junta assumed power in several Latin American countries. The repression by these regimes led to a large number of exiles moving to the US and Western Europe. The UN Commission on Human Rights became a major forum for their advocacy activities.

International NGOs and Latin American exiles jointly campaigned against the practice of involuntary disappearances of political opponents in many Latin American countries, in particular in Argentina. In 1980, the Commission adopted a resolution to establish a five-member Working Group to (1) “examine questions relevant to enforced or involuntary disappearances”; and (2) “seek and receive information from governments, intergovernmental organizations, humanitarian organizations and other reliable sources”. The establishment of the Working Group on Enforced or Involuntary Disappearances paved the way for what is known as the Commission’s “thematic mechanism” to deal with human rights violations based on specific themes. In 2016, the Human Rights Council is dealing with 43 thematic issues through its working groups and rapporteurs.

## **New Tools and Strategies**

The 1970s witnessed the emergence of national and local human rights groups and active trade unions in several countries across the world, and is considered a period when “there was an explosion of interest in human rights”.<sup>10</sup> These groups evolved tools and strategies to advocate for human rights particularly in repressive situations. For example, because local groups in Argentina, Chile and the Philippines systematically monitored human rights violations, fact-finding and documentation of human rights violations became an essential aspect of human rights work. This decade involved the development of protocols for collecting credible information from victims and witnesses, ensuring the safety and security of victims and witnesses, safe storage and retrieval of information, and strategic use of information. In repressive situations, local groups used the information they collected to alert and seek the assistance of international organizations to conduct campaigns against human rights violations in their respective countries. Thus establishing a hierarchy as well as solidarity between national and international organizations in which national NGOs gathered data,

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<sup>10</sup> Kenneth Cmiel, *The Recent History of Human Rights*, *The American Historical Review*, Vol. 109, No. 1 (February 2004), pp. 117-135

which international NGOs used for advocacy. National groups also strategically used the domestic legal system as a way of pushing the boundaries to seek justice and expose their inadequacies in protecting human rights.

In Chile, the Vicariate of Solidarity, founded in 1976 under the auspices of the Archdiocese of Santiago de Chile, played a central role in providing support to the victims and in keeping the outside world informed of the human rights situation. The Vicariate tracked thousands of cases of disappearances, arbitrary arrests and torture. It filed thousands of writs of habeas corpus and provided legal assistance to detainees. In the words of a former staff member, the Vicariate was aware that under prevailing conditions filing habeas corpus was meaningless but “there was nothing that irritated the dictatorship more than the daily charges of abuses”.<sup>11</sup> Similarly, in Argentina, the Center for Legal and Social Studies (CELS), founded in 1979, filed a collective habeas corpus petition representing relatives of 1,542 disappeared persons. In this instance the court declared its inability to act due to lack of cooperation from the executive.<sup>12</sup> The idea of law as a resource for advocating the rights of marginalized and victims groups became salient. In South Africa, the establishment of the Center for Applied Legal Studies (CALs) in 1978 and the Legal Resource Center (LRC) in 1979 challenged the apartheid regime by using its own laws and courts.

## **Mobilization of the Public and Victims**

Amnesty International (established in 1961), brought a new dynamic to the human rights movement at the international level through its voluntary nature and its membership’s involvement in the release of prisoners of conscience and well planned strategies that led to conduct

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<sup>11</sup> Roberto Garretón, ‘Key Elements of Human Rights Work’, in *A Human Rights Message*, at p 40, Ministry of Foreign Affairs, Sweden, 1998.

<sup>12</sup> Hugo Frühling, *From Dictatorship to Democracy: Law and Social Change in the Andean Region and the Southern Cone of South America*, in Mary McClymont & Stephen Golub (ed), *Many Roads to Justice*, the Ford Foundation, New York, 2000 at p65.

of campaigns at a later stage.<sup>13</sup> “An aroused public opinion is a powerful weapon. Important as bills of rights and legal mechanisms are, still more important is the concern of one individual for another, one group for another, one nation for another. The active concern of public opinion is everywhere of help. But nowhere is it more essential than when an individual human being remains helpless before a repressive regime, a frightened national community, and an inadequate international machinery for redress,” noted the agency.<sup>14</sup>

In 1972, Amnesty launched its international campaign against torture. The campaign led to global awareness on torture and also contributed to the UN’s proclamation of a Declaration against Torture (1975) and a Convention against Torture (1984). The campaign against torture set the precedent for global action on various human rights issues of concern. It also challenged the UN system to take note of global public opinion. In 1973, Amnesty issued its first Urgent Action which became a worldwide tool among international, national and local groups to issue an alert about human rights violations. It has now also become a tool for groups working on environmental issues, land issues and indigenous rights, among others.

While international and national organizations mobilized public opinion against human rights violations, victims and their family members in various countries also began seeking justice. The most famous family group is the Mothers of the Plaza de Mayo, which is an association of Argentine mothers whose children disappeared during the military dictatorship between 1976 and 1983. The mothers sought information on the disappeared persons, raised awareness nationally and globally and sustained their struggle for human rights through silent weekly marches. Now in many countries victims and or their relatives set up organizations to pursue justice, reparations

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<sup>13</sup> In 1977 when Amnesty received the Nobel Peace Prize, it had 168,000 members in 108 countries and in 2016 has more than 7 million members.

<sup>14</sup> From Nobel Peace Prize Acceptance Speech (1977) ([http://www.nobelprize.org/nobel\\_prizes/peace/laureates/1977/amnesty-lecture.html](http://www.nobelprize.org/nobel_prizes/peace/laureates/1977/amnesty-lecture.html))



etc. Assisting these groups is essential work of many human rights organizations.

## **Regional Human Rights Mechanisms**

In Europe and in the Americas, regional human rights standards and mechanisms were established during the same period in which the UN was setting up its human rights architecture. The Council of Europe, established in 1949, adopted the European Convention on Human Rights in 1950. The Convention created two organs the European Commission of Human Rights and the European Court of Human Rights. Since the European Convention did not contain provisions on economic and social rights the Council of Europe adopted the European Social Charter in 1965 and it was further revised and a new version was adopted in 1996. In 1998, the European Commission on Human Rights was abolished and individuals were allowed to directly approach the European Court of Human Rights to seek redress on human rights related cases.

