

HUMAN RIGHTS

analysis

# Globalise respect for human rights

PAUL HOFFMAN

Amnesty is not "anti" globalisation; far from it! Amnesty International was founded 40 years ago in the belief that if people had their human rights violated in one country it had to be the concern of people everywhere. Our basic creed from the beginning was that "Human Rights Have No Boundaries!"

### Globalisation of human rights

Indeed, and I say this cautiously here (but it's true!), we were early free traders. The protectionism we opposed, however, was protectionism that which placed state sovereignty above human rights, territorial borders as barriers to outside scrutiny and action. The 'product' we were exporting globally was the simple idea that governments had to respect and protect basic human rights. And that when the Pinochets of the world were not held accountable in their own countries, it was up to the rest of the world to hold torturers and murderers to account wherever they were found.

This was a globalising message forty years ago when the human rights movement was young, and it remains so today. So we are not opposed to globalisation but we cannot accept a globalisation that dooms more than a billion people to lives of deprivation incompatible with basic human dignity.

Why worry so much about expanding investment opportunities and so little about globalising respect for human rights? Why are all the attention on binding rules for trade disputes, and so little on international accountability in relation to states' human rights obligations? Why demand the dismantling of barriers to trade while constructing barriers to those displaced by economic globalisation and war? Globalise yes - but globalise justice and equality, globalise respect for human rights and globalise our struggle to end impunity! This is our globalisation agenda.

### Building another world - the human rights contribution

How can the human rights framework aid our struggle to build another world? Let me suggest that human rights law and activism can contribute in three ways. First, the human rights framework provides a moral compass for the road ahead - reminding us of why global inequities matter and why we must mobilise globally to counter these inequities; second, human rights law offers comprehensive standards based on fundamental, widely shared values for the new world we aim to build; and third, the human rights framework identifies the targets of our human rights activism in a way that helps us focus our activism and make it more effective.

Let me say a few words about each of these ideas and hope that I and other Amnesty members here in Porto Alegre will have the opportunity to discuss and debate these ideas with you over the next few days. We are here to learn from other activists and movements about how we can make our own activism more effective

### Our common humanity

The starting point for international human rights law - for all the treaties and standards adopted in the last half century by the United Nations and regional organisations - is that all human beings have certain basic rights. We enjoy these rights not because we are citizens of a particular state, members of a political party, or followers of a particular creed. We have rights because we are human, no matter where we live or who we are. The Universal Declaration of Human Rights does not speak about North and South, East and West, or donor countries and 'emerging markets'. Its language breaks down these barriers, and starts first from the position of our common humanity. Its preamble states "[The] recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world"

The very first article of the Universal Declaration proclaims "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." Why is this notion of a common humanity so important? First, because it tells us that the starting point for any assessment of economic, social, cultural or political progress must be measured against improvements in individual human lives. And second because it reminds us that all human lives are equally relevant in making this assessment. We are outraged at global inequities because "All human beings are born free and equal in dignity and rights." No individual - and certainly no government - can feel complacent in a world where over 1 billion of our fellow human beings live in conditions of extreme poverty. The human rights framework requires us to go beyond our fellow citizens, co-religionists, castes, or class when we

compare ourselves to others.

Amnesty believes that this very basic starting point should be at the core of building another world. Many implications follow: For example, citizens of one country, no matter how powerful, cannot buy their security if the price is insecurity for people elsewhere; freedoms for one minority group will be illusory if they lead to greater repression for other groups.

Yet the rhetoric used by governments in the so-called "war against terrorism" has sought to exclude certain groups from membership in the "human family". Suspected "terrorists" or "enemy combatants" are seen as having forfeited any entitlement to be treated as human beings endowed with basic human rights. In the "war on terrorism" there can be human rights free zones. The same dehumanising language has been used to justify the inhuman treatment of prisoners as part of the "war against crime"; the demonising of refugees in virulent anti-immigration campaigns, and the persecution of sexual minorities in the name of culture or religion.

