

Human Rights Ahead

Charting the future course of human rights



What next for human rights?

A reflection on the 60th anniversary of the
Universal Declaration of Human Rights

Thinking Ahead
Working paper

A REFLECTION ON THE 60TH ANNIVERSARY OF THE
UNIVERSAL DECLARATION OF HUMAN RIGHTS

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Introduction

On 10 December 2008, the Universal Declaration on Human Rights turns 60. One of the most influential and formative moral ideas of our time, human rights have become central to our legal, political and ethical discourse. Today the Declaration is the cornerstone of an elaborate framework of international law.

Yet sixty years on, the Declaration's vision of a world in which "all enjoy freedom from want and freedom from fear" remains as elusive as ever. Acts of genocide and wars of unprecedented devastation have continued into the 21st century, and millions still die from hunger and preventable disease despite vastly increased global wealth.

Human rights is not only an unfinished agenda, it is an evolving one. From the "war on terror" to climate change, from urbanization to financial and food crises, human rights are facing new challenges which could barely have been foreseen when the Declaration was adopted. Global trends such as environmental degradation, climate change, accelerated urban growth, increased population mobility and bio-technological advances, among others, are emerging contexts which human rights advocates working local and internationally will increasingly have to engage with.

Yet the implications of these trends for the rights of present and future generations are only just beginning to be explored. Their global scope and multifaceted nature challenge human rights advocates to work in more coordinated and interdisciplinary ways when designing advocacy strategies in response to these emerging trends.

At the same time, the UDHR anniversary prompts us to take stock of the progress made in more longstanding areas of the human rights agenda, including advances in the eradication of impunity, torture, political killings and the death penalty, as well as more recent struggles such as the fight against poverty and gender violence.

While the human rights movement has brought about significant victories in each of these areas, these have mainly been limited to the area of normative development – that is, the development and adoption of new international human rights standards and their embodiment in domestic law. Although these achievements are a critical first step, the challenge remains to translate them into concrete and durable changes in policy and practice. Twenty five years since the adoption of the Convention against Torture, this and other ill treatment is still officially practiced in countries across the globe, its use

increasingly justified in some contexts in the name of security or the fight against crime. Poverty has in recent years been recognized as a human rights issue, yet the rights to health, education, housing and others essential to an adequate standard of living barely figure as considerations guiding economic policy making.

That the rights enshrined in the UDHR sixty years ago are still so far from being a reality says more about the failure of states to abide by the principles they proclaim, than it does about any shortcomings in the strategies adopted by the human rights movement. Nevertheless it begs a sober reflection on how effective we have been in understanding and addressing the obstacles we face today in realizing the vision of the UDHR.

The ultimate goals of the human rights project remain as relevant today as they were in 1948. The UDHR and the stream of international standards which it has given rise to can be seen as a transformational agenda for a world governed by the principles of accountability, equality, dignity, human security and international solidarity.

This paper looks briefly at what these principles mean in the world of the 21st century, and some of the challenges that must be addressed if they are to become a reality in our time.

Accountability: From generalized impunity to globalized justice

The emphasis on accountability is a key hallmark of human rights, and the reason human rights add value to areas such as development, where a sense of state obligation has generally been lacking. In the past decade, the human rights movement has made significant advances in “globalizing justice” and combating impunity. Notorious perpetrators have found themselves in the dock, international legal remedies have been obtained for survivors of violence against women and a new complaints mechanism has just been adopted to hold states to account for economic, social and cultural rights violations.

However, these victories are impressive because they are so exceptional. Generalized impunity remains the norm in all continents. A great deal remains to be done to universalize accountability. Many states continue to be justice-free zones, with no functional system for holding those responsible to account for human rights abuses. The promotion of mechanisms for the exercise of extraterritorial jurisdiction was intended both to circumvent obstacles at national level as well as to help remove them, by stimulating efforts to end impunity at domestic level – the primary arena for access

to justice. However, progress on both fronts has been mixed mainly due to the lack of political will on the part of states and lack of effective collaboration among them.

The accountability paradigm also needs to adapt to changing patterns of governance. An exclusive focus on the central state as duty-bearer ignores the increasing reality of state decentralization, devolution and fragmentation in many parts of the world. Accountability should also increasingly be sought at the supranational level, from political institutions of global/regional governance, as well as from key inter-governmental agencies with decision-making authority on economic policy.

