

Ethics in Action

THE ETHICAL CHALLENGES OF
INTERNATIONAL HUMAN RIGHTS
NONGOVERNMENTAL ORGANIZATIONS

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Project participants were asked to think about how INGOs deal with the ethical challenges they experience during the course of their work, how they ought to deal with those challenges and then to draw implications for human rights INGO work at the United Nations. We organized three workshops that dealt with those respective themes. The first workshop was held at the Carnegie Council on Ethics and International Affairs in New York (February 2002) and consisted of papers by high-level human rights INGO practitioners, with comments by theorists of human rights. The second, at the City University of Hong Kong (October 2003), consisted of papers by human rights theorists, with comments by practitioners. The third, at the United Nations University (UNU) in New York (August 2005), was a brainstorming session with human rights practitioners and theorists. We are indebted to the host organizations in New York and Hong Kong.

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4 Human Rights INGOs and the North–South Gap: The Challenge of Normative and Empirical Learning

Bonny Ibhawoh

The role of human rights International Nongovernmental Organizations (INGOs)¹ has become increasingly important in an age of globalization in which they are seen as heralding a global civil society and a new world order based on a universal human rights. INGOs have been at the forefront of the “human rights revolution” – a revolution of norms and values that has redefined our understanding of ethics and justice.² They have shaped the course of the human rights movement not only at the international level but also at regional and national levels. INGO involvements in global transnational networking, particularly in the 1980s and 1990s, have been crucial to the development of the universal human rights corpus as well as its enforcement and monitoring mechanisms.³ One reason for the growing influence of INGOs within the human rights movement has been their ability to build transnational coalitions and mobilize global action on key human rights issues. This is evident in the role of INGOs in such human rights milestones as the 1992 Second World Conference on Human Rights in Vienna, the establishment of a United Nations (UN) High Commission for Human Rights, and the establishment of the International Criminal Court. If

¹ Human Rights INGOs as used here refers to organizations that have explicit mandates and agendas to promote human rights internationally. This includes organizations such as Amnesty International, Human Rights Watch, the International Human Rights Law Group, the International Commission of Jurists, and La Fédération internationale des ligues des droits de l’Homme (FIDH), among others.

² Michael Ignatieff, *Human Rights as Politics and Idolatry* (Princeton, NJ: Princeton University Press, 2001).

³ Several studies have documented the role of NGOs in making human rights a major force in the agenda of international politics and diplomacy. See William Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine* (New York: St. Martin Press, 1998); Claude E. Welch, *NGOs and Human Rights: Promise and Performance* (Philadelphia: University of Pennsylvania Press, 2001); and Ian Gary, *Human Rights in Africa: The Role of Donors and International Human Rights NGOs: A Survey* (New York: Ford Foundation, 1998).

the UN midwifed the postwar universal human rights movement, INGOs have weaned and nurtured it.

Despite these successes, however, the work of human rights INGOs (most of which are based in the West) is increasingly underscored by operational challenges and questions over their legitimacy in the global South where they do much of their work. Old arguments for cultural pluralism in the understanding and promotion of human rights have been reinforced by new questions over the relevance of INGO mandates and programs in non-Western societies. Although some of these issues are linked to the conflict between the “universal” human rights standards and local cultural norms, others stem from broader issues of political ideology, globalization, and the widening gap between the North and South, the rich and poor, the developed and less developed. The critique of INGO work in the South is normative and empirical, challenging both the moral priorities of these organizations and their modes of operation.

At a normative level, questions have been raised about the relevance of Western-oriented or “West-centric” human rights agendas and programs that INGOs promote to the peculiar sociocultural conditions in developing societies. INGOs have been accused of adopting homogenizing approaches to human rights that draw little from non-Western realities and yet focus disproportionately on Third World countries. Furthermore, the charge has been repeatedly made that despite its façade of neutrality, the human rights movement is neither nonideological nor postideological. Human rights INGOs as key players within the movement have since the Cold War era actively promoted a parochial Western liberal agenda – a deeply political agenda alongside the mantra of universal morality. One scholar recently argued that the human rights movement – and specifically the activities of human rights INGOs in the Third World – falls into the historical continuum of the Eurocentric colonial project that seeks to supplant all other traditions and casts actors into superior and subordinate positions.⁴ Although few go this far, many human rights scholars and activists have raised normative questions about the moral priorities of human rights INGOs.

At a more empirical level, there is concern that the methodologies that INGOs adopt for doing their work draw too little from non-Western, Third World experiences and as such are not always well suited for the peculiar circumstances in these societies. INGOs have been unable or unwilling to go beyond their Western liberal roots to draw on eclectic Third World perspectives in formulating their agendas and methodologies. How do human rights INGOs deal with these complex questions of political bias, cultural engagement, and legitimacy?

There has been a tendency to cast these issues in the rather simplistic terms of the conflict between human rights principles and local cultural norms or, at an academic level, the tension between universalism versus cultural relativism. But

⁴ Makau Mutua, *Human Rights: A Political and Cultural Critique* (Philadelphia: University of Pennsylvania Press, 2002).

the issues here are more complex. It is no longer enough to simply dismiss challenges to the work of INGOs in the South as opportunistic arguments by rulers and elites given their growing resonance beyond the narrow confines of privileged discourse. North–South tensions in the human rights movement go beyond the universalism-cultural relativism debate or manipulations by disingenuous elites in the South. Although elitist concerns have prompted some of the challenges to the universalist agendas of human rights INGOs, there are other voices of dissent that question the principles and methods of INGOs in the South. These are not the familiar cynical blanket criticisms of INGOs and their work in the South. Rather, these critics proceed from the premise that INGOs play an important role within a useful, even if flawed, human rights movement. The main concern is the gap between INGO idealism and the conditions they confront in the South. This chapter examines some of the normative and empirical challenges to the work of human rights INGOs that threaten to undermine their legitimacy in the global South. It argues the need for more constructive approaches to understanding and addressing them.