These "wars" or campaigns seek to divert our attention from the simple but revolutionary principles embodied in the Universal Declaration of Human Rights, principles as relevant in 2003 as they were in 1948. Read the Universal Declaration and think of what the world would be like if all human beings actually had all of these rights.

### A comprehensive vision - life in freedom and dignity

The human rights framework offers a comprehensive vision of what constitutes a life in dignity and freedom. Protection of life, liberty and security, rights to free speech, to political participation, to protection of privacy, family rights, and due process of law; but equally, rights to education, health, social security, to work and the basic right to an adequate standard of living - to housing, clean water, and to food. The human rights framework places a strong emphasis on non-discrimination. It guarantees these rights equally, regardless of race, creed, colour, gender, caste or class. It also offers special and extra protection to the most vulnerable and disadvantaged groups in our societies. International human rights law is much more than civil and political rights. It goes far beyond a narrow concept of protecting citizens from state interference with their basic freedoms. The human rights framework places equal emphasis on the idea of human dignity and what is required of states - in positive terms - to ensure lives are lived in dignity.

For too long, too little attention has been placed on economic and social rights - and, in this respect, Amnesty International shares some of the blame. Amnesty has only recently committed itself to working across the whole range of human rights. For 40 years we have demanded the release of Prisoners of Conscience and campaigned to end "disappearances", arbitrary killings and torture. Our goal has been to ensure accountability for such these crimes, and an end to impunity, as a means of preventing them. We need now to convince the world that extreme poverty creates its own kinds of prisons. That arbitrariness in the way the law operates affects livelihoods no less than lives, and that the insecurity that comes from waking each morning hungry, without a home or job can be as terrifying as that instilled by a repressive police force. This is no easy task. Economic and social rights activism, however, is on the move and - after hesitating for too long - Amnesty International is now committed to joining with others to work to achieve these rights.

Another barrier to complete human rights protection is the artificial distinction between the public sphere of political activity and the private sphere of the home in international legal theory. In practice this has meant that the

torture experienced by millions of women in the form of domestic violence has been shielded from scrutiny of a human rights movement preoccupied with more traditional forms of state-sponsored torture. Women's rights defenders across the globe have exposed the inadequacy of this approach and have helped transform the very notion of human rights, to make it more responsive to the world women actually experience. Although Amnesty was slow to join this struggle we are planning a major international campaign on violence against women next year and we hope to make up for lost time.

This comprehensive vision of human rights explicitly resists hierarchies and priorities. People used to talk of "first" "second" and "third" generations of human rights. During the Cold War the west advanced the argument that political rights deserved priority over social rights, and many socialist and developing nations took the opposite view. This is now a stale and pointless debate. Human rights are interdependent. The right to free expression is hollow if people are illiterate and denied an education. And attending schools would hardly be fulfilling if the curriculum were used to promote

refrain from doing) to live up to their human rights obligations.

For example, over 145 governments have made clear commitments in relation to the right to health that include obligations concerning access to affordable medicines. Such commitments ought to trump patent protections in a just world. Human rights law will not always provide clear answers, but it will bring firmly grounded principles of individual rights and accountability into these discussions. Perhaps of even more direct relevance to the Social Forum, however, is the fact that international human rights law can be applied to actors other than governments. Other actors - international financial institutions and transactional corporations - also have clear duties to respect human rights. These legal obligations transcend national borders.

This point has been readily accepted in relation to civil and political rights. The laws in many countries recognise that the authorities must take action when there is torture or repression in other countries; for example, to prevent weapons shipments to that country, or to arrest alleged torturers if they travel abroad. We need now to globalise obligations for ESC rights - to require, for example, that a country's patent laws not operate in a way that denies people in other countries access to life-saving medicines.

Corporations too can be brought within the framework of international human rights law. As a human rights lawyer in the United States I have been involved in many cases in which we are using international human rights law in an attempt to hold multinational corporations to account for their complicity in international human rights violations outside the United States. In one case in California we are claiming that UNOCAL, a large US oil company, must be accountable for entering into a joint venture with the repressive military regime in Burma when the natural gas pipeline built by the joint venture was built on the backs of forced labour of the villagers of the region.