Corporate actors continue to vehemently resist human rights accountability, the proliferation of voluntary codes of conduct stand in sharp contrast to the unwillingness of some of the most powerful corporations to recognize obligations to respect human rights in their sphere of operations and influence. The responsibilities of other powerful non-state actors (other than armed groups) have barely been explored by the human rights movement.

Anti-impunity efforts have largely addressed abuses of the magnitude of crimes against humanity or grave violations of physical integrity. A challenge for the future is to extend the focus of anti-impunity efforts to address grave violations of economic, social and cultural rights.

The notion of “universalizing accountability” should also respond to an increasing feature of globalization: the potential for the policies and practices of one state to impact harmfully on the rights of people in another state. The notion of transnational or extra-territorial obligations to respect, protect and fulfill all human rights is an embryonic one, but one that could transform the way in which international development assistance is currently perceived.

Universality: From discrimination to full equality

Inequalities of access to rights are widening both within and between countries. Inequalities between men and women, rich and poor, and between different ethnic groups, among others, have spurred conflict, violence against women and other human rights violations. The structural inequalities that give rise to abuses such as violence against women or ethnic cleansing are in themselves a fundamental injustice. Yet while significant strides have been made in many parts of the world in securing liberty and democratic freedoms, the egalitarian aspiration of the human rights agenda remains largely neglected and unrealized.

Emerging or entrenched belief-systems continue to deny the equal worth of every human being, while the increased knowledge about the shifting and complex construction of social or political identities threaten to render traditional anti-discrimination strategies obsolete.

Gender and ethnic inequalities remain stubbornly persistent worldwide despite efforts to address them. Many of these efforts have focused on eradicating discrimination in law and introducing anti-discriminatory legal provisions. While essential, the impact of such initiatives on policy and practice has been limited by their failure to address the social and structural determinants of inequality, and the cultural-political justifications often advanced for maintaining these.

While the rights of indigenous peoples have been boosted in principle by new international standards, they continue to be trampled on in practice. Other forms of discrimination, such as that based on disability, sexual orientation or gender identity, are at a vastly inferior stage of recognition, with only very recent codification in international standards. Discrimination and abuse on such grounds is often sanctioned in law and officially encouraged to an even greater extent than sex or race-based discrimination.

In the coming years the human rights movement will need to counter renewed challenges to the universality of human rights and to articulate persuasively that the values they are grounded in are of relevance to all people, in all situations, in any setting. This requires speaking from within different local cultural contexts, including indigenous rights concerns meaningfully, and focusing on the political and socio-economic realities of people in countries such as China and India with a hugely significant influence on how these rights will be perceived globally in the coming decade.

Human dignity: From deprivation to redistribution

Gross disparities between rich and poor fuel much of today's conflict and criminal violence, as well as prompting millions to migrate in search of a better life. Economic disparities almost always correlate with gender, racial and urban/rural inequities, as well as disparities between nationals and non-citizens. Yet combating socio-economic inequality is rarely articulated as a central goal of the human rights movement, and it is often marginalized on the development agenda.

Despite considerable progress over recent decades in understanding and framing development from a human rights perspective, human rights considerations barely feature in the shaping of economic policy at the domestic or international level. Human rights remain a largely irrelevant discourse to economic and policy makers. Advocacy efforts have privileged accountability on the legal arena and have rarely engaged with matters of economic policy. Nevertheless, the defense of all human rights, and economic and social rights in particular, require a closer engagement and critique of economic policies and models for the delivery of essential goods and services, from housing to education to health.

In the context of financial, food and fuel crisis the coming years will see increased opportunities to inject human rights considerations into national and global debates on poverty eradication and development cooperation, particularly in the context of evaluating whether governments will meet their Millennium Development Goals (MDG) targets by 2015.

Deeper analysis on and advocacy strategies better tailored to the human rights dimensions of poverty and inequality in different contexts are needed in order to construct an agenda on redistributive policies both within states and globally. For instance, at the national level, human rights considerations are beginning to be inserted into discussions on fiscal policy (promoting equitable systems of taxation in order to generate resources for social spending and ensure the progressive realization of economic and social rights). There are also opportunities to introduce concepts of redistributive justice in international debates on development cooperation and the terms of regional and international trade.