In the Americas, in 1948, the Organization of American States (OAS) was established and it adopted the American Declaration of the Rights and Duties of Man. In 1969, the American Convention on Human Rights was adopted and came into force in 1978. Prior to the adoption of the Convention the Inter-American Commission was established and was acting for the protection of the American Declaration of the Rights and Duties of Man. Subsequent to the adoption of the Convention, it functions as an organ of the Convention. The Convention also established an Inter-American Court of Human Rights.

The African system emerged later with the adoption of the African Charter on Human and Peoples' Rights in 1981 and the establishment of the African Commission on Human and Peoples' Right in 1987. A protocol to the Charter was adopted in 1998 providing for the establishment of an African Court on Human and Peoples Rights. The African Court started functioning in 2006.

In the Middle East and North African region, the League of Arab States adopted an Arab Charter on Human Rights in 2004, which came into force in 2008. Under the Charter an Arab Human Rights Committee was set up in 2009 to monitor its implementation. However, the Arab Charter has been criticized for its incompatibility with international human rights standards. Louise Arbour the then United Nations High Commissioner for Human Rights made a public statement that “Throughout the development of the Arab Charter, my office shared concerns with the drafters about the incompatibility of some of its provisions with international norms and standards. These concerns include the approach to death penalty for children and the rights of women and non-citizens”.<sup>15</sup>

In the Asian Pacific region, the Association of South East Asian Nations (ASEAN) in 2009 established the ASEAN Intergovernmental Commission on Human Rights (AICHR). It drafted an ASEAN Human Rights Declaration, which was adopted in 2012. Concerns were raised regarding the ASEAN system including by Navi Pillai the then UN High Commissioner for Human Rights who stated that, “The international human rights mechanisms will continue to hold ASEAN member states to their international obligations and encourage ASEAN to strengthen further its regional human rights framework.”<sup>16</sup>

The African, the American and the European regional systems are considered major functioning systems and the rest are seen as work in progress.<sup>17</sup> The African Commission has contributed to growing

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<sup>15</sup> <http://iheu.org/arab-charter-human-rights-incompatible-international-standards-louise-arbour/>

<sup>16</sup> [http://www.un.org/apps/news/story.asp?NewsID=43536&Cr=human+rights&Cr1=#.WD\\_m2NJ97cd](http://www.un.org/apps/news/story.asp?NewsID=43536&Cr=human+rights&Cr1=#.WD_m2NJ97cd)

<sup>17</sup> Fekadeselassie F. Kidanemariam *Enforcement of Human Rights under Regional Mechanisms: a Comparative Analysis* University of Georgia School of Law, 2006. (Retrieved from [http://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1079&context=stu\\_llm](http://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1079&context=stu_llm))

jurisprudence particularly through its interpretation of the African Charter on Human and People's Rights.<sup>18</sup>

The strength of the European system is its provision enabling individuals to directly approach the European Court of Human Rights. The Court has contributed to development of jurisprudence among others on issues such as rights of detainees and sexual orientation. Its effectiveness has also contributed to its tremendous workload with a backlog of thousands of cases.<sup>19</sup>

The Inter-American system has developed precedent-setting jurisprudence on indigenous people's rights, transitional justice, laws on amnesty as well as on reparations.<sup>20</sup> National human rights NGOs play an active role in the Inter-American system. NGOs contribute to increased access to the system by disadvantaged groups. They also play a role in the development of jurisprudence by the Commission and the Court. For example, based on information collected and a complaint lodged by Brazilian civil society groups the Commission initiated an investigation on slavery in Brazil. However, it is also faced with lack of support from governments and is unable to carry out its mandate due to a severe financial crisis.<sup>21</sup>

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<sup>18</sup> Godfrey M Musila, The right to an effective remedy under the African Charter on Human and Peoples' Rights, AHRLJ Volume 6 No 2 2006 (retrieved from <http://www.ahrjlj.up.ac.za/musila-gm>)

<sup>19</sup> The Role of Regional Human Rights Mechanisms, The European Parliament – Directorate General for External Policies of the Union, 2010 (retrieved from [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/410206/EXPO-DROI\\_ET\(2010\)410206\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/410206/EXPO-DROI_ET(2010)410206_EN.pdf))

<sup>20</sup> *Ibid*

<sup>21</sup> Nelson Camilo Sanchez Leon, The Silent Checkmate against IACHR, 2016 (retrieved from <https://dejusticiablog.com/2016/05/23/the-silent-checkmate-against-the-iachr/>)

## **Human Rights and Ideological Position of Governments**

A State's approach to human rights is defined by its ideological orientation and its hierarchy in the global order. For example, the United States does not recognize economic, social cultural rights and has ratified or signed only limited number of human rights treaties with significant reservations including not ratifying the Rome Statute that established the International Criminal Court. Big powers support their client states and ignore or at times even justify human rights violations committed by these states. This was more pronounced during the Cold War, but still continues. At that time, the Soviet Union supported groups campaigning against apartheid and on peace. The United States extended support to groups working on civil and political rights particularly those concerned with freedoms in the Soviet bloc countries. During the Cold War, members of the Non-Aligned Movement (NAM) in addition to the question of racism, apartheid and colonialism, prioritized development and advocated that it should take precedent over human rights.

## **Human Rights and Foreign Policies of Governments**

The Helsinki Final Act signed by 35 nations in 1978 under the Conference on Security and Co-operation in Europe provided the structural basis for including human rights as part of the dialogue process between Western bloc and Eastern bloc countries. To large extent the Helsinki Final Act set the trend for including human rights as part of the foreign policy of Western countries. The US President Jimmy Carter, who assumed office in 1977, strengthened the idea of using human rights as part of foreign policy.<sup>22</sup> The European Union has specific guidelines on human rights as part of its common foreign policy. The EU also conducts separate human rights dialogues with

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<sup>22</sup> President Carter signed both the Covenant's CPR and ESCR but the Senate failed to ratify them.

various countries. Human rights are now integral to the foreign policy agendas of many countries.