I. CONFRONTING THE GAP

Recent studies indicate that the human rights movement is divided in important ways along geographical lines.⁵ Although united by the common principal goal of promoting human rights, the global human rights movement has been characterized by tensions between the large Northern-based INGOs and local NGOs in the South with national or regional mandates. On one hand, there is a level of cooperation and networking between NGOs in the North and South that is surprising for groups that are so geographically and culturally dispersed.⁶ One example of this is the concerted international campaign against apartheid in South Africa in the 1980s, which has been described as one of “the two great human rights milestones of the latter part of the twentieth century.”⁷ The anti-apartheid milestone was partly the result of collaboration between human rights INGOs, the nascent NGO communities in the South, and political groups in South Africa. Amnesty International (AI) in particular played an important role in the anti-apartheid campaign and mobilizing international support for the domestic NGO sector.⁸

⁵ Jackie Smith and Ron Pagnucco, “Globalizing Human Rights: The Work of Transnational Human Rights NGOs in the 1990s,” *Human Rights Quarterly* 20, no. 2 (1998), 411.

⁶ *Ibid.* at 406.

⁷ The other is the collapse of the Soviet Union. William Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine* (New York: St. Martin Press, 1998), 180.

⁸ Many of the local NGOs in South Africa in the apartheid era were not strictly human rights organizations. They were political movements, church groups and labour unions. However, they drew extensively from their universal human rights discourse for their advocacy work and human rights concerns were central to their anti-apartheid message.

On the other hand, however, the relationship between Northern and Southern human rights NGOs is increasingly underscored by tensions and a gulf that threatens to undermine past gains. These tensions arise more from the socioeconomic realities of the North and South gap than from differences in the agendas of Northern and Southern INGOs. Most human rights INGOs, like other transnational organizations, are based in Western Europe and North America. Although a few are based in Asia, the least represented regions among international human rights organizations according to a 1999 study are Africa, the Middle East, and Eastern Europe.⁹ The common explanation for this is that given the global scope of their operations, INGOs need to be located in places where they have easy access to the required manpower, communication facilities, and other support structures. Besides, INGOs have made the valid argument that their work is better done in liberal democratic settings where they are free from state-imposed restrictions. States in the North are more likely to offer these conditions.

This geographic imbalance is one aspect of the operation of human rights INGOs that has raised concerns about their roles in Third World countries. Another is the imbalance in the organizational structures of most human rights INGOs. Although many INGOs have moved toward diversifying their organization, the norm had been leadership structures dominated by Westerners. For these and other reasons that I examine later, human rights INGOs have sometimes been accused of pushing a predominantly Western agenda. The geographic imbalance in the structure and operations of INGOs is often the first shot taken by those who challenge their legitimacy in the South. Governments have sought to ward off INGO's criticism of their human rights records on the grounds that these "Western" organizations, even when they employ local staff, are not sufficiently engaged with the local community to understand or make judgments about its human rights conditions.

Arguments like these, important as they are, do not pose a serious challenge to the legitimacy of the work of INGOs in the South. Although based in the North, many INGOs have developed strong representations and networks in the South that keep them well connected with local situations. It is difficult to accept the argument that NGOs can only be effective when they limit their activities to the communities where they are based. In a perfect world, INGOs will be based wherever they do most of their work, but ours is not a perfect world. At a practical level, the reality of global economic inequalities makes it necessary for INGOs to operate from bases in the North where, like other transnational actors, they can benefit from the economic and technological advantages that make it easier for them to pursue their global mandates.

Yet besides this, there is a prevailing assumption that INGOs would garner more acceptance and support in the South if they had stronger representation there. This is not always true. In 2000, I was part of a team that conducted a series

⁹ Smith and Pagnucco, "Globalizing Human Rights," 387.

of interviews with officials of human rights NGOs across West Africa as part of an evaluative study of the human rights NGO community in Africa commissioned by the Danish Institute for Human Rights. What we quickly found was that contrary to our assumptions, local activists did not always welcome more INGO presence in their communities. They preferred an arrangement in which INGOs keep their focus global and collaborated with them on domestic projects. This was particularly true of postauthoritarian states such as South Africa, Malawi, and Nigeria where the influx of better-funded INGOs in the late 1990s was seen as undermining local human rights NGOs and giving the local human rights community a foreign character. In some cases, these INGOs were even accused of hampering the capacity-building efforts of local NGOs.¹⁰

Thus, although the concern about geographic or regional imbalance is a legitimate one, it may not be as problematic for the work of human rights INGOs as some have suggested. The imbalance borders of broader issues of global socioeconomic inequities that are not peculiar to INGO operations. Within Southern human rights communities, there are many who favor some form of human rights division of labor in which the larger and more established INGOs work with local NGOs to pursue domestic objectives. Many INGOs have also found that their programs and campaigns in the South have more impact when they collaborate with local activists and organizations to achieve common goals.

II. NORMATIVE LEARNING: POLITICAL IDEOLOGY AND INGOs AGENDAS

Concerns about organizational imbalance become more resonant when linked with political ideology and questions about the agendas of human rights INGOs. Although the ethical and humanistic ideals at the core of INGO work may be universally shared, they have not always been pursued with universal objectivity. In fact, the promotion of these ideals has been frequently undermined by political biases. These concerns are not new. During the Cold War, human rights became a battlefield on which the Western and Eastern blocs sought to legitimize opposing political ideologies. The Cold War deeply perverted the philosophy of states toward human rights as evident in the partisan debates over human rights at the United Nations. Caught in the middle of this ideological battle were human rights INGOs whose claim to neutrality was constantly challenged, particularly because

