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Origin, Concept and Future of Human Rights: Reflections for a New Agenda

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Only Member States Can Make the UN Work
Five Questions for the Human Rights Field



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SUR – HUMAN RIGHTS UNIVERSITY NETWORK

Is a network of academics working together with the mission to strengthen the voice of universities in the South on human rights and social justice, and to create stronger cooperation between them, civil society organizations and the United Nations.

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PRESENTATION



The **Human Rights University Network – Sur** was set up in 2002 with the purpose of bringing together Southern Hemisphere academics active in the field of human rights, and of promoting their cooperation with UN agencies. The network currently has over 130 associates, from 36 countries, including scholars and members of international organizations and UN agencies.

The initiative arose from a series of meetings held between academics and UN officials involved in the field. The major motivation stemmed from the realization that, particularly in the Southern Hemisphere, scholars tended to conduct their work in an isolated fashion, with a very meager interchange among researchers of the countries involved.

Sur aims to operate as a network that will deepen and strengthen bonds between scholars concerned with the subject of human rights, magnifying their voices and participation in UN agencies, international organizations and universities. Within this framework, the network now offers a specific journal, *Sur – International Journal on Human Rights*, with the purpose of consolidating a channel that will publicize and promote groundbreaking research.

The journal, which intends to provide a different view of the issues involved in this debate, takes as references other publications in the field, with which it attempts to establish a permanent and ongoing dialogue. Nevertheless, its singularity is a consequence of its scope, plurality and perspective.

Scope. Language will often represent a major barrier for the establishment of long-lasting cooperative bonds among

researchers in the several countries. Although English has become largely universal, it is not as effective as the various mother tongues of organizations and scholars to conduct discussions about complex subjects. For this reason, *Sur – International Journal on Human Rights* is published in three languages (English, Portuguese and Spanish), and is made fully available on the Internet, at <<http://www.surjournal.org>>. In this manner, it attempts to facilitate access by the largest possible number of people.

Plurality. Another distinguishing feature of the journal concerns the institution responsible for its publication. Being a network, *Sur* can count on the collaboration of researchers from several countries, in a sustained effort to identify issues relevant to different realities, and with a consistent aim at exploring new frontiers in the human rights debate. Thus, instead of mirroring the concerns and perspectives of a closed institution, the journal opens up to a plurality of contexts and visions, which will make themselves present in each one of its issues.

Perspective. With the aim of ensuring internal consistency and adopting a political and not only an academic dimension, the journal intends to privilege discussions whose main focus is centered on the countries of the South. The point here is not to wage any ideological opposition to the scientific production of the North, but rather to insert in the global debate an agenda benchmarked by the demands and priorities identified by the South in the discussion on human rights.

This issue purports to present the journal to its readership and introduce some of the debates roused by the III International Colloquium on Human Rights, held in May 2003, in São Paulo, Brazil.

This publication would not have been made possible without the support and the material contributions of the United Nations Foundation and of the Ford Foundation. Special thanks are due also to our editor, Pedro Paulo Poppovic, for his *pro bono* work in bringing the journal to life.

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ABSTRACT

Why do our societies still accept and even perpetuate human rights violations? The first part of this paper discusses why individuals respect or do not respect other people's rights.

Disrespect for rights emerges, among other factors, from persistent inequality that creates moral exclusion and, consequently, promotes the invisibility and demonization of those who struggle for their rights.

The second part of this paper explores the role of civil society, which, with its variety of interests, provides for a plural discourse, publicizes injustice, protects private space, interacts directly with legal and political systems and drives social innovation. Towards an agenda for strengthening the future human rights discourse, the authors suggest three strategies: improving communication and educational capacity, investing in innovative models, and building and strengthening networks that will ensure an active dialogue among diversities.

REFLECTIONS ON CIVIL SOCIETY AND HUMAN RIGHTS

Oscar Vilhena Vieira and A. Scott DuPree



PART 1

The continuing challenge of human rights

In the last half century, the language of human rights has become commonplace. It became, to the dismay of many, a political tool during the Cold War period and entered into foreign policy as a highly selective weapon to use against one's enemies. Looking on the positive side, the Cold War period played an enormous role in making the human rights language heard around the world. It is doubtful that the United Nations alone could have carried out such an effective dissemination.