Human Security: From rights-free zones to rights-fulfilling states

The attention given by the broader human rights movement to abuses in the context of “counter-terrorism” and in situations of armed conflict reflects a concern to ensure that national security is not invoked as a justification for creating “rights-free zones”.

Yet there are many other contemporary contexts which pose a similar risk of seriously undermining or nullifying human rights protection in the name of a higher necessity. One is the perceived threat posed by increased migration and population mobility, both within and across borders. Another has to do with the increasing frequency of natural disasters and other likely consequences of environment degradation.

While different in nature, what such scenarios have in common is that they often constitute (or are presented as) critical situations where respect for human rights is seen as a luxury or an irrelevance, particular where the populations in question (undocumented migrants, suspected terrorists) are deemed to have forfeited human rights protection. Other examples of “rights-free zones” could be countries with profoundly autocratic regimes or endemic corruption.

A challenge for the human rights movement is to avoid remaining in the reactive stance in addressing the human rights implications of conflict, counter-terrorism, environmental disaster or population flows, but to develop and promote frameworks for preventive action which can help safeguard against a dramatic deterioration in rights protection.

This positive framing shifts the focus from an exclusively violations-based approach to one that proposes measures that can be taken to create peaceful, secure and sustainable rights-fulfilling environments. This ‘preventive approach’ can prompt the generation of specific human rights actions to be applied to situations that risk deteriorating into ‘rights-free zones,’ as they arise.

The focus on creating rights-conducive environments encourages us to ask what should be the characteristics of the “rights-fulfilling state”, and what models of political and economic governance are most conducive to the delivery of the states’ human rights obligations. This is a challenge that has been recognized as necessary by some actors in the human rights movement though has as yet to be taken up.

Solidarity: From insularity to international cohesiveness

Globalization has proven to be a force for citizen global activism but also a driver of economic stratification and cultural division. The potential for mobilizing global solidarity to confront violations of human rights have greatly expanded with the developments in media and communications technology and the possibilities for active participation and globally coordinated preventive action on human rights are manifold. Increased connection however, has not necessarily translated into more consolidated agendas for human rights action neither has it reduced the gap of access to resources between international and local organizations within and across the North and South.

An increasingly globalized context, in which ultimate power and decision making no longer reside solely in the hands of nation-states, requires advocacy strategies acting at various levels and affecting both local and global spaces.

Initial multidimensional activism has globalized the human rights movement and increased its expertise to affect power elites and international governance institutions. However, the effectiveness and sustainability of these actions will depend on the extent to which they reflect the interests and concerns of those directly affected by human rights violations at the local level, and respect their primary role in such strategies.

Moreover, the effectiveness of human rights strategies will increasingly depend not just on their relevance and coherence, but on their ability to communicate, persuade and rouse people into action around it, as well as to coordinate and sustain that action effectively. This will require harnessing the mobilizing power of communications and other technologies for monitoring, witnessing and activism on human rights.

As a way of conclusion: Retirement or renewal?

Human rights are living through a critical moment in their history. Like any 60th birthday, the celebration of longevity is tinged with anxiety about the future. In people's lives it is an event which could as equally signal retirement as renewal. On the one hand, human rights have become mainstream, the validity of the concept seemingly uncontested after several decades which have seen other value-sets and ideologies rise and wane. On the other hand, the long-term survival of human rights as an effective discourse driving political and social change can by no means be taken for granted.

The longevity of human rights has been undermined by a number of current trends. Among them, the discredited status of the US as civil and political rights standard-bearer and the ascendancy of China as a global player are prompting renewed challenges to the legitimacy of the concept of human rights, and their political and philosophical underpinnings. The association of human rights arguments with armed intervention by dominant powers, their perceived hostility to certain faith-based value systems, the over-legalization of human rights and the debilitation of the legal framework as a result of the "war" against terrorism are other threats with long-term consequences.

The vitality of human rights in the second decade of the 21st century cannot be guaranteed merely by incantation of the provisions of international law. The challenge

for the human rights movement is to shore up the foundations of these rights, to re-secure the language of rights by inoculating it against these threats, and so ensure its relevance as a discourse in future generations of struggle against injustice.

If the human rights discourse is to become truly relevant to the lives of everyday people, particularly the young, the affirmative and upbeat dimension of human rights need to be emphasized. This involves articulating human rights not just as a protection against human cruelty, but also as a transformative and emancipatory agenda for human flourishing.