¹⁰ In Nigeria, for instance, some within the local human rights INGO community were not pleased at the decision of the International Human Rights Law Group to open an office in the country soon after the establishment of democratic rule 1989. Because local NGOs and the big INGOs often seek donor funds for country projects from the same sources, they were concerned that the more influential INGOs would get funds for local projects that would otherwise have come to them. See Bonny Ibhawoh, *Human Rights Organisations in Nigeria: An Appraisal Report on the Human Rights NGO Community in Nigeria* (Copenhagen: The Danish Centre for Human Rights, 2001), 66.

many of their activities during this period focused mainly on human rights violations in the Soviet bloc. The oldest and most prestigious human rights INGOs – AI, the International Commission of Jurists (ICJ), and Human Rights Watch (HRW) – were established primarily to deal with human rights in Cold War–era Europe.¹¹ Indeed, one troubling trend in the work of human rights INGOs during this period was that they were caught up in the partisan international politics of the era. The “naming and shaming” seemed to focus quite disproportionately on countries of the Eastern bloc and a familiar group of “violators” in the South.¹²

Eastern bloc regimes responded to INGOs’ criticism of their human rights record by challenging the legitimacy of these organizations – accusing them of pursuing a patently ideological agenda of propagating Western capitalism. The end of the Cold War in the 1990s changed the tone but not the substance of this challenge. The argument persists that the human rights movement and the role of key players like INGOs within it is neither nonideological nor postideological. The mantra of universal morality tends to mask its deeply political character. The human rights corpus has a philosophy that seeks the diffusion of liberalism and its primacy around the globe – a philosophy that is favorable to political and cultural homogenization and hostile to difference and diversity. Makau Mutua argues that

[in] reality, INGOs have been highly partial: their work has historically concentrated on these countries that have not attained the stable and functioning democracies of the West, the standard of liberal democracy. Target states have included the Soviet bloc and virtually the entire South, where democratic or oppressive one-party state and military dictatorships have thrived.¹³

Mutua also makes the point that even though Western countries like the United States are notorious for their violation of the civil rights of minorities and the poor, they are rarely the focus of INGO reports. Although both HRW and AI have recently begun to bridge the advocacy barriers in these areas, such reports have been sparse and episodic and have given the impression of a public relations exercise designed to mute critics who charge NGO with a lopsided focus.¹⁴ When in 2005, AI Secretary-General Irene Khan described the U.S. detention center at Guantanamo Bay as “the gulag of our times,” it made headlines around the world partly because it was unusual for a powerful Western country to be at

¹¹ The Helsinki Accord of 1975, a Cold War agreement aimed at guaranteeing security and cooperation in Europe, typifies the link between the tensions of Cold War political ideology and the activities of human rights INGOs. The human rights provisions in the accord became part of the grounds on which Western-based INGOs criticized authoritarian regimes in the Eastern bloc. The accord also led to the emergence of a new generation of human rights NGOs in the West – notably, Helsinki Watch, which later became Human Rights Watch.

¹² “The Conscience of Mankind,” *The Economist* (December 5, 1998), 5.

¹³ Mutua, *Human Rights: A Political and Cultural Critique*, 53.

¹⁴ *Ibid* at 20.

the receiving end of such strong INGO criticism of its human rights record.¹⁵ Such uncompromising language had traditionally been reserved for communist and Third World nations. However, the widely reported human rights abuses associated with the U.S war on terror and in Iraq may well signal the beginning of a new era of change. Major INGOs, including AI and HRW, now acknowledge that human rights are in retreat worldwide and that the United States bears most responsibility for this.¹⁶

Until these recent trends, some observers sought to explain the lopsidedness and ideological predisposition of human rights INGOs in terms of the composition of their leadership and the Western liberal constituencies where they draw much of their moral and financial support. Henry Steiner argues that INGOs share a fundamental commitment to the proselytization of Western liberal values, particularly expressive of political rights.¹⁷ Indeed for much of the 1980s and 1990s, most human rights INGOs stressed a narrow range of civil and political rights in their mandates and activities. They focused mainly on exposing civil and political rights violations in the Soviet bloc and the Third World. These were deemed “core” rights as opposed to “secondary” economic and social rights, which were emphasized in communist propaganda. With the collapse of the Soviet Union in the late 1990s, however, several INGOs began to talk more about the “indivisibility” of rights. After several decades of resistance, major INGOs like AI and HRW have moved to give economic and social rights more prominence in their mandates and activities. Yet although the end of the Cold War may have significantly affected the work of Northern INGOs, it has had a less dramatic impact on Southern NGOs. A recent survey of human rights NGOs in the North and South indicates that Northern NGOs were more likely to report that they had changed their mission statements, mandates, and organizational structures as a consequence of the end of the Cold War.¹⁸

Although the shift to broader mandates that include both civil and political (CP) and economic, social, and cultural (ESC) rights have been welcomed as engendering a more holistic human rights corpus, they also raise important questions about the ideological agenda of human rights INGOs and the human rights movement in general. Why have the “gatekeepers” of the human rights movement become better disposed to ESC rights advocacy in the post–Cold

¹⁵ The secretary-general went further to compare the existence of “ghost detainees” who were being detained unregistered and incommunicado at the U.S base as being reminiscent of the “disappearances” common under the regimes of Latin American dictators in the past.

¹⁶ See Foreword by the AI secretary-general in *Amnesty International Report 2005*, available at <http://web.amnesty.org/report2005/index-eng> and Human Rights Watch, *Getting Away with Torture? Command Responsibility for US Abuse of Detainees*, Human Rights Watch, April 2005 (18 March 2004).

¹⁷ See Henry J. Steiner, *Diverse Partners: Non-Governmental Organizations in the Human Rights Movement* (Cambridge, MA: Harvard Law School Human Rights Program, 1991).

¹⁸ Smith and Pagnucco, “Globalizing Human Rights,” 391.

War era? Could it be because we no longer face the “risk” of communist states appropriating the economic and social rights discourse to challenge Western liberal norms? Have economic and social rights suddenly gained more prominence within the human rights movement only because it has become more politically and ideologically expedient for certain key players? If this is so, it throws into question all our assumptions about the objective moral foundations of the human rights movement.