The demand for a just international system is, arguably, at a peak today. The global peace protest on February 15, 2003 brought together millions on all continents not just to demonstrate against the then impending war against Iraq but also in support of the United Nations system. A reason for this sense of injustice, among others, is that we have failed to end violations of basic human rights. Social, cultural, civil, economic and political rights are incorporated in international and national legal systems but enjoyed in reality by few.

Why is there this continuing disrespect for rights? And how can we change this?

Who must respect human rights?

The first question may seem obvious but it is worth exploring: who needs to respect human rights? That is, who is responsible for the continuing lack of respect?

One common answer to this question is that the state must respect human rights. This is correct. The worst abuses, omissions and transgressions are the responsibility of the state. The state here is taken as the governing authority (including the police, the courts, the legislature, the public services and foreign policy) arising from some form of social compact. The presence and power of state authority is so prevalent in all spheres of our lives that human rights are often conceived as a set of principles or contracts between the state and those governed by it.

It is argued here, however, that human rights go beyond the state-citizen relationship for three reasons: (1) they require individual, voluntary submission to a correlated obligation to respect the rights of others; (2) they are both positively and negatively affected by non-state authorities; and (3) the shrinking mandates of states around the world further reduce the state's role. In recognition of the broad set of actors who must respect rights, Article 28 of the Universal Declaration of Human Rights explicitly mentions "a social and international order" that implies other actors, including individuals, communities, other non-state authorities, corporations and the international community at large.

First of all, respect for human rights is the responsibility of individuals. Even the greatest abuses of human rights are often, but not always, the fault of an individual. The action of individuals is magnified through access to state, corporate or informal authority. The separation of individuals from the contexts in which they are formed, nurtured and thrive is folly. But clearly individuals must respect rights.

The illusion of the state as the only responsible party for human rights should be further dispelled. Authority arises from any power that one individual or group has over another, not just state authority. Social groups have this authority over their members. The state can restrict or discourage their abuses but it is not immune from the power they exert. Our hypothesis must explain also why these social

forces, both formalized and informal groupings that compose a level of “authority”, do not respect human rights.

The private sector assumes *de facto* control of many areas critical for human rights, and to this extent an exclusive focus on state authority does not explain why people’s rights are not respected. The enormous struggles for the creation of a concept of the social responsibility of the corporate sector in the last decades should serve to illustrate the need for a human rights discussion that includes and transcends the state/citizen duality. The Global Compact, promoted by the UN, is one example of such a discussion.

Returning to our question, we seek a reason for why we (keeping in mind that the “we” here includes individuals, state, private sector and social groups) choose to respect or not respect human rights. We will start by examining reasons for people to respect human rights.

Why do people respect human rights?

Three reasons to respect rights are posited for the purpose of this paper: cognitive, instrumental and moral reasons.

Cognitive reasons. We need to know what rights are. Information is critical for making choices. It comes to us through diverse cultural, media and educational sources. Information about human rights must link individuals with the universalized principles and integrate human rights, or be clear where it does not, within contextually developed values.

This is not a trivial matter. In many societies and languages, the words and terms of the rights vocabulary either do not exist or are being invented. The concept that people are endowed with rights is often contrary to day-to-day experience, existing privileges, religious and hierarchical entitlements and cultural systems. This is true not just of extreme practices such as female genital mutilation or caste systems, but also of such perceived rights in various societies to bear arms, punish with the death penalty or use children as soldiers.

To the extent that human rights are not respected because of a lack of understanding, it is critical to invest in education. But cognition is not only a result of formal education. Dialogue

and active participation in the evolution of a rights language is key to a supportive cognitive logic. Education, in this sense, creates a common language. It does not force people to follow the rules of human rights but enables them to make informed choices. Cognitive reason, thus, is a necessary but non-compelling force in the logic of human rights. Suffice it to say that some of the greatest violations of human rights in modern history have taken place in the best educated societies.

Instrumental reason. People respect rights to attain rewards or escape punishment. Taking a narrow instrumental view, respect for rights is reinforced if disrespecting them is clearly damaging to one's image, physical well-being or integrity and respecting them is likewise beneficial. To have an instrumental value, respecting rights must make one better off. Through this instrumental reasoning, called utilitarianism in the tradition of Bentham, individuals seek to maximize social and economic utility. Three instrumental reasons bear discussion – state coercion, peer pressure and reciprocity.

