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Instrumentalization and Politicization of Human Rights: Human Rights as a political tool – A voice from the Global South

The concept of Human rights was given political impetus when the responsibility of enforcement of the Declaration of Human Rights was entrusted exclusively to state parties, governments and public authorities. It was hoped that the just enactment of what initially had the limited status of a simple declaration would ensure the inviolability of the rights. However, the glaring limitations of the political powers in accomplishing their tasks, the ensuing political discourse on human rights which questioned the validity of the rights in multifaceted perspectives, erode and further weaken the praxis in universal, international and domestic implementation, particularly in the context of the Global South. This paper sets out to point out the limitations and often inefficiency of the political approach to human rights issues, which consists in grounding its validity and enactment in concepts that could be considered as peripheral to the central, core values of human rights. We argue that a return to the essential core values of “inalienable” human rights could provide the basis for a future reflective process, which would consider the protection of the rights of the human being in a comprehensive, holistic manner irrespective of other considerations.

There is global consensus on the fact that the Universal Declaration of Human Rights (UDHR) adopted by the UN Assembly on 10th December 1948 offering a normative framework for the respect of individual human rights, represented at the time, the most progressive step humanity could take after a war that had led to the near annihilation of the entire European civilisation. The fact that individual human rights came to the fore and was defended, was “a response ... to the discovery of the abomination that could occur when the ... state was accorded unlimited sovereignty, when citizens of that state lacked criteria in international law that could oblige them to disobey legal but immoral orders.”¹ In this perspective the UDHR is perceived by Michael Ignatieff as “a return by the European tradition to its natural law heritage, ... to give individuals the juridical resources to stand up when the state ordered them to do wrong.”²

The ratification of the two ensuing Covenants in 1966 – the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights -

1. Ignatieff, Michael, “Political Rights as Politics” in *The Tanner Lectures on Human Rights*, delivered at Princeton University, April 4-7. p. 288
2. *Idem.*, p. 288

significantly transformed the UDHR from a moral to a political document and sparked off the political discourse. The paradoxically inevitable act of according responsibility of enactment, promotion and protection to the state was expanded upon and given further endorsement with the adoption of the Vienna Declaration and Programme of Action by the World Conference on Human Rights on 25 June 1993. The Conference reiterated “the solemn commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law”.¹ It insisted on and provided for cooperation between governments and relevant NGOs in the implementation process “to create favourable conditions” at all levels in order “to ensure the full and effective enjoyment of human rights” by all peoples.

In order to guarantee the relevant remedial processes to human rights infringement, the states are urged to “provide an effective framework of remedies and redress human rights grievances or violations. The administration of justice, including law enforcement and prosecutorial agencies and, especially, an independent judiciary and legal profession in full conformity with applicable standards contained in international human rights instruments, are essential to the full and non-discriminatory realization of human rights and indispensable to the processes of democracy and sustainable development”.²

In summary, this political empowerment of the state obligated the powers not only to guarantee but also to offer their citizens protection against violations of the fundamental rights by third persons, be they private actors such as individuals, organizations, groups or corporations.

It is important to note that this change from non-intervention by political powers to the wielding of absolute or quasi-absolute power in decision-making and implementation of human rights has far-reaching repercussions of which we will mention only a few.

First of all, there occurs a significant shift in the role and engagement of political authorities. States move from a negative, passive obligation to respect fundamental rights (by doing nothing to impede its accomplishment) to the positive, active obligations to enact the rights through legislation, in providing the means and taking the necessary measures for its accomplishment.

Secondly, the paradox is that in according this political responsibility to the states the European powers created a leeway for the “instrumentalization” and politicization of human

1. Ignatieff, *idem*, p. 288

2. (Part 1, para of the Vienna Declaration and Programme of Action, <http://www.unhcr.ch/huridoca.nsf/%28symbol%29/a.conf.157.23.en>, accessed 25/02/2013

3. VDPA, *idem*, Part 1 Para 27.

rights, thereby unconsciously (or consciously?) empowering the very bodies they had initially set out to disempower.

Thirdly and inevitably, what is at stake is the transformation of the concept of human rights from a moral obligation relating to human dignity into political rights, thus bringing to question the relationship between a state and its citizens or non-citizens and their entitlements to rights.