Some within the INGO community have explained the shift toward ESC rights in terms of other factors that go beyond ideology and the end of the Cold War. The shift became necessary because, first, the disproportionate focus on CP rights resulted in misguided priorities that ignored serious threat to human suffering arising from economic and social rights issues; second, there was strong support for the expansion of INGOs mandates from activists and partners in the South; and third, CP rights tend to be biased toward male concerns, and this needed to be addressed.¹⁹ These considerations may indeed have informed the shift toward broader mandates, but for many skeptics, the timing continues to pose the concern that beyond the simple mantra of promoting universal human rights, underlying political and ideological factors shape INGO’s agendas and activities.

III. (UN)ETHICAL PARADIGMS: VIOLATORS, VICTIMS, AND SAVIORS

There is a uniquely Third World dimension to the concern over the place of ideology in INGO mandates and the ethical challenges that these organizations confront in a post-Cold War world. With the collapse of the Soviet Union, the locus of the challenge to the legitimacy of human rights INGOs seems to have moved from the former Eastern bloc to an emerging “Third World bloc” loosely united against the totalizing values of the affluent West in what Rhoda Howard-Hassmann has termed the “international politics of distrust and resentment.”²⁰ This challenge is clearly not peculiar to human rights INGOs. Yet although humanitarian and development-oriented INGOs also face these disputes over the relevance and legitimacy of their work, human rights INGOs particularly bear the brunt of it. The reason for this is obvious. The human rights movement has been defined by the tension between universalizing and localizing impulses. Unlike INGOs with purely humanitarian or development mandate, human rights INGOs overtly lay claim to a universalizing/globalizing mission that naturally pits them against forces of localization and cultural pluralism.

¹⁹ See Chapter 11 (this volume) by Curt Goering (senior deputy executive director, Amnesty International USA), “Amnesty International and Economic, Social, and Cultural Rights.”

²⁰ Rhoda Howard-Hassmann, “Moral Integrity and Reparations to Africa,” in ed. John Torpey, *Politics and the Past: On Repairing Historical Injustices* (Lanham, MD: Rowman and Littlefield, 2002).

The challenge to the legitimacy of INGOs in the South centers mainly on the ideological framework on which INGO rights-based humanitarianism is founded – what David Chandler describes as “an ideological framework of the rationalism between Western institutions and the Third World.”²¹ In this framework, human rights, humanitarian, and development-oriented INGOs tend to portray the non-Western subject as needy, incapable of self-government, and in need of long-term external assistance. The framework creates the now familiar “moral fairy tale” of distress and rescue. Media editors now know in advance what a typical human rights intervention story looks like. The first component is the hapless victim in distress, the second is the non-Western government whose action or inaction caused the violation, and the third component is the rescuer – the human rights INGO, the external aid agency, the international institution, or even the journalist covering the story – whose interests are seen as inseparable from those of the victim.²²

Mutua makes a similar point when he uses the metaphor of savages, victims, and saviors (SVS) to describe the guiding framework of the human rights movement and the role of human rights INGOs within it. The grand narrative of human rights, he argues, contains subtexts that depict an epochal contest pitting savages on one hand against saviors and victims on the other. This framework reinforces a dual stereotypical construct of Third World actors as either “savages” (despotic regimes or traditional authorities implementing patriarchal and repressive customs) or hapless “victims” (minority or other oppressed groups such as women). Certain key players in the West position themselves as the “gatekeepers” of human rights destined to save Third World “victims” from Third World “savages.”²³ In this regard, the “modern human rights crusade” fits into the historical continuum of the violent Christian-colonial conquests in the South. The same methods are at work, and similar cultural dispossessions are taking place without dialogue or conversation.²⁴ Within this framework, INGOs position themselves as later day “abolitionists.” They spotlight evils and demand their eradication. For them, there is no middle ground or moral dilemma.²⁵

The campaigns against female genital mutilation (FGM) have been highlighted as an example of the poignancy of the imagery of savage, victim, and savior.

²¹ David Chandler, “The Road to Military Humanitarianism: How the Human Right NGOs Shaped a New Humanitarian Agenda,” *Human Rights Quarterly* 23, no. 3 (2001), 688.

²² Chandler, “The Road to Military Humanitarianism,” 688–9.

²³ These trends are not peculiar to human rights INGOs. Humanitarian- and development-oriented INGOs have come under stronger accusations of the searching for victims. Some of this also bears relevance to the “pornography of poverty” discussed in Chapter 1 of this volume, “The Pornography of Poverty: A Cautionary Fundraising Tale” by Betty Plewes and Rieky Stuart.

²⁴ Mutua, *Human Rights: A Political and Cultural Critique*, xi

²⁵ J. Oloka-Onyango, “Modern Day Missionaries or Misguided Miscreants? NGOs, the Women’s Movements and the Promotion of Human Rights in Africa,” in *Human Rights of Women: International Instruments and African Experiences*, ed. Wolfgang Benedek (London: Zed Books, 2002), 289.

INGOs are accused of picking up where European colonial missionaries left off. Objections to the methods employed in the campaign against FGM have come not only from those intent on maintaining the status quo for cultural reasons but also from local constituencies that reject FGM. The Association of African Women for Research and Development (AAWORD), while opposing “female circumcision,” has consistently denounced the anti-FGM campaign by Western-based INGOs as being “insensitive to the dignity of the very women they want to ‘save.’”²⁶ Others have questioned the language and tone of the campaign against FGM, the “false portrayal” and the “successful demonization of the practitioners.”²⁷

To draw parallels between the human rights movement and Christian-colonial conquests in the South may be going too far. There are, however, valid grounds for the argument that the activities of human rights INGOs have historically been driven more by interests in the North than in the South. The concerns about cultural dispossessions and the objectification of Third World actors within the human rights movement cannot simply be dismissed as elitist arguments for “cultural relativism” and against universal human rights. They speak to a growing concern about the mandates and agenda of human rights INGOs and other key players within the human rights movement – a concern that INGOs must take seriously. We need to seriously consider the influence of ideology, sectional interests, and preconceptions on the agendas and methods of INGOs, which can undermine their claims to universalism and objectivity. Human rights advocates need to be more self-critical and come to terms with the troubling rhetoric and history that has shaped, in part, the human rights movement. In the case of INGOs, this may require changes in some of the methods and frameworks that guide their work in the South. One first step in this direction will be to move away from the ideological frameworks that have become associated with INGO operations in the South.