1. To the extent that people fear and expect punishment or reward from the state they will respect a rule of law incorporating human rights. This could be called the hobbesian argument. This could be called the hobbesian argument. State coercion can be an effective instrument for human rights in some circumstances and is also a necessary condition because there will always exist some degree of antisocial behavior that cannot be otherwise controlled. But people also respect rights in the absence of coercion. It would be untenable for any society to bear the cost of the level of state coercion that would be needed to ensure compliance with all legal rights. Imagine, for instance, if the threat of a fine or worse were the only reason people do not run red lights. Much more compelling is the instinct to avoid an accident coupled with understanding of why following the rule will help us to do that.

The spectrum of punishment or reward that states can use as instruments has been reduced over the last decades. States maintain a monopoly over violence (war) and punishment (legal systems) but their action has been visibly reduced in the area of social services, most particularly employment, education, health, social security and other areas connected with

ponderously under-respected social and economic rights.

Likewise, while a part of the solution, we should not forget that states have been the worst abusers of human rights. We must both strengthen restricted and positive state coercion while seeking accountability and reasonable limits on state authority.

2. Instrumental reasons extend beyond legal frameworks. People are part of groups and communities that shape and determine their actions. A second instrumental reason for respecting human rights is an expectation of retaliation or benefit from a community to which one belongs. For obvious reasons, peer pressure is a complex and indirect reason for human rights. Individuals do not belong to only one group. They are influenced by many – very few of which have anything to do with rights. But the closeness and participation of individuals in groups suggests that peer pressure has considerable influence.

3. We impart to others the rights that we wish for them to impart to us. Reciprocity is theoretically friendly to difference. It gives us a reason to expect that necessarily different people should be treated as we would like to be treated. We listen, thus, because we want to be heard and we respect property because we want to hold on to our own property. Reciprocity does not assert any transcendental quality of good and evil. It does not imply that murder, torture, starvation, illiteracy and preventable illness are bad in themselves. What it does assert is that I cannot accept these things for others unless I accept them also for myself. It neither affirms nor denies the existence of a deeper moral framework. Beyond this, it has little to say about situations of unequal worth. Reciprocity as a reason to respect human rights is unstable. Starting from a structure of mutual advantage, individuals have an incentive to cheat, that is “what is in my interest is that everybody else cooperates and I defect.” In other words, that everybody else adheres to rules that are mutually advantageous if generally adhered to and I break them whenever it is to my advantage to do so.¹

Moral reasons. People respect rights because they believe humans are endowed with equal moral value. Rights make no sense unless we accept a moral, fundamental human

1. See Brian Barry, *Justice as Impartiality*, Oxford, 1999, p. 51, for more discussion of this aspect of reciprocity.

dignity and that every human deserves to be treated as an end and not a means. This is the Kantian argument to respect rights. Morality is easy to grasp but is resistant to reductionism. A moral reason to respect rights can be framed from a more procedural perspective; we have to respect other people's rights because, by democratic consensus, we agree that humans are endowed with them, regardless of status, social condition, race or whatever other differences exist.

The point is that human rights must have a moral authority as minimalist, operating principles – not as a utopian vision. As we have witnessed in the last decade in Rwanda, Kosovo, Colombia and Myanmar, to take only a few examples, we are still far from realizing these protections. Without such, millions of people will continue to fall victim to unbridled power and ambition.

In summary, we propose key elements of explaining respect for rights include: knowing what they are and reflecting upon them; symmetry and consonance with instrumental logic; and the belief in the equal, moral dignity of all humans. Practically, these three conditions imply that human rights norms themselves are dynamic, and arise out of social processes. Jürgen Habermas, in his development of a discourse ethics, theorizes as to how such a process looks: “For a norm to be valid, the consequences and side effects that its general observance can be expected to have for the satisfaction of the particular interests of each person affected must be such that all those who affected can accept them freely”.² The validation of norms from diverse perspectives ensures that the cognitive, instrumental and moral authority of a respect for rights is implanted deeply within the grain of society. Thus, we see ongoing social discourse as the process that creates the logical conditions for the respect of human rights.

2. Jürgen Habermas, *Moral Consciousness and Communicative Action*, p. 120. Massachusetts Institute of Technology, 1990.

Why do people not respect other people's rights?