The Helsinki Final Act also led to the establishment of Helsinki Watch, an NGO that in the ensuing years set up Americas Watch, Asia Watch, Africa Watch and Middle East Watch which evolved ultimately into the Human Rights Watch. Helsinki Watch pursued a strategy of naming and shaming abusive governments in USSR and Eastern Europe – the regional committees that followed did likewise, pushing particularly the US government to pressure governments in other regions to protect human rights. It is a strategy that Human Rights Watch has continued. Traditionally international NGO based in the North worked mostly with Western governments to pressure states in the South or to initiate new agendas in UN human rights forums. Now NGOs, particularly those based in the South, are recognizing that Western governments often have very little influence over emerging powers like Brazil, China, India and South Africa and are evolving strategies to engage with these emerging powers.

## THE THIRD PHASE (1993 TO THE PRESENT)

This period constitutes the ‘third wave’ of human rights activism,<sup>23</sup> and is marked by an expansion in the range of issues articulated by human rights groups, including: Acknowledgement of women’s rights as human rights; rights of migrant workers; indigenous peoples rights; rights of persons with disabilities; growing attention on LGBTQIA<sup>24</sup> rights, the establishment of institutions at regional and international levels to ensure accountability for human rights and humanitarian crimes; mechanisms for dealing with transitional justice issues; increased role of human rights NGOs at UN human rights mechanisms; emergence of national human rights institutions; and increasing focus on bringing businesses under the human rights regime.

### **The World Conference on Human Rights (Vienna 1993)**

Representatives of 171 nations and about 800 NGOs attended the Conference held after the end of the Cold War.<sup>25</sup> The pre-conference regional meetings held in Tunis, San Jose and Bangkok provided opportunities for national NGOs to come together and contribute to the preparatory process. For example, at the regional meeting in Bangkok about 180 NGOs from various countries in the region challenged the notion of Asian values articulated by many Asian governments

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<sup>23</sup> Kenneth Cmiel, *The Recent History of Human Rights*, *The American Historical Review*, Vol. 109, No. 1 (February 2004), p 130

<sup>24</sup> Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex and Asexual.

<sup>25</sup> See OHCHR <http://www.ohchr.org/EN/ABOUTUS/Pages/ViennaWC.aspx>

to undermine the universality of human rights.<sup>26</sup> The number and diversity of NGOs at the Vienna conference symbolized the optimism and the growth of the human rights movement. However, the World Conference also showed the disparate nature of the movement and lack of coordination and communication between groups articulating diverse issues and concerns. The Vienna conference also led to discussion about the need to contribute to assisting human rights NGOs to identify emerging issues and play a role in agenda setting.<sup>27</sup>

## **Evolution of Recognition of Women’s Rights as Human Rights**

By the 1970s, women’s activism contributed to redefinition of the meaning of feminism and expanded it beyond equality in the political and economic sphere. Feminism came “to mean an awareness of women’s oppression and exploitation within the family, at work and in society, and conscious action by women (and men) to change this situation. Feminism, in this definition, goes beyond previous movements for equality and emancipation which agitate for equal rights and legal reforms to redress the prevailing discrimination against women”.<sup>28</sup> At the international level there was recognition that the first two decades of development<sup>29</sup> did not benefit women. The UN proclaimed 1975 as the Women’s Year and 1976 – 1985 was marked as the UN decade for women. In 1979, the Convention on

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<sup>26</sup> The author was an active participant at the Bangkok conference. See also Asian Cultural Forum on Development, *Our Voice: Bangkok NGO Declaration on Human Rights* (Bangkok, 1993).

<sup>27</sup> The International Council and Human Rights Policy (ICHRP) was one such initiative that was supported by the Ford Foundation. The author was involved in the early stages of discussion regarding its establishment immediately following the Vienna Conference. See Note of discussion on ICHRP history at its Fourth Assembly of the Council, Jakarta, 17-18 March 2001.

<sup>28</sup> Kumari Jayawardena, *Feminism and Nationalism in the Third World*, Zed Books Ltd, London, 1986 (p3)

<sup>29</sup> The UN General Assembly adopted a resolution in December 1961, proclaiming the 1960s as the Development Decade. The Second Development Decade began from January 1971 and a mid-term review was done in 1975. (<https://unchronicle.un.org/article/prehistory-millennium-development-goals-four-decades-struggle-development-united-nations>)

the Elimination of All Forms of Discrimination Against Women was adopted and came into force in 1981. The Convention, seen as an international bill of rights for women, “conceptualizes women’s rights as human rights and a “non-discrimination” model is adopted, so that women’s rights are seen to be violated if women are denied the same rights as men”.<sup>30</sup> The 1985 Second UN World Conference on Women held in Nairobi recognized equality of sexes as a pre-condition for economic and social development.<sup>31</sup> The 1992, the Rio UN Conference on Environment and Development called on governments to implement the Nairobi Conference’s Forward looking strategies for the Advancement of Women.<sup>32</sup> The 1993, the World Conference on Human Rights held in Vienna saw a concerted mobilization by women’s groups from the North and the South and led to reiteration that women’s rights are human rights. After Vienna, advancing women’s human rights saw “an upward curve”.<sup>33</sup> Meanwhile, women’s groups working on women’s health, reproductive rights and sexuality advocated for recognition of the idea that, “even the most intimate areas of family, procreative and sexual life are ones where women’s human rights to self-determination and equality must prevail”.<sup>34</sup> The 1994 Cairo Conference on Population and Development recognized reproductive health which included the ability “to have a satisfying and safe sex life”. It affirmed as reproductive rights the “basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children”, and “their right to make decisions concerning reproduction free of discrimination,

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<sup>30</sup> Preliminary Report by the UN Special Rapporteur on Violence Against Women, its causes and consequences by Ms. Radhika Coomaraswamy (E/CN.4/1995/42)

<sup>31</sup> NitzaBerkovitch, *The Emergence and Transformation of the International Women’s Movement* (retrieved from [http://s3.amazonaws.com/academia.edu.documents/37872954/Berkovitch\\_The\\_emergence\\_of\\_global\\_women\\_movement.pdf?AWSAccessKeyId=AKIAJ56TQJRTWSMTNPEA&Expires=1480611627&Signature=U%2BwE4RkJfgzhSKvetLqgzLQ4rB0%3D&response-content-disposition=inline%3B%20filename%3DBerkovitch\\_Nitza\\_1999\\_The\\_Emergence\\_an.pdf](http://s3.amazonaws.com/academia.edu.documents/37872954/Berkovitch_The_emergence_of_global_women_movement.pdf?AWSAccessKeyId=AKIAJ56TQJRTWSMTNPEA&Expires=1480611627&Signature=U%2BwE4RkJfgzhSKvetLqgzLQ4rB0%3D&response-content-disposition=inline%3B%20filename%3DBerkovitch_Nitza_1999_The_Emergence_an.pdf))