IV. EMPIRICAL LEARNING: BEYOND DOMESTIC VIOLATORS

Preconceptions about human rights violator and victims are problematic for several reasons. For one, they preclude a deeper understanding of causes, courses, and consequences of human rights violations. The dominant framework for INGO operations in the South is based on the assumption that primary responsibility for human rights abuses lie with states and governments. This framework pays insufficient attention to how larger issues of global inequities, the role of international financial institutions (IFIs) and transnational corporations (TNCs) affect human rights conditions in the South. The contemporary human rights movement in which INGOs are key players sees violations in non-Western states

²⁶ AAWORD, “A Statement on Genital Mutilation,” in *Third World-Second Sex: Women's Struggles and National Liberation*, ed. Miranda Davis (London: Zed Books, 1983), 217.

²⁷ Ifeyinwa Iweriebor, “Brief Reflections on Clitorodectomy,” *Africa Update* (Spring 1996), 4.

as arising from a relationship of abuse. Indeed, most human rights violations stem from relationships of abuse, but these relationships are rooted not only in local cultures and domestic politics but also in the international political economy.

It has become widely accepted that the structures of globalization and the pressures they place on vulnerable Third World states contribute to conditions of political repression and human rights abuses therein. Several studies have drawn links among the operations of IFIs and TNCs, political repression, and human rights abuses in Third World countries.²⁸ Others have addressed the specific impacts of economic globalization on human rights in the South.²⁹ There is also a growing recognition of the link between economic globalization and human rights at the level of international policy making. In 2001, the United Nations Sub-commission on Human Rights passed a resolution, “Globalisation and Its Impact on the Full Enjoyment of Human Rights,” that expressed concern about the impact of the liberalization of trade on agricultural products on the “promotion and protection of the right to food for members of vulnerable communities.” The resolution drew particular attention to the human rights obligations of the World Bank, the International Monetary Fund, the Organization for Economic Cooperation and Development, and the World Trade Organization.³⁰

Yet despite the ravages of globalization in the South, these international factors have received little attention from INGOs. Even where it is evident that domestic human rights conditions have been aggravated by international actors, INGOs have been reluctant to “name and shame” these actors in the same way as they have traditionally named and shamed states. For instance, following the devastating impact of the Asian financial crisis on Indonesia in the late 1990s, the international financial community promised the government a US \$40 billion bailout on the condition that Indonesia restructure its economy and drastically cut subsidies on social programs. Under this pressure, the government increased fuel prices by 70 percent and started a program of massive layoffs of civil servants. The result was an outbreak of popular public protests, which the government of

²⁸ For instance, it has been argued that because International Monetary Fund and World Bank conditionalities are so stringent and unpopular, they predispose governments in Third World countries, many of which already have problems of legitimacy, to resort to the excessive use of repression and coercion to enforce them. See John Rusk, “Structures of Neo-Colonialism: The African Context of Human Rights,” *Africa Today* 33, no. 4 (1986), 22–33; Peter Gibbon, Y. Bangura, and A. Ofstad, eds., *Authoritarianism, Democracy and Adjustment: The Politics of Economic Reform in Africa* (Uppsala: Scandinavian Institute of African Studies, 1992); and Eboe Hutchful, “The Crisis of the International Division of Labor: Authoritarianism and the Transition to Free Market Economies in Africa,” *Africa Development* 12, no. 2 (1987), 14–25.

²⁹ Robert McCorquodale, with Richard Fairbrother, “Globalization and Human Rights,” *Human Rights Quarterly* 21, no. 3 (1999), 35–76 and Alison Brysk, ed., *Globalization and Human Rights* (Berkeley: University of California Press, 2002).

³⁰ United Nations High Commission for Human Rights, “Globalization and Its Impact on the Full Enjoyment of All Human Rights,” Sub-Commission on Human Rights resolution 2001/5, 2001,” available: <http://www.unhcr.ch> (24 March 2004).

Haji Mohammad Suharto (already disposed to authoritarian tendencies) tried to suppress with armed force, arbitrary detentions, and press censorship. In the international outcry over these human rights abuses that followed, INGO campaigns and reports focused almost exclusively on state repression. Few went further to connect the dots among the role of IFIs, the international political economy, and human rights violations in Indonesia. Again, this stems from a framework that sees Southern societies from the simplistic perspective of polar extremes—passive victims and dangerous abusers. The complexity of the situation is sometimes lost. Domestic factors often play a major role in determining human rights conditions, but in an increasingly interconnected and globalizing world, we cannot ignore the roles of powerful “remote” factors. The tendency of human rights INGOs to focus on domestic causes of human rights abuses to the exclusion of broader international factors can be linked to another feature of INGO work—the disproportionate concern with CP rights at the expense of ESC rights.

V. TACKLING ESC RIGHTS: PRIORITIZATION AND METHODOLOGICAL LIMITATIONS

The prioritization of CP rights over ESC rights within the human rights movement has generated a familiar and long-standing debate that other chapters in this volume have adequately addressed. It is not necessary to go into the details of this debate here. It suffices to mention that the disinclination of INGOs to take up ESC rights advocacy with the same vigor that they have traditionally advocated CP rights is an important ground for criticism of their work in the South. Until recently, much of the work of INGOs focused only on certain aspects of political life, and they largely excluded the ESC rights issues that are of great concern to developing societies in the South. This approach also tended to overlook real issues of inequities in the global distribution of wealth.