One of the most pressing issues for those who would promote human rights today is social and economic inequality. Actual inequality is staggering and growing. As an illustration, we consider economic inequality measured by access to financial resources (we could just as well discuss persistent inequalities arising from religious, social, class, gender, race or sexual

preferences). About one in five people in the world live on less than one dollar a day. In countries like Brazil, the richest one percent controls the same amount of resources as the poorest 50 percent. As the Human Development Reports published by the United Nations Development Programme show, lack of resources means also lack of proper education, health conditions, housing, water and other sanitary conditions. The absence of these basic conditions for the majority creates a situation of disparity and inferiority between those with access and those without. The same circumstances can be found in both central and peripheral nations.

Both economic and social inequality trigger moral exclusion. They reduce the perception of equal worth of every human being, destroying the conditions for the respect of human rights. In the 2002 Brazilian presidential campaign, a key candidate declared, he would “defend human rights, but would also defend right (law-abiding) human beings.”³ This is to say that people can be less than human if they do not fit into the category of valuable people. It is still all too easy to secure our own good by focusing on an easy enemy. Rights under such circumstances can often appear a farce, an issue of power for those who are among the lucky few negotiating the terms for those excluded. Moral exclusion manifests itself through two distinct characteristics:

Invisibility of those who are devalued. Their actual pain and suffering is not shared by those who are valued. While they exist as a collective force (economically as a means to production, politically as a subject of governance) they have little voice and few direct means to move or constrain those who are on top. Their opaque and silent submission to highly hierarchical realities makes them invisible. This invisibility is strengthened over time by a cultural reinforcement that is often accepted and even deepened with the collusion of members of the invisible groups. Negative perceptions of capacity and inequality become the *statu quo* and are, thus, imbedded in all levels of action and impervious to change.

Demonization of those who are being devalued and who would challenge the *statu quo*. The sheer force and numbers of devalued populations – whether seeking religious or race

3. “... defender direitos humanos, mas também os seres humanos ‘direitos’”, José Serra, as reported in *Folha de S. Paulo*, September 17, 2002.

equality; trying to attain goods, such as land, employment or health services; or behaving in an anti-social manner – are a direct threat to wealthier or better endowed elements of society with a stake in maintaining or expanding existing privileges. In this way, the efforts of the devalued appear as the problem that needs to be eliminated. Violence is often the instrument used to deal with those who challenge injustice.

Policies, social practices and even laws that deny equal worth to those in vulnerable groups are still commonplace. In order to make them viable, they are always justified in terms of a social priority or as economic imperatives. The fear engendered in the United States, for example, after the September 11, 2001 attack on the World Trade Center allowed the US government to ignore the rights of Afghani soldiers captured in the subsequent retributive war against that country and to wage a global campaign against demonized enemies whether or not it could be justified by international law. In the developing world, minimum social rights are being disregarded in the name of orthodox economic principles. To some extent, fear for national and international security trumps human rights. But a strong social base in which human rights are understood, consistent with systems of reward and benefit and part of the moral language, will provide minimalist limits.

The consequences of this process of devaluation of humanity are very negative for the realization of human rights – and are at least a partial answer to why human rights are not respected in the world today. Those on the bottom of the social pyramid, whose rights should be protected, are treated as objects or enemies. At the same time, the impunity and privilege of those on the top is reinforced. The problem is the need to develop the logic of human rights – call it an ethical cosmopolitanism – that would convince individuals, groups and societies to treat every individual as an end of equal intrinsic worth. This would be a cosmopolitanism in which human rights are well integrated into curricula (cognitive reason), promoted through enforcement and reward systems (instrumental reason) and made obvious through a shared norm of the dignity of humanity (moral reason).

Following on the Habermas quote above, we emphasize the notion that the realization of human rights has both moral

and political dynamics realized through social discourse. This discourse ethics necessitates actual dialogue and structures for enabling ongoing exchange in order for a norm to be seen from all perspectives. It requires symmetry, impartiality and openness that must be driven by voluntary association, which maximizes the choice and the full participation of the individual. We turn to civil society as the natural environment in which such diverse perspectives and the dialogue about norms is an ongoing process. The logic of civil society is the action of individuals and groups to express and realize the valid and diverse desires and needs of society. The next sections of this paper will reflect on the role of civil society in constructing a global ethical cosmopolitanism for the realization of human rights.

PART 2

Civil society and human rights

What do we understand by civil society and why do we think a strong civil society is important for ensuring respect of human rights? The expression “civil society” has been appropriated by different and sometimes opposite intellectual and political traditions.