<sup>32</sup> <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>

<sup>33</sup> Charlotte Bunch, *Women’s Human Rights: 20 years after Vienna* (retrieved from <http://www.vidc.org/index.php?id=1890&L=1&id=1890>)

<sup>34</sup> Rosalind Petchesky & Karen Judd, (ed) *Negotiating Reproductive Rights - Women’s perspectives across countries and cultures*, Zed Books, London, 1998.



coercion and violence”.<sup>35</sup> The reference to positive sexuality as a component of reproductive health, and the reference to freedom from coercion in making reproductive decisions were both historical breakthroughs. The strong mobilization of women in Vienna and in Cairo had an impact at the Fourth World Conference on Women held in Beijing in 1995. The Conference adopted a path-breaking paragraph acknowledging that:

“The human rights of women include their rights to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. Equal relationships between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behavior and its consequences”.<sup>36</sup>

Similar to the human rights movement, the women’s movement is not a homogenous movement. Particularly, the debate regarding the first two UN decades of development led to critique of development models and theories from the perspective Southern women’s groups. At the Nairobi conference women’s groups from the South began asserting their agendas and approaches. The critique on development included how international agencies and Western scholars, including Western feminists, defined it.<sup>37</sup> It also led to emergence of women’s organizations based in the South and articulating ideas about development from a Southern women’s perspective. In 1977, the Association for African

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<sup>35</sup> United Nations, *Programme of Action of the International Conference on Population and Development, Report of the International Conference on Population and Development, 5–13 September 1994*, UN Doc. A/CONF.171/13 paras 7.2 and 7.3

<sup>36</sup> United Nations, *Platform for Action of the Fourth World Conference on Women, September 1995*, UN Doc. A/CONF.177/20, para 96

<sup>37</sup> NitzaBerkovitch, *The Emergence and Transformation of the International Women’s Movement* (retrieved from [http://s3.amazonaws.com/academia.edu.documents/37872954/Berkovitch.\\_The\\_emergence\\_of\\_global\\_women\\_movement.pdf?AWSAccessKeyId=AKIAJ56TQJRTWSMTNPEA&Expires=1480611627&Signature=U%2BwE4RkJfgzhSKvetLqgzLQ4rB0%3D&response-content-disposition=inline%3B%20filename%3DBerkovitch\\_Nitza.\\_1999.\\_The\\_Emergence\\_an.pdf](http://s3.amazonaws.com/academia.edu.documents/37872954/Berkovitch._The_emergence_of_global_women_movement.pdf?AWSAccessKeyId=AKIAJ56TQJRTWSMTNPEA&Expires=1480611627&Signature=U%2BwE4RkJfgzhSKvetLqgzLQ4rB0%3D&response-content-disposition=inline%3B%20filename%3DBerkovitch_Nitza._1999._The_Emergence_an.pdf))

Women for Research and Development (AAWORD) was founded. In 1984, Development Alternatives with Women for a New Era (DAWN) was established and publicly launched at the 1985 Nairobi World Conference on Women. These and other Southern organizations at the national and local level enlarged the debate to include all aspects of women's rights. For example, on what is called, 'politics of the body' the women from the South emphasized, "the transformation of state, social, demographic and economic development policies to incorporate women's social and economic rights".<sup>38</sup>

Increasingly, women's groups are acknowledging the idea of 'intersectionality'<sup>39</sup> – the understanding that gendered oppression has various dimensions. The origin of the term may be traced to black feminist critique of the ways in which mainstream feminism (that was inherently white) and race movements (that were evidently patriarchal) had historically ignored the intersections of race and patriarchy.<sup>40</sup> However, there is widespread recognition that such intersectional analysis was a feature of various social struggles including, feminist struggles against racism, colonialism and slavery.<sup>41</sup>

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<sup>38</sup> Rosalind Petchesky & Karen Judd, (ed) *Negotiating Reproductive Rights - Women's perspectives across countries and cultures*, Zed Books, London, 1998.

<sup>39</sup> *Intersectionality* is a term that was coined by American professor Kimberlé Crenshaw in 1989. The concept already existed but she put a name to it. The textbook definition states: "Women face oppression in varying configurations and in varying degrees of intensity. Cultural patterns of oppression are not only interrelated, but are bound together and influenced by intersectional systems of society. Examples of this include race, gender, class, ability and ethnicity".

*Retrieved* <http://www.telegraph.co.uk/women/womens-life/10572435/Intersectional-feminism.-What-the-hell-is-it-And-why-you-should-care.html>

<sup>40</sup> Crenshaw, K. (1989) Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *U. Chi. Legal F.*, 139. Crenshaw, K. (1991) Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review* 43(6): 1241–1299.

<sup>41</sup> Dhamoon, R.K. and Hankivsky, O. (2011) Why the theory and practice of intersectionality matter to health research and policy. In: O. Hankivsky (ed.) *Health Inequalities in Canada*. Vancouver, Toronto, Canada: UBC Press.

An “intersectionality-informed” approach is about acknowledging the heterogeneity and power-inequalities within what we usually treat as homogenous categories (e.g. women, migrants; African-Americans, people living with disability). The various axes of inequalities – e.g. class, race, gender, and sexual orientation – are not independent of each other but often mutually interacting, so that, for example, the very manifestations of gender inequality may differ between a poor and a non-poor woman. Further, not all axes are equally important in all points of time and space, they are ‘fluid’ and context-specific. In other words, a group suffering oppression in one context may itself be an oppressor in another and therefore, one needs to examine the grounded reality rather than make a priori assumptions. Intersectionality-informed approaches are seen as the way forward in understanding and addressing inequalities.