One explanation for this is that INGOs see their agendas as mainly political. They seem committed to human rights and liberal democracy mainly as political projects. They stress the nature and frequency of political and civil rights violations, rather than exploring the socioeconomic and other factors that underlie them.³¹ For this reason, INGO investigations and reports sometimes tend to address the symptoms rather than the source of the ailment and recommend cures that are at best superficial. Even the emphasis on political goals in the mandates of INGOs is sometimes further narrowed to the establishment of liberal democracy preceded by elections. There is less consideration for the social and economic conditions that are essential to the sustenance of liberal democracy. For instance, the Lawyers Committee for Human Rights seemed to have set the establishment of liberal democracy as the yardstick of the success of its human rights work when it closed its South Africa project soon after the 1994 elections.

³¹ Steiner, *Diverse Partners*, 19.

INGOs have stressed the difficulty of promoting ESC rights in the same way as CP rights. Kenneth Roth, the executive director of Human Rights Watch, clearly and persuasively articulates the difficulty associated with promoting ESC rights in the same way that INGOs that they have traditionally promoted CP rights. First, because ESC rights are “costly” and have to do with the allocation of scarce resources in Third World countries, INGOs as outsiders can only play a limited role. Such decisions about resource allocation must reside with local voices. Second, there are difficulties in applying the human rights movement’s time-tested methodologies of investigating, exposing, and shaming on issues of ECR rights. Third, there is still a lot of fuzziness over the mechanisms for enforcing ECR rights. There is no clarity around the issues of violation, violator, and remedy that have been the basis of the movement’s traditional methodology.³²

Few would disagree that promoting ECR rights poses peculiar challenge to INGOs, especially on matters that bother on distributive justice rather than clear-cut civil and political entitlements. The methods that the human rights movement have traditionally employed to promote CP rights may indeed be inadequate for ESC rights. What this shows, however, is not that we cannot promote ESC rights as vigorously and successfully as we have promoted CP rights. It simply shows that we need new tools—new methodologies. Thus, rather than argue that ESC rights are “not doable,” the focus should be on fashioning new tools for the task at hand. The human rights movement should be open to adopting new tools to meet the challenges of ESC rights advocacy. To do this, they may need to look more to the South.

Countries in the South that may have achieved notoriety for human rights abuses can also be important sources of new methodologies for human rights advocacy. As others have pointed out, many organizations in the South have successfully used the methods of education and mass mobilization to promote ESC rights.³³ One of the main constraints that INGOs face in promoting ESC rights is the lack of clarity over ESC rights jurisprudence and litigation. That clarity is beginning to emerge and some of the progress has come from the South. In such landmark cases as *Sobramoney v. Minister of Health*³⁴ and *Government of RSA*

³² See Chapter 9, “Defending Economic, Social, and Cultural Rights: Practical Issues Faced by an International Human Rights Organization,” this volume, by Kenneth Roth.

³³ See Chapter 1 of this volume by Betty Plewes and Rieky Stuart.

³⁴ This case dealt with the rights of a diabetic man who was denied admission into the dialysis program of a state hospital because he did not qualify for admission under the hospital priority policy. The man then applied to the Durban High Court claiming that he had a right to receive dialysis treatment on the grounds of his constitutional right to life and the provision that no one may be refused emergency medical treatment. Although the application was dismissed on technical grounds, the case demonstrated the possibilities of legally enforcing constitutionally guaranteed economic and social rights in South Africa. See Constitutional Court of South Africa, Case CCT 32/97, 27 November 1997.

v. Grootboom,³⁵ the South African constitutional courts has tackled problematic issues of “distributive justice” and provided useful directions for developing the jurisprudence on economic and social rights. The first case addressed the possibilities of legally enforcing the right to health care guaranteed in the South African constitution, and the latter dealt with the state’s constitutional obligations to provide adequate housing for its citizens. These important initiatives in South Africa and elsewhere in the South can provide useful directions for INGO work in ESC rights advocacy. INGOs must recognize that their engagement in Southern Third World societies need not be a one-way street of rescuers and violators or victims. Their work need not be limited to tackling human rights violations in these societies with agendas and programs developed in head offices in London, Paris, and New York. Rather, they should recognize that these societies, too, can make important contributions to their methodology.

Apart from concerns about prioritization and lopsidedness, there are other issues arising from the work of INGOs in the South that deserve close attention. One of this is what may be termed the “sociocultural challenge” – the task of promoting internationalism and universal human rights in a way that is responsive to the reality of sociocultural difference and diversity.

VI. THE SOCIOCULTURAL CHALLENGE

The conflict between human rights principles and local cultural norms is one of the crucial ethical dilemmas that face the INGO community generally, but for human rights INGOs the conflict has particular resonance. The conflict often manifests in the form of challenges from local authorities seeking to maintain practices that are antithetical to universal human rights on the grounds of culture. Whether in the form of Asian or African values debate, culture talk in the human rights discourse has largely been deployed by the privileged and those who seek to maintain the status quo. In some cases, however, the deployment of culture talk to challenge the work INGOs in the South goes beyond the realm of privileged discourse. One particularly controversial example of this is the issue of gay and lesbian rights – an issue over which INGOs have frequently encountered differences with human rights movements in the South. In Egypt, for instance, local NGOs have consistently refused to campaign against the persecution of gays in that country despite international concern and pressure from Western funders and partner INGOs. During the 2001 trial for homosexual activity of fifty-two men, the largest human rights organization in the country, the Egyptian

³⁵ This case addressed the state’s obligations under section 26 of the South African Constitution, which gives everyone the right of access to adequate housing, and section 28(1)(c), which affords children the right to shelter. The judgment addressed jurisprudential questions about the enforceability of social and economic rights. See *Government of Republic of South Africa and others v. Grootboom and others*, Case CCT11/00, 4 October 2000.