From a normative perspective, we define civil society as the sphere of life that has not been colonized by the **instrumental ethos** of the state and the market. In the machiavellian tradition, the struggle for power between and within states is based on a strategic way of acting, where the legitimacy of the means is measured by the results. This instrumental ethos collides with the morality of rights in which people are an end in themselves and cannot morally be used for the achievement of other objectives. In the market, this instrumental ethos also prevails since the logic of the economy is the maximization of benefits (economic benefits) with minimal resources, where people (workers) are a means for producing profits. In a world dominated by the market and states, the ongoing social, political and economic discourse that takes place within civil society is critical for creating and strengthening the conditions necessary for the respect of human rights. This is not to diminish the strategic importance of developing good, democratic governance and

corporate social responsibility. But more responsive human rights models will only emerge through the catalyst of a healthy civil society.

The definition of civil society proposed by Jan Aart Scholte is a useful starting point: “Civil society is the political space where voluntary associations explicitly seek to shape the rules (in terms of specific policies, wider norms and deeper social structures) that govern one or the other aspect of social life”.⁴

Organizations and associations of civil society assume different forms with one common feature: they amplify the voices of particular interests and are natural advocates for devalued or invisible groups. Jean Cohen and Andrew Arato suggest four features of civil society that we take as a framework for understanding the breadth of potential impact of the human rights discourse that takes place in civil society: publicity (institutions of culture and communication), plurality (differentiation of interest and form), privacy (an environment supportive to the development and expression of the individual) and legality (the structure of basic laws and rights that enable publicity, plurality and privacy).⁵

Associations seeking human rights often emerged as a response to governmental abuse, generalized or specific restrictions on human rights or other adverse circumstances. The movement includes a range of organizations that formulate a discourse of emancipation and social justice in terms of rights. Human rights-oriented associations have made a strategic decision to promote human rights discourse as opposed to other political forms of action. The divisions within these associations reflect the development of these concepts in United Nations treaties along these divisions: civil and political rights (participation in government, protection of individual security, association and expression, access to justice), social and economic rights (income, employment, education and training, health services, access to information) and cultural rights.

How is civil society a critical human rights actor?

Progress in human rights requires the establishment of conditions conducive to their respect. These conditions create norms that take on cognitive, instrumental and moral aspects, which arise from an ongoing dialogue that engages

4. Jan Aart Scholte, *Civil Society and Democracy in Global Governance*. CSGR Working Paper n. 65/01, Centre for the Study of Globalization and Regionalization. University of Warwick, January 2001.

5. Jean L. Cohen and Andrew Arato. *Civil Society and Political Theory*, p. 347. Massachusetts Institute of Technology, 1994.

diverse perspectives and constantly recreates these norms as dynamic and universal principles. If one is seeking justice, it is impossible to skip this process, because the dialogue itself is a component of justice. The realization of rights is a process and cannot be effected solely through incorporation of rights in national and international legal structures. Civil society creates and recreates the conditions for validating and realizing human rights. We emphasize five aspects of this action: (1) providing a sphere of action for all social groups; (2) making injustice public; (3) protecting private spaces from state and market incursion; (4) intervening and interacting directly with legal and political systems; and (5) driving social innovation.

Providing a discourse of plurality. Human rights discourse must be practical, responsive and accessible to a plurality of perspectives. This discourse needs to engage devalued and invisible groups as proponents for the change that they perceive as necessary to justice. Obviously, civil society is the home to conflicting claims for justice and one aspect of the dialogue is a negotiation between various rights and in the distribution of resources invested in solutions. For example, both personal security and fair treatment under the law can be seen as keys to provide justice to an individual. The individual will view these rights from a different perspective depending on whether he or she is living in a state of insecurity or is directly affected by a legal action. The human rights discourse is not a mechanism for the resolution of these issues; it is a space within which they can be resolved through the interaction and dialogue of all those affected by a given problem.

Making injustice public. Civil society groups are good watchdogs for injustice because they give voice to perspectives and vantage points that are otherwise unheard. For this to be true, association and dialogue must be open and with minimal intervention. In this fashion, civil society assists in the realization of human rights by bringing injustice into the public sphere. A problem can arise when more influential and powerful groups within civil society itself drown out the voices of the less powerful. This can be partly counteracted by the associative principle – individuals

associate on various levels and with various interests based on their own social and private needs for expression – and because the strength of civil society arises directly from the co-existence of diverse perspectives. In this way, diverse groups act on human rights by publicizing and bringing to light injustice and advocating or exerting pressure for change. Groups can exert pressure by producing and providing information, educating the public and others, proposing public policies and taking legal action.