The contemporary discussion among human rights groups regarding the North-South divide, who sets the agenda and its relevance are issues that the women’s movement has faced over decades. For this reason the human rights movement could learn much from the women’s movement and its history.

## **Economic, Social and Cultural Rights**

After much struggle particularly by groups from the South, the economic, social and cultural rights assumed equal importance with civil and political rights. Even Amnesty International after focusing on civil and political rights for forty years decided to expand its mandate to include economic, social and cultural rights. An Amnesty strategy paper discussing expansion of the mandate noted: “In the last two decades, the end of the Cold War and the changed global economic environment have resulted in a reassertion of economic, social and cultural rights, and a growing recognition of the need to address violations of those rights, not only by states but also by non-state actors.”<sup>42</sup> The rising interest in economic, social and cultural

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<sup>42</sup> Making Choices on Economic, Social & Cultural Rights-Strategy Paper Presented by the

rights led to national, regional and international coalitions emerging on specific rights such as housing rights. Advancing economic, social and cultural rights includes advocacy efforts to make these sets of rights justiciable at domestic courts and at international mechanisms. Another development was that of social movements involvement with human rights groups and use of the rights framework by them.<sup>43</sup> In 2003, an international network (ESCR-Net) was established to focus on economic, social and cultural rights. By considering social movements and grassroots groups, such as those mobilising for indigenous people's rights, 'critical participants' in the Network, the ESCR-Net is the first global human rights organization to provide them with institutional representation.<sup>44</sup>

Another area that has emerged particularly among groups working on economic, social and cultural rights is that of bringing businesses and corporations under the ambit of human rights. It took many years to initiate debate within the UN human rights mechanisms on the question of business and human rights since human rights was seen as a responsibility of states and not that of private enterprises. However, globalization and penetration by transnational and national companies at the local level and its impact on livelihoods of communities prompted civil society groups to use the human rights framework to make these entities accountable. The then UN Human Rights Commission in 2005, appointed a Special Representative of the Secretary General on the issue of transnational corporations and other business enterprises with regard to human rights. The Special Representative proposed draft guiding-principles on business and human rights, which was adopted by the UN Human Rights Council

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Working Group on ESC Rights to the International Executive Committee of Amnesty International, 10 December 2002 (author was a member of this Working Group).

<sup>43</sup> For example, the Brazilian Landless Workers' Movement (MST) works closely with Brazilian human rights NGOs to seek legal protection from courts for land occupied by its members.

<sup>44</sup> See <https://www.escr-net.org/>

in 2011.<sup>45</sup> In the same year, the UN Human Rights Council decided to establish a Working Group to promote the effective comprehensive dissemination and implementation of the Guiding Principles. Several international human rights organizations have emerged working exclusively on the subject and it also remains a high priority for most Southern based national groups.

## **Expansion of the Human Rights Agenda**

The third phase also witnessed human rights groups expanding their agenda from traditional work on discrimination to discrimination based on HIV/AIDS, disability and sexual orientation among others. Migrant workers is another area in which standard setting was completed during this period with the adoption of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Family in 1990. Indigenous groups began articulating their concerns in the '70s and after a long process a Declaration on the Rights of Indigenous Peoples was adopted by the UN in 2007. Rights of disabled persons are another area in which mobilization of disabled groups succeeded in highlighting their concerns culminating in the adoption of a Convention on the Rights of Persons with Disabilities in 2006. Groups working on LGBTQIA rights managed to achieve a breakthrough in 2016 with the appointment of an UN independent expert to investigate and report on human rights violations against LGBT people worldwide. The Middle East, Africa, China and Russia opposed the appointment of the independent expert. The African group asked the UN General Assembly Committee dealing with human rights to delay the appointment but their proposal was defeated.

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<sup>45</sup> In 2011 the UN Human Rights Council adopted the UN Guiding Principles for Business and Human Rights, see OHCHR - [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

## Human Rights NGOs and Non-State Actors

Starting in the late '80s, human rights groups had to address the issue of abuses committed by armed non-state actors, such as situations in which states used proxies or armed groups fought against a state and committed serious human rights violations in the process. After some deliberations, international NGOs such as Amnesty International and Human Rights Watch decided that these groups were as accountable as the states. However, work on non-state actors remains a challenge. The International Council on Human Rights Policy in its report on the subject raised questions, which still remain valid.<sup>46</sup> These questions relate to: How should armed groups be judged? Should human rights and humanitarian organizations apply the same standards that are used to judge and restrain the behavior of states? Is such an approach appropriate or likely to be effective? Can the techniques used to encourage states to respect human rights be applied with the same effect to armed groups? Are armed groups vulnerable to international embarrassment in the same way as states?"

## Establishing Individual Criminal Liability and Transitional Justice Mechanisms

Under international law, a state and its rulers were immune to prosecution. After the Second World War, the Nuremberg and Tokyo war crime tribunals challenged this approach. However, the human rights edifice that emerged after 1945 made states accountable for human rights violations but did not provide for holding individuals personally liable for large-scale violations. This began to change in the '80s and accelerated in the '90s as a growing number of individuals including senior officials and even heads of states were held personally accountable for serious human rights violations.<sup>47</sup> This trend is called

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<sup>46</sup> International Council on Human Rights Policy, 'Ends & Means: Human Rights Approaches to Armed Groups' (retrieved from [http://www.ichrp.org/files/reports/6/105\\_report\\_en.pdf](http://www.ichrp.org/files/reports/6/105_report_en.pdf))

<sup>47</sup> Since 1990 more than 40 persons including heads of states have been indicted for crimes committed by them, see Human Rights Advocacy and the History of International Human

‘the justice cascade’<sup>48</sup> and includes national trials, trials in a foreign country and international trials. The national trials and trials in a foreign country were related to prosecution in domestic courts. The most notable development was the establishment of international tribunals. The Rwandan genocide and the atrocities committed in the Balkans highlighted the weakness of the human rights system (name and shame strategy of NGOs and the UN human rights mechanisms procedures). However, human rights NGOs produced reports with extensive documentation of crimes committed in Rwanda and former Yugoslavia, which helped in their campaign for accountability and justice. Consequently, the UN Security Council established the International Criminal Tribunal for the Former Yugoslavia in 1993 in the Hague, the Netherlands and the International Criminal Tribunal for Rwanda in 1995 in Arusha, Tanzania. These ad hoc tribunals – the first to arise following the Nuremberg and Tokyo tribunals – also contributed to a growing demand for a permanent International Criminal Court (ICC). That court came into existence in 2002. Despite their limitations, the ad hoc tribunals and the ICC<sup>49</sup> demonstrated the evolution of human rights standards and mechanisms to hold individuals criminally liable for human rights and humanitarian law violations. This success is due to the coming together of national, regional and international groups all committed to ensuring accountability and justice for victims.<sup>50</sup> The role played by national NGOs was a major factor in bringing to justice individuals