The human rights framework is being used by poor, displaced villagers in Burma who cannot obtain justice in their own country to obtain justice based on international duties owed by Unocal that transcend its duties under domestic law. For too long corporations operating globally have exploited weaknesses in national laws and have been party to human rights violations with impunity. International human rights law is part of the solution to corporate accountability and to the creation of a global regulatory framework that allows for a globalisation consistent with freedom and dignity. There is a long way to go but international human rights law has helped to change the terms of the debate.

### The values of human rights

Some critiques of human rights used to argue that this framework was too neutral and, by ignoring power structures and the facts of material inequality, only provided the illusion of freedom and equality. Linked to this was the critique that the human rights framework was too legalistic. International human rights law, however, is not neutral. It does not endorse particular political ideologies or systems of government. It does, however, endorse and defend core values - tolerance, equality, non-discrimination, freedom and human solidarity. Such values lie at the core of the message of this Forum. The fact that these values are set out in a system of international law should be considered strength, not a weakness. The Universal Declaration of Human Rights is not a legalistic document; it embodies the demands of people from every corner of the globe for a more just world.

Let us use the language of human rights to transcend borders and barriers of all kinds and international human rights law to strengthen accountability.

### Concluding remarks

The World Social Forum has reminded the world of the reality that hundreds of millions of our fellow citizens live in poverty and insecurity. As human rights activists we share the dream of building a different world. What is needed now, above all else, is to recommit ourselves to fundamental principles that were solemnly agreed by states more than 50 years ago, in the wake of the horrors of the last global war. Article 28 of the Universal Declaration states "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be realised."

Such a world would organise itself so as to place value not on systems, economic processes, or the size of a country's defence budget, and certainly not foreign direct investment, but on individual human lives of freedom and dignity. Do we need another global war before our leaders act as if such principles mattered?

We join you in saying No

Paul Hoffman, is Chair of Amnesty International. The speech was presented at 3rd World Social Forum, Porto Alegre, Brazil.

CONSUMER

corner

# State of consumer protection in India

BEJON MISRA

The Hon'ble Minister of Commerce of Bangladesh is determined to protect the Rights of consumers of Bangladesh, it will not be too far for a common consumer in Bangladesh to access quality products and services at the most affordable price. The initiative started by drafting a Consumer Protection Act for Bangladesh is a step in the right direction. Now it is for us to ensure a speedy enactment by the Government and its effective implementation. I wish to share with all the participants the history and the existing scenario in India on consumer protection and the role of consumer organizations.

### Consumer protection in India

India was one of the 185 countries, who were signatories to the UN Guidelines for Consumer Protection as adopted in April 1985. In fact India was practically the first country thereafter to enact a comprehensive legislation called the Consumer Protection Act, in December 1986. The preamble to the Act states that it is intended to provide better protection of the interests of Consumers and for speedy settlement of Consumers' Disputes. It also goes on to add that it is intended to promote and protect various specific rights of Consumers, which are practically the same as started in the UN Guidelines.

### Legal institutions and their functions

The Act provides the setting up of a broad-based Consumer Protection Council at the National level as also a similar Council at the State level in all the States of the country. Quasi-Judicial Bodies for settling Consumer Disputes have also been set up in every District of the country to provide easy and inexpensive access to Consumers. Every State in the country has also a State Commission, with both appellate and original jurisdiction. Likewise, there is also an apex National Commission with appellate and original jurisdiction. These quasi-judicial bodies are by and large functioning quite satisfactorily and are providing speedy redress and justice to Consumer Disputes. Incidentally, Consumer Coordination Council (CCC) conducted an evaluation of the functioning of some sample District Consumer Disputes Fora and submitted its findings and recommendations to the Government. The Consumer Protection Councils also discuss periodically Consumer Protection & Awareness issues for policy formulation. There is a separate and distinct Department of Consumer Affairs both in the Central Government and in most State Governments. A working group consisting of many prominent Consumer Activists and Consumer Organizations, including CCC, reviewed the provisions of the Consumer Protection Act and made recommendations for various amendments to the Act. Some of these amendments are under process in the Indian Parliament.