Protecting private space. Civil society defines a space for individual expression and development that is separate from the citizen or consumer logic of the state and market. Individuality is expressed through association or non-participation and is, thus, largely elective. In terms of rights, this view of the individual is critical because it conceives a person as the end in him/herself. Human rights groups protect this space by seeking the positivist conditions necessary to enable individual expression and reinforcing the limits of state and market action.

Intervening and interacting directly with legal and political systems. To some extent, in every country and on the international level, law and public policy conducive to the realization of human rights have been promulgated. The laws and norms embodied in these systems are only effective to the extent that they are used, refined, supported, and thereby validated by civil society. Human rights groups have participated directly in this process by bringing legal cases before the courts, by providing information and data critical to the refinement of public policy and by proposing new mechanisms or the eradication of ineffective ones, with a view to the creation of a supportive framework for human rights. This intervention should be strategic, with a focus on paradigmatic change and pressure on government policy to be more consistent with the ongoing human rights discourse.

Driving social innovation. Social innovation is a proactive human rights approach that must take place on manageable levels, where dialogue, feedback and results are open and accountable to diverse perspectives. Innovation happens

through the creation of models on smaller scales that show the possibility of solutions to intractable issues of justice on larger scales. Social innovation in civil society emerges as a direct response to localized injustices. Innovators are deeply aware and involved with those affected by this injustice and, working with them, try out and invent approaches for their resolution. This happened in South Africa, for example, with the Social Change Assistance Trust, which created and supported community legal assistance structures during the apartheid era that demonstrated inexpensive, minimal infrastructure could be provided in rural areas to make justice accessible.⁶ It is happening in Brazil today, with various social groups seeking more effective ways to use the court system and the Constitution for the redress of long-standing injustice. The Pro Bono Institute⁷ that provides high quality volunteer lawyers to social groups is one example in which the authors are involved.

In short, civil society is a key player in creating the conditions for the realization of human rights. It promotes human rights discourse that validates rights norms, particularly by including devalued and invisible groups. The forms of this discourse are also diverse, and give rise to diverse strategies and means through which the logics of human rights can be realized in society. This brief discussion of the role of civil society leaves one, however, with an obvious question: if civil society is a powerful and important actor in the realization of human rights, what is keeping it from being effective?

What prevents civil society from achieving a stronger impact in human rights?

Flexibility, diversity and volunteerism, some of the strengths of civil society, are also its weakness. Civil society, neither protected nor powerful in relation to the state and market, is largely divided and lacks financial and other resources. Several of these characteristics are reflected in the challenges of the human rights movement today. This paper discusses three: fragmentation (both thematic and geographical), neutralization of discourse and resource dependency that will be sketched out below:

6. For information on the SCAT model, see the *Sourcebook on Foundation Building*, Synergos Institute, 2000 or <www.scat.org.za>. Last access on April 19, 2004.

7. For more information about the Pro Bono Institute (São Paulo, Brazil), visit <<http://www.institutoprobono.org.br>>. Last access on May 14, 2004.

Fragmentation

Fragmentation of the rights movement has created a competition for space, voice and resources that breaks the solidarity around human rights. In order to become more effective, human rights organizations must seek ways to strengthen joint action and discourse among diverse actors.

Human rights groups are working on a variety of themes and issues; including torture, police abuse, HIV/Aids, housing, social and economic rights, discrimination, and even such themes as environmental protection and development. The thematic fragmentation has both a positive and a very negative aspect. The **positive** aspect is that the diversity of action and involvement reflects the diversity of interests within a social discourse leading to a relevant framework of human rights. Their work covers many areas of importance to devalued populations, giving voice to invisible groups and bringing to light those who are forgotten or ignored. The **negative** aspects are several: (1) the diversity of interest can create a competition for public attention and resources needed in addressing particular rights issues, thereby diminishing the sense of a shared human rights cause; and (2) associated to the first is the channeling of social energy in different directions, impoverishing social discourse.