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Rights Standards (retrieved from <http://humanrightshistory.umich.edu/accountability/individual-criminal-accountability>)

<sup>48</sup> Kathryn Sikkink, *The Justice Cascade: Human Rights Prosecutions and Change in World Politics*, (retrieved from [https://bc.sas.upenn.edu/system/files/Sikkink\\_04.08.10.pdf](https://bc.sas.upenn.edu/system/files/Sikkink_04.08.10.pdf))

<sup>49</sup> Daniel Donovan, *International Criminal Court: Success and Failures* (retrieved from <http://intpolicydigest.org/2012/03/23>)<http://intpolicydigest.org/2012/03/23> <http://intpolicydigest.org/2012/03/23/international-criminal-court-successes-and-failures>

<sup>50</sup> The Coalition for an International Criminal Court (CICC) initially brought together 800 organizations. Presently, it has 2500 organizations from 150 countries with a Steering Committee consisting of national, regional and international human rights organizations. See CICC Fact Sheet (retrieved from [http://www.iccnw.org/documents/CICC\\_Factsheet.pdf](http://www.iccnw.org/documents/CICC_Factsheet.pdf))

committing serious human rights violations.<sup>51</sup> Presently the ICC is also witnessing a series of crises with its dropping of charges against Uhuru Kenyatta in Kenya and South Africa, Burundi, Gambia that are party to the Rome Statute withdrawing from the Court and Russia that has signed the Statute announcing their intentions to withdraw its intention to ratify it from the Court.

## **Transitional Justice Mechanisms**

What began in the '80s as mechanisms for probing past violations such as disappearances<sup>52</sup> evolved into a comprehensive set of measures to deal with past legacies of massive human rights violations. These include criminal prosecutions, truth and reconciliation commissions, and reparation and reforms to prevent repetition of such violations. Human rights NGOs are engaged in wide ranging transitional justice related activities in countries transitioning from authoritarian rule or internal armed conflict. The role played by human rights NGOs requires combining traditional tools and skills with new ones. International NGOs monitor and campaign for justice to victims, which includes protecting local NGOs in situations involving repression or internal armed conflict. In such situations local and or national NGOs play diverse roles. The information they collect through monitoring provides the basis for seeking effective transitional justice initiatives. Often, working in conjunction with international organizations, they provide a host of services, including:

- Legal and other expertise for setting up transitional justice initiatives.
- Advocacy to ensure accountability for past crimes.
- Organizing victims to seek justice, reparations and participate in truth and reconciliation commissions.

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<sup>51</sup> Kathryn Sikkink, *The Justice Cascade: Human Rights Prosecutions and Change in World Politics*, (retrieved from [https://bc.sas.upenn.edu/system/files/Sikkink\\_04.08.10.pdf](https://bc.sas.upenn.edu/system/files/Sikkink_04.08.10.pdf))

<sup>52</sup> Bolivia in 1982 and Argentina in 1983 set up commissions to document and unearth disappearances, see Human Development Report 2000, UNDP, OUP 2000 (p72).



- Facilitating reconciliation between warring groups in post-conflict situations.
- Providing trauma care and counseling to victims.
- Collaborating with international organizations to provide exhumation and reburial services.
- Conducting unofficial truth-seeking processes when government officials are unwilling or unable to do so themselves.
- Ensuring that the recommendations of truth commissions and similar bodies are carried out so as to avoid repeating past crimes.<sup>53</sup>

## **UN Human Rights Mechanisms and NGOs**

The most notable development during this period was the establishment of the Human Rights Council (HRC) in 2006 to replace the ineffective and highly politicized Human Rights Commission. The major innovation of the HRC is the Universal Periodic Review (UPR) under which the human rights situations in all 193 Member States are assessed every four years. HRC members have to undergo mandatory review of their country's human rights situation during their membership period.<sup>54</sup> Human rights NGOs typically use treaty bodies, including the UN HRC Special Procedures as part of their work to advance human rights. The HRC's Universal Periodic Review has given them an additional vehicle to challenge human rights practices within states. Despite the enthusiasm of NGOs, there are fears that it might 'degenerate into purely ritualistic review'<sup>55</sup> due to lack of follow-up and implementation. Most human

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<sup>53</sup> This is based on author's work in Cambodia, Timor Leste (formerly East Timor), Uganda, Sudan and Libya. See also Eric Brahm, *Transitional Justice, Civil Society, and the Development of the Rule of Law in Post-Conflict Societies*, (retrieved from [http://www.icnl.org/research/journal/vol9iss4/special\\_2.htm](http://www.icnl.org/research/journal/vol9iss4/special_2.htm))

<sup>54</sup> For detailed comparative analysis of the HRC and Commission see, Lucia Nader, *The Role of NGOs in the UN Human Rights Council*, *SUR International Journal on Human Rights*, Edition V. 4 – N. 7- Jan/2007

<sup>55</sup> Ben Leather, *Advocacy and Tess McEvoyt*, "Towards a UPR which is accessible, strong,

rights treaties incorporate mechanisms for monitoring state parties' implementation of treaty obligations. For countries under review by a treaty body, human rights NGOs generate alternative reports thereby contributing to greater awareness and advocacy on rights contained in the treaties. Some NGOs also help formulate the treaty body's general comments and recommendations to clarify the content of a treaty's specific provisions. Since several treaties need to be monitored, NGOs' work with treaty bodies requires adequate preparation like compiling information to submit alternative reports and a clear understanding of a treaty's provisions. There is some division of labour with women's groups working on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and child rights groups focusing on the Convention on the Rights of the Child (CRC). However, normally the Human Rights Council attracts more NGOs than treaty bodies.