Organisation for Human Rights (EOHR), refused to be drawn into the debate. Given the prevailing cultural and religious attitudes toward homosexuality, local activists found the issue simply too hot to handle. They argued that Egyptians would simply not stand for gay rights. Under increasing pressure from those who thought his organization should be doing more to protect gay and lesbian rights, EOHR’s director responded:

What could we do? Nothing. If we were to uphold this issue, this would be the end of what remains of the concept of human rights in Egypt. . . . We let them [homosexuals] down, but I don’t have a mandate from the people, and I don’t want the West to set the pace for the human rights movement in Egypt.³⁶

The situation is the same in Nigeria where human rights workers have welcomed the work of human rights INGOs in the country but state that it would be impossible, given local cultural beliefs, for them to press for gay and lesbian rights.³⁷

How do INGOs respond when the deployment of culture talk to challenge universal human rights agendas comes, not from rulers and privileged elites but from within their own constituencies in the South? There are two possible routes that INGOs can take. They may adopt a gradualist approach and acquiesce to the position of local activists (if not totally agree with it) that these societies are currently not ready for gay and lesbian rights advocacy. They may therefore modify their gay and lesbian rights advocacy programs to suit local realities rather than risk undermining their legitimacy within these communities. As one Southern activist put it, to promote gay rights in the South with the same methods used in the North is to risk undoing the modest success achieved in two decades of human rights advocacy work.³⁸ Advocates of the gradualist approach point to the West where there has been a gradual but growing public acceptance of gay and lesbian rights over time.

The other route INGOs may take is to insist on an uncompromising campaign for gay and lesbian rights even at the risk of alienating local communities and partners in the South. The strongest argument for this option is that INGOs cannot abandon legitimate human rights issues simply because they are unpopular or “too hot to handle.” To do so would be to negate the very essence of human rights, which is counter-majoritarian – the protection of vulnerable and marginalized minorities. Commitment to human rights is not about getting mandates from dominant groups to protect the oppressed and persecuted; it is about protecting

³⁶ Interview with Hisham Kassem, director of the Egyptian Organisation for Human Rights by the British Broadcasting Corporation, http://news.bbc.co.uk/2/hi/middle_east/1813926.stm.

³⁷ Comments by Ndubisi Obiorah (senior legal officer at HURILAWS) at the conference, “Ethics in Action: The Successes, Compromises, and Setbacks of Transnational Human Rights and Humanitarian NGOs” organized by the United Nations University and the City University of Hong Kong, New York, February 2002.

³⁸ Personal communication with Raul Erinieo of the Philippine NGO, Project Protect, 26 June 2001.

the persecuted despite prevalent attitudes. A comparison can be made with the civil rights movement against racial segregation in the United States. Segregation was an established social, if not cultural, norm accepted and supported by a privileged majority. Its eventual breakdown came not by accommodationist strategies and the hope for gradual social reform but through a concerted and uncompromising civil rights movement that confronted head-on the inherent injustice of the system.

There are no easy responses to this dilemma. In cases in which INGOs have chosen the route of tackling gay and lesbian rights issues despite objections from local human rights groups, they have faced the familiar accusations of cultural arrogance and insensitivity. In Egypt, INGOs have been accused of leading “an international homosexual campaign” against the country.³⁹ In Malaysia, criticism of the role of INGOs during the trial of Anwar Ibrahim for homosexuality by the Mahathir Mohamad government came not only from official sources but also from the local human rights community. This was particularly so when Human Rights Watch issued a press release listing ten human rights violations it observed in the course of the trial. Although most of these concerns were about due process and the right to counsel, HRW also condemned Malaysian sodomy laws and its selective application by the Mahathir government. When the HRW statement made the headlines of the leading Malay newspaper the next morning, it read: “Foreign Human Rights Group Supports Sodomy in Malaysia.” As would be expected, the news caused public outrage in Malaysia’s conservative society. But perhaps more important, the sodomy angle completely overshadowed the other nine substantive issues about due process that HRW has made about the trial itself. Malaysian gay and lesbian rights activists faulted the tone and timing of the HRW statement. Given the backlash generated by the statement, HRW’s officials later acknowledged that they should have done more consultation with local activists before issuing the press release.⁴⁰ This underscores the need for INGOs to move away from the “West-centric” considerations that have traditionally shaped their methodologies and recognize the importance of local knowledge and values for their human rights work.

What is at issue here is not necessarily a conflict between HRW’s objectives and those of local human rights activists. If anything, there is agreement on the core objectives of promoting human rights. The differences arise over how best to achieve these objectives. In Malaysia as elsewhere in South, HRW has done much to raise awareness about human rights and mobilize international support for local activists. Few will fault the organization’s commitment to promoting human rights in these societies. However, its statement on Malaysian sodomy

laws at the height of a politically charged trial was bound to be used by a regime, intent on deflecting criticism of its human rights record, to discredit opposition and human rights groups. It also played well into the hands of those eager to present the situation as a conflict between Malaysian and Western cultural values. Under these circumstances, would it have been more expedient for HRW to tone down its statement on sodomy? Perhaps. Would this have meant that HRW had compromised its human rights mandate? I think not. The larger point here is that INGOs do not necessarily compromise their broad human rights objective when they mediate their methods with local extenuating circumstances. Even in the quest to promote a universal rights agenda, INGOs need to consider the peculiarities of the sociocultural context in which they work and adopt strategies that will achieve the best results under such circumstances.