Another division that must be dealt with runs South/North. It is less related to geography than to a conceptual “peripheral” access to resources of the majority of the world’s population. Some international agreements, such as those on human rights, have counted on little participation from peripheral populations in the past (it should be noted that UN conferences [e.g.: Rio de Janeiro 1992, Vienna 1993, Beijing 1995 and Durban 2001], have marked a welcome increase in the participation of the South). Southern actors need to become stronger proponents within the international human rights movement. Recognizing that the strongest organizations naturally grew up in the shadow of international government agencies and the resources and power of the North, we must bring human rights home. The South must participate to a greater extent on the international level of human rights action because it is in great need of human rights protections and approaches, and its populations are those who are least served within the existing rights legal infrastructure.

An aspect of the South/North divide is the need to reinforce the credibility of local human rights organizations in the South with their own governments and societies. They often work in the shadow of or as subsidiaries to Northern organization, relying on the advocacy of organizations based in Washington, New York, London, Paris and Geneva. Secrecy, of course, is a survival strategy in countries that are actively repressing human rights and human rights advocates. But it is not a good strategy once minimal protections have been achieved because human rights must be made public and visible. Human rights organizations in the South must improve their reach and credibility within their own contexts and in the international arena.

Neutralization of the Discourse

Human rights gained momentum in struggles against authoritarian regimes in Latin America, Europe, Africa and Asia. In the North, human rights are an important subtext at this exact moment. Human rights organizations need to understand and act in the political space.

Once crises are over, human rights organizations often recede into the background. Some of the most skilled leaders move into government; others, having accomplished what they set out to do, abandon the social sphere altogether. But after the establishment of democratic structures and the rule of law, the human rights movement faces its most onerous challenges in translating rights into reality. Here, in the end of a repressive period, we confuse the struggle for rights with a revolution that can be won with a constitutional document, a voting booth and a free press. There is more need than ever for specific policies, wider norms and deeper social structures to realize human rights. These must be tested and must grow out of the communities where we live in partnership with government and with the private sector.

That is why it is a mistake for human rights organizations to seek political neutrality (to the extent that this is possible) to make their discourse more acceptable and credible to the public and the state. While the political neutralization of discourse avoids conflict, it also avoids critical debate.

Of course, human rights organizations should avoid partisan struggles but they also must understand them. Removal from

the political sphere de-legitimizes the struggle of those who are seeking change through political means. In this way, social justice movements in the Chiapas in Mexico, the landless movement in Brazil, the HIV/Aids movement in South Africa and other social “uprisings” are approached cautiously by some human rights organizations. Human rights must be relevant to the real demands of the disenfranchised. The realization of rights springs from deep, gradual and ongoing processes of social negotiation. The professionalization of human rights – acquiring skills, capacity and institutional support – is an important activity – but it should be complemented by the mainstreaming of human rights in the political sphere and stronger linkages with social justice movements.

Resource Dependency and Funder-Oriented Action

The needs for financial and other resources grow as organizations start to act in new areas, as their workforce transforms from voluntary activists to professional, highly trained advocates, and as the challenges require longer term approaches. Nevertheless, only a handful of foundations and other donors are investing in human rights, and among this group, fewer are willing to invest in more heterodox, smaller, transient organizations.

Resources are being raised from governments and government groupings (North American and European governments and to some extent other regional groupings and some governments in the global south), foundations set up by the private sector, family foundations and individuals. The source of the funding has a significant impact on the conceptualization of priorities and the definition of human rights themselves. For example, US government funding has traditionally emphasized civil and political rights over social and economic rights, reflecting that country’s vision on human rights.⁸

The competition for these scarce resources creates a perverse cycle where human rights organizations adapt their initiatives and language to funding priorities. Resources are channeled to those organizations that are viewed as reliable in terms of the scope of a funding mandate. But the problem with resources is not that funding organizations have priorities, it is the over-reliance on few sources of funding.

8. See *Supporting Human Rights and Democracy: the US Record 2002 – 2003* on the US State Department website for more information: <<http://www.state.gov/g/drl/rls/shrd/2002/>>. Last access on April 19, 2004.

Human rights organizations are tempted to monopolize the discourse for their own credibility and survival. One way to reverse this is for funders to adopt strategies to catalyze open dialogue and links between human rights movements of various sizes, ages and geographic scope and to assist in developing more sustainable funding.

But beyond this, the human rights movement must expand the full spectrum of its resources: contributed ideas, expertise, knowledge, time, space and commitment. Strategic financial resources can leverage these contributions but not replace them.

How can human rights movements strengthen their action?