## **National Human Rights Institutions (NHRIs)**

The salience of human rights and the demands made on governments to protect and promote human rights led governments to establish institutions at the national level. These institutions mostly evolved from previous ombudsman and or race gender relations committees. Ombudsman institutions normally handled complaints regarding maladministration and the race / gender relations committees dealt with discriminatory acts. The national human rights institutions on the other hand deal with human rights and often include a mandate for providing redress to victims of violations. The NHRIs review legislations and make them compatible with international human rights standards. Most NHRIs' mandate includes conducting human rights education within society at large. They are the 'best relay mechanisms at country level to ensure the application of international human rights norms'.<sup>56</sup> The Paris Principles that was adopted by the UN General

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effective and protective, The International Service for Human Rights, 2016 (<http://www.ishr.ch/news/towards-upr-which-accessible-strong-effective-and-protective>)

<sup>56</sup> OHCHR and NHRIs (retrieved from <http://www.ohchr.org/EN/Countries/NHRI/Pages/>)

Assembly in 1993 provides a set of international guidelines for the establishment and functioning of NHRIs. There is a Global Alliance of National Human Rights Institutions (GANHRI) that provides accreditation to NHRIs based on an assessment of their compliance with the Paris Principles. The Office of the High Commissioner for Human Rights (OHCHR) works closely with NHRIs and provides secretarial assistance to the GANHRI. NHRIs participate in the Human Rights Council meetings as observers and have added one more layer to the HRC proceedings. Most human rights NGOs work with the NHRIs at the national level to seek their intervention on human rights violations and monitor their performance.

## CONTEMPORARY CONTEXT AND CHALLENGES

Among human rights practitioners and academics there is a broad consensus on two aspects: 1) the global context has changed making it even more challenging for human rights organizations to carry out their work; 2) the human rights movement's 'architecture'<sup>57</sup> has evolved and is complex.

The 1990s optimism began to wane with 9 /11 and the resulting "war on terror". In the previous decade it was believed that nations broadly agreed on non-derogable rights, which were thought to contribute to the justice cascade.<sup>58</sup> However, the US government's practice of torture and 'extraordinary renditions' undermined consensus on non-derogable rights and many years of work by human rights NGOs on ending torture. The wars in Libya, Syria and Yemen have demonstrated that human rights and humanitarian laws are seldom respected by parties to the conflict. The Western powers that are normally concerned about human rights and humanitarian laws are increasingly helpless in responding to gross violations of these norms. Human rights NGOs lack powerful interlocutors to assist them in their campaign against atrocities committed in these conflicts. The global balance of power is shifting. Rising powers, such as Brazil, China, India, South Africa and Russia have formed their own

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<sup>57</sup> The term architecture is borrowed from Louis Bickford. See Interview with Louis Bickford, *Convergence Towards the Global Middle; Who Sets the Global Human Rights Agenda and How?* *Sur Journal on Human Rights* V. 11 No. 20 Jun/Dec 2014

<sup>58</sup> Kathryn Sikkink, *The Justice Cascade: Human Rights Prosecutions and Change in World Politics*, (retrieved from [https://bc.sas.upenn.edu/system/files/Sikkink\\_04.08.10.pdf](https://bc.sas.upenn.edu/system/files/Sikkink_04.08.10.pdf))

grouping known as BRICS. BRICS members are not known for supporting human rights at international forums even on issues where their national laws favor such rights. There are also other factors that may impact future human rights work, in particular, Information, Communications Technology (ICT) is likely to have negative impact on rights related to privacy and may result in constant surveillance on human rights defenders and dissidents. However, information technology also has the potential to strengthen human rights and civil society organizations' advocacy efforts. An area that remains a major challenge is that of dealing with the human rights violations committed by non-state actors. Finally, the presidential election in the US has raised concerns regarding the new administration's approach to the UN, human rights and threats faced by vulnerable groups within the US. In general the present global context does not generate optimism as "there is little to suggest that further progress is on the horizon in the manner in which we have been accustomed".<sup>59</sup>

## **The Human Rights Movement**

Human rights activism has achieved global salience with a large number of organizations working at local, national and international levels on diverse human rights concerns. The human rights movement falls under 'transnational advocacy networks' and uses individual and collective tactics such as "information politics, symbolic politics, leverage politics and accountability politics".<sup>60</sup> However, there is an ongoing debate regarding dynamics within the movement, particularly regarding the relationship between Southern-based national NGOs (loosely assumed to incorporate NGOs in post-Soviet geographies) and Northern-based

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<sup>59</sup> Stephen Hopgood, 'Challenges to the global human rights regime: Are human rights still an effective language for social change', *Sur Journal on Human Rights* V. 11 No. 20 Jun/Dec 2014

<sup>60</sup> Margaret E Keck and Kathryn Sikkink, *Transnational Advocacy Networks in International and Regional Politics*, UNESCO, Blackwell Publishers, USA 1999.

international NGOs.<sup>61</sup> A critique of the movement includes its vertical nature, over legalization and rigidity.<sup>62</sup>

That debate is ongoing and the relationship between North and South-based groups is an evolving process. A number of large international human rights NGOs are setting up offices or placing representatives in the South. At the same time, national NGOs are increasingly directly engaged (often without international NGOs mediating) at international forums, even setting up offices in the location of human rights institutions, such as Geneva. Similarly, a new model has evolved wherein international networks are set up with global memberships and governance, changing the previous pattern of relationship between North and South-based groups. These trends are referred to as a “convergence towards the global middle”.<sup>63</sup>

## **International NGOs Move South**

Amnesty International’s decision to reduce its staff in London and open offices in various countries in the South is considered ‘momentous’.<sup>64</sup> The move was not sudden, as Amnesty International had initiated the discussion in the 1990s. In 1993, Amnesty undertook a review of its International Secretariat (IS) to examine the organization’s level of coverage and adequacy of research into human rights abuses worldwide.<sup>65</sup> While proposing incremental steps the review report

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<sup>61</sup> Gaston Chillier & Petalla Brandao Timo, *The Global Human Rights Movement in the 21st Century: Reflections from the perspective of a national human rights NGO from the South*, *Sur Journal on Human Rights* V. 11 No. 20 Jun/Dec 2014.