Lastly, we would add that in the case where the state is accorded the status of guarantor and facilitator of human rights, the level and nature, the selection for implementation becomes the exclusive prerogative of the authorities. Thus leaving little power in the hands of the people.

The issue that is brought to question then concerns the implementation of these political and civil rights within the context of the Global South. What are the implications for the people? Has the politicization of the rights and the empowerment of state parties improved the protection of the vulnerable, the marginalised and the exposed in the contexts of global poverty within the respective political borders?

What is evident is that after sixty or more years of the adoption of the Universal Declaration of Human Rights and the promulgation of a growing number of international conventions and treaties as well as domestic legislations, human rights continue to be violated on a global scale not only within the geographical entities of the Global South but also and appallingly so in many political contexts external to developing countries. A plethora of situations of blatant cases of infringement could be invoked but as a voice from the Global South living within the political boundaries of the European Union, we would select only a few examples.

The first is the treatment of minority groups in most European state parties. Refugees and asylum seekers continue to be excluded from political protection notwithstanding the provisions of Article 33, paragraph 1 of the 1951 Convention relating to the Status of Refugees prohibiting *refoulement*.¹

It is to be added that the predicament of Migrants is analogous to that of Refugees whereby in order to win votes, denied human rights are utilized particularly by far-right wing political parties to fuel xenophobic sentiments. Migrants become political, social and economic scapegoats, victims of the political power plays of their supposed protectors. The Roma issue is another case in point. These minority groups are exposed to discrimination, persecution, and repression because of their cultural, ethnic, racial, religious, linguistic or social

1. "No contracting state shall expel or return ('*refouler*') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion". *Article 33, paragraph 1 of the 1951 Convention relating to the Status of Refugees*. This is the case when each government solely determines the interpretation of the 1st Article defining the refugee.

differences with regards to that of the majority group. Incidentally in Rwanda, the genocide against the numerically significant Tutsi ethnic group by the powerful minority group of Hutus exhibits a situation of repression based on racial differences¹.

Tove H. Malloy has affirmed that political consensus on minority rights remains questionable either at the international, regional or domestic level because governments continue to see minorities as a threat to political and social unity².

Political instability in the Global South is never conducive to the defence of rights whatever the good faith of the political powers. Inevitably, in periods and areas of war and even during peacetime, women and children, the defenceless and vulnerable become the primary targets of heavy indiscriminate violence and abuse. In Sierra Leone, during the 11 year Civil War, rape and sexual violence were used as weapons of war. Rebels and regular military alike resorted to the forceful recruitment of child soldiers in order to augment their ranks. Women and girls were subject to rape and inhuman sexual assaults, whilst many were abducted and forced into sexual slavery³. It is no wonder then that the International humanitarian law enforced through the work of NGOs operates more frequently in these countries than the laws on human rights.

Politicized and instrumentalized, human rights discourse was utilized by colonialists to rationalize and justify imperialist motivations – the spread of civilization, the extension of European traditions of rights of all humans, in principle if not in practice, to colonized peoples.

Today in the Global South, the legacies of colonialism continue to be invoked as one of the greatest violations of human rights in people's struggle for independence and self-determination. Though colonialism is sometimes considered as an event of the past, it is no secret that former colonial masters continue to perpetuate imperialist and neo-imperialist domination in independent, sovereign, developing states under the pretext of bringing aid and development. Habermas has insisted: "... that the idea of human rights —Kant's fundamental right to equal individual liberties — must neither be merely imposed on the sovereign legislator as an external barrier nor be instrumentalized as a functional requisite for democratic self-determination"⁴.

Situations of overt violations and infringement of human rights often reflect the degree of

1. Des Forges, Alison Liebafsky, Human Rights Watch, *Aucun témoin ne doit survivre : le génocide au Rwanda*, Fédération internationale des ligues des droits de l'homme. Paris, Karthala, 1999.

2. Tove H. Malloy, "Minority Rights : Overview", in David Forsythe, ed., *Encyclopedia of Human Rights*, Vol. 3, Oxford University Press, 2009. p. 520.

3. One could add the recent raping of women in buses in broad daylight in present-day India and other atrocities committed against women.

4. Jürgen Habermas, "Remarks on legitimation through Human Rights", <http://secure.pdcnet.org> accessed 26/02/2013

(un)willingness or the problem of absolute incapacity of certain political powers to effectively implement, guarantee or protect the rights as stipulated in the Declaration and in the different Covenants.