The future human rights movement should strategically focus on reinforcing and deepening the validation of norms that lead to creating a logic for the respect of human rights. Its action, as discussed above, must promote this infusion through participation of a plurality of perspectives, publicity of injustice, engagement with the state justice infrastructure, protecting private space and promoting social innovation. Fragmentation, neutralization of the discourse and resource dependency are impediments standing in the way of progress in each of these areas. In reflecting on the way forward, we believe that there are several important strategies that will pay off with greater impact and results.

Improve our capacity for communication and education

Neither modern communications nor educational systems are today focused on promoting social discourse or the diffusion of human rights information. Human rights organizations need to improve their capacity to make use of these systems as they exist, to broaden the reach of social dialogue.

This means continuing and improving educational initiatives that introduce people to the language of human rights, but also pioneering proactive dialogues with governments, the private sector and other social movements. New forms of accessible media – manuals, handbooks, school curricula, music and art – in which the human rights movement must become fluent have opened up. Simple exposure to human rights, the potential benefits and the worth of humanity is a critical message that needs to enter into the

variety of educational experience designed to reach a bigger audience.

In addition to the promotion of principles and language into accessible forms, it must be realized that human rights is not a closed body of knowledge. By making use of existing communication and education systems, we must seek out ways to build ongoing feedback mechanisms and continuing dialogue.

Invest in socially innovative models

Human rights organizations are becoming increasingly skilled at publicizing injustice, as they should be. The negative story of human rights, however, needs to be balanced with the existence of viable alternatives. We believe that this calls for a proactive approach. On civil and political rights, for example, models need to be created to show how judicial systems can be opened for better access, how criminal offenders can be fairly treated, how more citizens can participate in government, how to redress discriminatory practices. In the area of economic and social rights, in addition to continued pressure for the government and market to take action toward their realization, we also need models to show how we can attain them. The innovation of approaches to human rights on a small scale will pay off in demonstrating that better large-scale systems are possible and will provide human rights organizations with a much stronger position.

Build human rights networks that heal fragmentation and strengthen resource use

Through their identification with and participation in networks, human rights organizations exchange information, learn from the experience of others, stimulate international solidarity and create an environment for dialogue that favors equal protagonism in the universal discourse of human rights. By definition, networks are horizontal. They facilitate but do not monopolize discourse, improve the capacity of individual organizations to use resources effectively and provide opportunity to less visible groups. Many, many networks exist today, ranging from those with formal membership to those that are so loosely constructed it is

difficult to give them a name. What we mean by networking is to take the actuality of the social process as critical for the realization of human rights. This engagement has to happen across levels of society with individuals, community groups, universities, government agencies and corporations; it also means active and constant dialogue with a variety of interests and not just those that agree with us.

A concluding reflection

This paper set out to explore why people do not respect rights and to provide some practical ideas about changing this situation. Towards this, we have suggested that the logical framework for rights is in need of development and that a promising path lies in understanding respect for human rights as something that emerges from a process that must be continually realized through social discourse. This has implications for the human rights movement today. While it has achieved some successes, particularly in the areas of advocacy and education, it could be much more effective as a convener of under-represented groups and perspectives and in fostering space for the strengthening of human rights norms.

These arguments do not provide any single easy answer. They suggest some reason to be optimistic, however, if the awakening consciousness of civil society in many parts of the world can lead to greater respect for human rights. Putting faith in a process of social discourse may be insufficient for those whose rights are violated today but without this process their situations will remain invisible and the universal moral dignity underlying their rights will not overcome the stage of a theoretical construct. Optimism is warranted because the social processes discussed in this paper are attainable and in some cases under way.

Sur – Human Rights University Network was created in 2002 with the mission of establishing closer links among human rights academics and of promoting greater cooperation between them and the United Nations. The Network has now over 130 associates from 36 countries, including professors, members of international organizations and UN officials.

Sur aims at strengthening and deepening collaboration among academics in human rights, increasing their participation and voice before UN agencies, international organizations and universities. In this context, the Network has created *Sur – International Journal on Human Rights*, with the objective of consolidating a channel of communication and promotion of innovative research. The Journal intends to add another perspective to this debate that considers the singularity of Southern Hemisphere countries.

Sur – International Journal on Human Rights is a biannual academic publication, edited in English, Portuguese and Spanish, and also available in electronic format at <<http://www.surjournal.org>>.