VII. ALTERNATIVE VISIONS

Human rights INGOs need to review and modify their mandates and strategies continually to meet the peculiar challenges they confront in the South. Their methods must respond to concerns about ideology, paternalism, and lopsidedness that have been raised in the South. They must do more to convince the skeptics who continue to challenge the legitimacy of their work and partners in the South who question their methods. To command more legitimacy in the South, INGOs must be seen as even-handed in their work—promoting ESC rights with as much vigor as they have traditionally promoted CP rights, addressing more seriously factors of globalization that affect human rights conditions in the South and balancing individual and communal rights advocacy. This latter point is important because the international human rights corpus from which INGOs take their cue tends to emphasize the individual at the expense of the community. There is need for a human rights approach that comprehensively unites the conflicting notions of individual and communal rights.

INGOs particularly need to do more to address human rights issues arising from globalization and underdevelopment in the South from broader international perspectives. They have not given enough attention to the rights of communities and states within the context of the international political economy. These issues are of particular importance to Third World societies where there is serious concern about such collective rights issues as the right of states and communities to “freely dispose of their wealth and natural resources” and their right to “economic, social and cultural development.”⁴¹ For instance, INGOs have not, in my view, adequately addressed the question of the rights of people in the South to the use and ownership of their natural resources. Recent attempts by Western transnational corporations to claim legal control and ownership of plants through patents, thereby limiting traditional uses of these natural resources, is a

³⁹ Editorial of the *Rose El-Youssef* weekly quoted on the British Broadcasting Corporation News Online, http://news.bbc.co.uk/2/hi/middle_east/1813926.stm.

⁴⁰ Personal communication with Joe Sanders, former HRW program officer for Malaysia, New York, 28 October 2002.

⁴¹ African Charter on Human and People’s Rights, 1986 (see Articles 21 and 22).

vexed issue in many parts of the Third World. Governments and activists in the South have raised concerns about the West-centric character of the international patent system and its implications for the rights of peoples in the South to natural resources.

The commercial orientation and West-centric character of the patent system and international copyright regulations are factors that facilitate the appropriation and privatization of natural resources and their traditional uses, from the South by the North. This has significant implications not only for economic and cultural rights of Third World peoples but more broadly, their overall development. In deciding whether inventions relating to plants should be granted patent protection, there has been little consideration for the environmental safety and broader human rights implications of such inventions on developing societies, such as the "right" to food and a safe and sustainable environment.⁴² This important issue, which is of growing concern to many advocacy groups in the South, has unfortunately taken a backseat on the agenda of human rights INGOs. Human rights INGOs have clearly not done enough to tackle this important issue, which affects the economic and social rights of many ordinary people in the South. Environmental groups such as Greenpeace, the World Wildlife Federation, and development oriented INGOs such as Médecins sans Frontières (MSF) and OXFAM have done significantly more than human rights INGOs in this regard. OXFAM, for instance, has been actively involved in campaigning for access to medicines in developing countries and against an international pharmaceutical patents regime that restricts the production of generic versions of vital life saving drugs. Because of the implications for development and living conditions in the South, INGOs need to do more to take up these issues on a human rights platform.

CONCLUSION

Advocacy across cultural barriers is often complex, particularly on the issue of human rights. Even at this, there is no evidence of a fundamental disconnect between the goals of Northern-based human rights INGOs and those of activists in the South. Within the global human rights movement, there appears to be broad agreement on the normative value of the universal human rights corpus. In most international advocacy platforms, Southern NGOs, from minority groups and environmental campaigners to human rights activists, have been the most frequent users of the rights language. These groups are often eager to work with Northern INGOs to achieve common objectives. For instance, despite the challenges to the universal human rights corpus at the 1992 World Conference on Human Rights in Vienna, NGOs from the North and South worked together

⁴² See Ikechi Mgbeoji, "Patents and Traditional Knowledge of the Use of Plants: Is a Communal Patent Regime Part of the Solution to the Scourge of Bio Piracy?" *Indiana Journal of Global Legal Studies* (Vol. 9, No. 1, Fall 2001), 163–186.

on several lobby coalitions. The indication is that there is a sense of common understanding of the values, goals, and policies expressed by human rights activist from both the North and South.⁴³ Thus, although NGOs and activists within the human rights movement disagree on specific issues, they do so in a context of intensive interaction and debates.⁴⁴

The argument here is that even within this context, INGOs continue to face challenges to their legitimacy from both hostile and supportive constituencies in the South. These challenges cannot simply be seen in terms of the tensions between universal human rights and local cultural norms. They run much deeper. To address them, INGOs need to be more responsive to the sociocultural peculiarities of the Southern communities in which they work by accommodating diversity in their agendas and methods. Human rights INGOs do not need to compromise their mandate of promoting universal human rights, but they do need to actively seek and offer non-Western political or moral foundations for them. They do not need to be apologetic about their work in the face of accusations of cultural imperialism from authoritarian rulers and privileged groups, but they need to take more seriously normative and empirical questions about lopsidedness in their work that have come from within their own constituencies in the South. INGOs can do more to avoid being seen as pushing a parochial liberal agenda alongside the mantra of universal human rights. They can do more to respect and represent local perspectives in their agendas and methodologies. INGOs and the message of human rights that they preach can draw legitimacy from both universal and local appeal. Only by localizing their methods and drawing more from the sociocultural experiences of local peoples can human rights INGOs address the continued challenges of relevance and legitimacy that they confront in the South.

⁴³ Kelvin Boyle, "Stocktaking on Human Rights: The World Conference on Human Rights, Vienna 1993," *Political Studies*, no. 43 (1995), 91.

⁴⁴ Clark and Friedman have rightly argued that the tensions within the human rights movement have not always been a question of geographic, economic, or sociocultural divides. The North–South divide partly overlaps with more persistent divisions between newer generations of small grassroots organizations focused on local action and the more professional and often larger INGOs. See Ann Marie Clark and Elisabeth J. Friedman, "The Sovereign Limits of Global Civil Society: A Comparison of NGO Participation in UN World Conferences on the Environment, Human Rights and Women," *World Politics* 51, no. 1 (1998), 34.