It is evident that the politicization of human rights though very present in general in the human rights discourse has its limits.

The first limitation concerns implementation. Civil and political rights, although comprising individual freedoms, also require investment for their full realization. It is argued that although the rights and responsibilities stipulated in the human rights discourse are universal, the resources and means of implementation including time and money remain limited.¹

Furthermore, mechanisms such as the judiciary that individuals could use to claim their rights are practically inexistent in certain countries of the Global South, leaving some of these declarations purely theoretical. The investment of political institutions vary from one country to the other as it depends on the infrastructures at its disposal such as a functioning court system, legal aid, free and fair elections.

The concept of human rights concerns the relationship between the individual and the state and involves the status, claims, and duties of the former within the jurisdiction of the latter. Donnelly has noted that “not all political relationships ... are governed by, related to, or even consistent with human rights; what the state owes to those it rules is indeed a perennial question of politics”¹. How then is the relationship between the state and the community articulated if according to the UNDHR the individual has “permanent and inalienable rights” implemented by the state?

It is important to note that in most countries, particularly in those with socialist and even communist jurisprudences, rights are contingent on duties the citizens owe to the state. This entails a subordination of human rights to state interests whereby it is understood that the enjoyment by citizens of their rights should not be detrimental to the interest of the group, the state or other citizens. Political rights are granted to the individual according to the priorities specified by the state. Besides, it should be underlined that the rights themselves could undergo changes subsequent to changes in the political priorities. This rhetoric is far from corresponding with the idea of permanent or inalienable individual rights. Added to this, it is to be realized that the human rights doctrines of certain regions affirm that human dignity can only be developed when the value of discipline and spiritual subordination of the individual to divine predestination is more important than personal freedom.

1. Donnelly, Jack, “Universality”, in David Forsythe, ed., *Encyclopedia of Human Rights*, Vol. 5, Oxford, University Press, 2009. p. 263.

Another aspect concerns the political discourse related to the dialectic of function between sovereignty and universalism in the context of the political concept of human rights. This perspective poses several problems and further exhibits the limitations of the politicization process:

The first concerns *interpretation*. What could be considered as political rights in western democracies do not have the same interpretation in non-Western cultures. In the West, these are rights, which ensure the participation of the citizens in the management and control of public affairs such as the right to participate freely in elections, the right to free speech and free expression of thought, the right to hold meetings and the right of association. The enhancing of these rights constitutes the essence of a liberal democracy.

However these international human rights norms are challenged and even sometimes rejected by the Global South on the claim that they are of a Western construct. They argue that those under colonialism at the time of the drafting of the documents – 1948 - were deprived of participation in it. They add that the promotion of a “universal human rights” regime in non-Western societies is evocative of a tradition of European colonialism and cultural dominance and hegemony. Eurocentric, it promotes a falsely homogenizing worldview, where indigenous cultures, perspectives, values and aspirations are disregarded. The rights exacerbate the gap between nations by differentiating between superior and inferior societies.

The great divide that separates the two entities cannot be considered exclusively in terms of their geopolitical, socio-economic components. It is essential to perceive, in the light of the debate on the interpretation and implementation of Universal Human Rights the gap that separates their fundamental value systems. The difference in these value systems conditions not only the ethical and financial implications of human rights but also accounts for asymmetrical relations between developed and developing countries, between the Global North and the Global South.

These fundamental differences between the West and East, the North and South, call for cultural, political and even religious relativism where joint mutual recognition and a common commitment to moral universal standards could foster the proper implementation of rights. It is with a view to harmonize the multiplicity of interpretations that some have suggested mutual respect of each other’s opinions and value systems, and have advocated for a cross-cultural consensus in a pluralist world context¹.

A more serious claim relates to *intervention*. Critics have claimed that the discourse on human rights is often used by certain countries as an instrument to justify intervention in the

1. Omar, Sidi and Ahmed, Fatuma, “Universal Protection of Human Rights: A Cross-Cultural Perspective” in *Journal of Language, Technology and Entrepreneurship in Africa*, Vol. 2. n° 1.2012, ISSN 1998-1279. P.311-320

domestic affairs of other states, and that NGOs are in agents of the powerful political powers they sometimes represent. Ignatieff holds that the normative practice in human rights is to seek consent for intervention and to abstain from interference when consent is not given. This brings to question the legitimacy of rights standards of the Global North since it intervenes more often than not in sovereign states in the South. In the cases of intervention without consent, politicized human rights discourse is seen as the language of “a moral imperialism just as ruthless and just as self-deceived as the colonial hubris of yesteryears”¹.