### Consumer rights organisation and their activities

There are more than 2000 Consumer Organizations in India, which are recognized by the Department of Consumer Affairs, either at the Central

or State level. These Consumer Organizations are involved in a wide variety of activities related to various aspects of Consumer Awareness and Consumer Protection. Many of them bring... as in many regionals. They also conduct various workshops and seminars on Consumer Awareness and Consumer Protection. The Department of Consumer Affairs, Government of India also publishes a bilingual magazine for creating Consumer Awareness. Some Consumer Organizations also conduct Comparative Testing of

inaugurated by the then Prime Minister of India, citizens' charter was adopted as a national policy.

### Silent feature

It has been observed that though various service providers have formulated several citizens charters, these are yet to make a dent at the cutting-edge level of providing of service to the citizens. Attitudinal changes and motivation are required at all levels to bring about substantial improvement in the delivery of services and for effectively implementing the principles of citizens' charter. A participatory approaches rather than that of confrontation is necessary to make this movement a success. This is therefore, an ongoing exercise and CCC and its member organizations are to be involved in this ongoing program.

The major handicap for furthering this Movement has however been the lack of an institutional approach and basic infrastructural support to consumer organizations like CCC who are working in this area, for Research & Survey, Information & Documentation, Publication, Human Resource Development, Legal Research and for Evaluation and Planning for future. Consumer Coordination Council (CCC) is firmly of the view that there is a close link between Consumer Protection and citizens concerns, good governance, particularly in the areas of public interaction with the governmental machinery. It is felt that the time is ripe to focus attention on this area, so that the common citizens are not driven from pillar to post while dealing with the governmental machinery.

The set up and functioning of the governmental machinery is such that there is very little public accountability and even less transparency. There is also no noticeable public participation in the formulation of the policies by the government. The citizens too have also not been able to over throw their passivity and fear and they also do not seem to have the courage, power, knowledge and initiative to demand better services and public accountability. These issues it is felt have to be squarely faced so that steps may be



taken to over come the present difficulties and ensure a better deal for citizens.

The governmental machinery is often perceived as not being sufficiently responsive to the people, not because it is inherently apathetic or lacks concern for the people. On the other hand, government does have numerous programs for improving the people. Unfortunately, however no concerted attempt has been made so far, either by the government itself, or by organized groups of citizens, to make the government function in a manner which is more citizen-friendly. Consumer Coordination Council is therefore strongly advocating with government for setting up a suitable institution to be called Citizens' Resource Center for taking up the activities as mentioned earlier.

Finally, it has been observed that the consumer organizations themselves have to learn to work professionally and acquire skills to effectively communicate with the consumers and raise resources to sustain the growth. The smaller organizations have to be supported by the bigger organizations to grow and continue the process in partnership with the government.

### Concluding remarks

Bangladesh must ensure that the proposed consumer protection law is made simple, accessible and tangible. It is recommended that the redressal mechanism should be made totally autonomous and insulated from political and government influences. The redressal body should not only look unbiased but also demonstrate unbiased action. The industry and the service providers should support the funding of the institution, which should look after the effective implementation of the consumer protection law and also support the advisory and educative activities of the consumer organizations and other civil society organizations. The government should ensure speedy redressal and provide the necessary infrastructure through regular consultation with all the stakeholders. The Hon'ble Minister of Commerce should have an additional responsibility of consumer affairs till a separate ministry of consumer affairs is not created. He should Chair the National Consumer Protection Council (NCPCC) with members drawn from all the cross sections of the civil society with equal representation, which should meet at least four times a year to review and suggest policy changes in the consumer protection related issues. The implementation of the law should be vested with NCPCC and the field-related activities should be assigned to the consumer organizations so that it functions with a lean government. A resource center similar to CCC concept could be promoted to conduct research on consumer related issues and train NGOs and representatives from the industry and service sector on all the technical aspects of consumer behavior, expectations and global initiatives.

Bejon Misra is Vice Chairman, Consumer Coordination Council. This article was presented in National Workshop on Consumer Rights in Bangladesh, held from 12-13 January.