<sup>62</sup> César Rodríguez-Garavito, *The Future of Human Rights: From Gate Keeping to Symbiosis*, *Sur Journal on Human Rights* V. 11 No. 20 Jun/Dec 2014.

<sup>63</sup> Interview with Louis Bickford, *Convergence Towards the Global Middle; Who Sets the Global Human Rights Agenda and How?* *Sur Journal on Human Rights* V. 11 No. 20 Jun/Dec 2014

<sup>64</sup> Joanna Moorhead & Joe Sandler Clarke, *Big NGOs prepare to move south, but will it make a difference*, *The Guardian* (retrieved from <https://www.theguardian.com/global-development-professionals-network/2015/nov/16/big-ngos-africa-amnesty-oxfam-actionaid>)

<sup>65</sup> The author conducted the review with the then head of AI USA Section. See *Final Report: Review of Amnesty International’s Research, AI Index: Pol 40/02/93* (the report was an internal report submitted to AIs 21st International Council meeting held in August 1993).

concluded: “There appears to be general agreement that an increased AI presence in regions / countries will improve AIs information about human rights violations and its actions to stop them”.<sup>66</sup> The justification for Amnesty’s move to open offices in the South still remains the same. Amnesty International had to amend some of its founding rules such as ‘Work on Own Country Rule’ (WOOC) under which an AI staff member could not work in his or her own country. Using a different strategy, Human Rights Watch has been placing researchers in the countries it is working on. However, these new arrangements raise the potential for tension and the need to examine how to differentiate between the roles played by national and international NGOs.<sup>67</sup> These changes could even be construed as North-based groups’ imperial expansion. An obvious tension stems from international NGOs having an advantage over national NGOs in garnering a larger share of resources. The disadvantage is also due to the concentration of ‘cultural capital’ (“knowledge and access to global governance institutions”) among NGOs based in the North.<sup>68</sup>

## South-based NGOs and International Forums

The increasing role of South-based NGOs in international forums, particularly in the UN, is based on the acknowledgement that seemingly local issues are actually transnational and, as such, require work at both local and international levels.<sup>69</sup> A common strategy adopted by national groups is to seek intervention from UN forums, which may range from urging the special rapporteur to issue a statement to seeking a resolution from the Human Rights Council. National groups also join hands with international organizations to

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<sup>66</sup> *ibid*

<sup>67</sup> Kenneth Roth, Why we welcome Human Rights Partnerships, *Sur Journal on Human Rights* V. 11 No. 20 Jun/Dec 2014

<sup>68</sup> Dhananjayan Srisikandarajah & Mandeep Tiwana, Towards a Multipolar Civil Society, *Sur Journal on Human Rights* V. 11 No. 20 Jun/Dec 2014 See also Nell and Shapiro cc, So you are thinking of moving South! What do you need to know and ask? Ford Foundation, 2007

<sup>69</sup> Gaston Chillier & Petalla BrandaoTimo, The Global Human Rights Movement in the 21<sup>st</sup> Century: Reflections from the perspective of a national human rights NGO from the South, *Sur Journal on Human Rights* V. 11 No. 20 Jun/Dec 2014.

strengthen existing mechanisms. For example, national groups were involved in a global effort to ensure recognition of justiciability of economic, social and cultural rights. National groups also play a role in introducing new agendas. For example, Latin American groups were instrumental in the adoption of their solution on drug policies and human rights by the Human Rights Council. However, southern NGOs face several constraints to work at the international level, such as local government restrictions, lack of funding, costs and time involved in engaging with UN forums and restrictions imposed on accreditation to access these forums. The other challenge is how to engage at the international level without undermining the work done at the local level. In particular, given the historical relationship between social movements and human rights groups in the South, national groups face the challenge of how to further strengthen and sustain linkages with social movements working on issues with human rights implications even while developing competencies and resources to engage at regional and international levels.

## **Strengthening the Human Rights Movement – Some questions for reflection:**

Moving forward, in a shifting political context the human rights movement faces substantial challenges. Some key questions under debate include:

- How to build unity while maintaining the diversity of the human rights groups?
- What it would take to build North – South solidarity based on mutual trust and respect? How south based groups could provide substantive contextual analysis and not just remain as information providers to the Northern based groups?
- How agenda setting at the international level could become a joint effort between North and South based groups?



- How international organizations could extend their work at the national level without undermining the capacity and legitimacy of local organizations and competing for resources?
- How South based groups could play a role at the international level without losing their effectiveness at the national and local level?
- How human rights groups, whether from North or South, could strengthen their links with social movements and broaden their agenda and outreach?
- How to facilitate closer links and learning between human rights groups and other movements such as the women's movement and environmental justice movement?
- How to shift funders' modalities and develop alternative approaches to philanthropy in order to minimize the existing imbalances in funding and other resources between international and national groups?





IMADR is a global network of minority groups with regional committees and partners in Asia, Europe, North America and Latin America founded in 1988 by marginalised Buraku community in Japan.

IMADR Asia Committee (AC) was established in 2001 to initiate networking among civil society activists and human rights defenders in Sri Lanka to promote broadly objectives of the International Convention on the Elimination of Racial Discrimination that forms the basis of the vision and mission of IMADR. In keeping with its broad objectives the AC is networking with regional organizations and networks addressing issues on multiple forms of discrimination of minority women and women's human rights including violence against women, peace and conflicts in South Asia facilitating lobby, advocacy and training.

SAHR is a democratic regional network with a large membership base of people committed to addressing human rights issues at both national and regional levels. SAHR seeks to contribute to the realisation of South Asian peoples' right to participatory democracy, good governance and justice by strengthening regional response, including regional instruments, monitoring human rights violations, reviewing laws, policies and practices that have an adverse impact on human rights and conducting campaigns and programmes on issues of major concern in the region.

SAHR comprises both institutional and individual members. An elected bureau works as the organisation's executive body while the membership committee oversees enrolment of members. The SAHR Chairperson and Co-Chairperson are Ms Sultana Kamal of Bangladesh and Mr. Mohamed Latheef of the Maldives respectively. The Secretariat is located in Colombo, Sri Lanka.



**International Movement against  
All forms of Discrimination and  
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