Collision of rights - Although the rights of the individual are “permanent and inalienable”, in situations of collision of human rights it is incumbent upon the state, often in light of its political agenda to act as arbiter in the prioritization of one right over another. This invariably raises the question of which human right should take precedence over the other. In the absence of normative criteria for prioritization this sometimes leads to unfairness in implementation.²

Nationalism – Some dictatorial regimes use nationalism to ideologically justify their power and conceal their motivations. They deploy strategies to constrain and even prevent human rights applications such as strategies of de-legitimization of human rights values within their territorial boundaries. Cases of intimidation particularly against NGOs are rampant.

What is certain is that the politicization and instrumentalization of rights and political discourse prioritize rights according to ideological rather than logical criteria. Implementation processes, the conceptual political discourse, manifest limitations in the comprehension of human rights. Within the political perspective there is the risk that "human rights" be seen as a set of entitlements specified by a particular political authority, and thus vulnerable to redefinition according to that authority's convenience and preference³.

It is essential, in spite of the on-going ideological political discourse that we go beyond the political reading of human rights. This reading accounts for only one aspect of the phenomenon and cannot be accepted as a general rule valid in all circumstances, in all places, for all people and in all times. Habermas has insisted:

“We can criticize not only selective readings, tendentious interpretations, and narrow-minded applications of human rights, but also that shameless instrumentalization of human rights that conceals particular interests (and agendas) behind a universalist mask – a deception that leads one to the false assumption that the meaning of human rights is exhausted by misuse”⁴.

1. Ignatieff, p. 298.

2. A good example could concern a parliamentary immunity where a member of parliament in exercising his or her function may not be prosecuted even if he or she expresses a racist opinion. Parliamentary immunity coupled with freedom of speech may be invoked against the victim's right to legal satisfaction.

3. Jürgen Habermas, *Ibid.*, p. 14

4. Rowan Williams, “Human Rights and Religious Faith » in *ABC RELIGION AND ETHICS*, 29th Feb. 2012.

These limitations should lead us to turn to the more objective and fundamental moral concept of rights as described in the UNDHR. We need to move from the periphery to the centre and to focus on the basic and core human rights, meaning those rights without which all the others would be meaningless. Without the right to life one cannot enjoy the right against discrimination.

To transcend this political impasse, it is imperative that human rights be conceived as rights that are God-given, inherent to all human beings, irrespective of nationality, race, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These basic rights are all “interrelated, interdependent and indivisible”. They are universal rights because they are rights of possession and not of enforcement. We have human rights simply because we are human.

Thomas Johnson affirms that the dignity we enjoy as human beings has been given by God:

“He has given us desires for justice, mercy, peace, faithfulness, that are the image of his justice, mercy and faithfulness. He has given us senses and a mind that can partly but really understand his creation and God Himself.”¹

He cites Psalm 8 as a typical description of the dignity humans have in God. “What is a human being? Created by God to be a little lower than the heavenly beings, crowned by God with glory and honour, ... the Psalmist sees humans as having a very distinct role in the entire universe: something like the rest of creation because we are created; something like God because of the unique dignity, commission, and task given by God.”²

Having said that, one should however be cautious enough to add that historically the Christian world with its crusades, and cortege of violent, internecine religious wars cannot claim to have promoted human rights. Some critics have even argued likewise on biblical grounds. In the Old Testament they affirm, God had a chosen people and in the New Testament slavery – condemned by the UDHR - was tolerated in the Roman Empire. They assert that human rights as a concept has no single religious or Christian foundation.

We would conclude however by arguing that human rights values are affiliated to a large number of Christian and biblical doctrines. The parallelism is undeniable. Human dignity as a Christian concept remains non-negotiable. Fundamental human rights need not be redefined; they are valid for all individuals, all peoples at all times and in all places. Based on this fact, Churches in whatever context can be guarantors and protectors of human rights in situations where political powers are inefficient or simply inexistent.

1. Thomas K. Johnson, *Human Rights*, WEA Global Series, Vol.1, Bonn, 2008 ; p. 73

2. Ibid. p. 73-74.

