

Universal Human Rights and Sustainable Globalization: Reaching for a Castle in the Sky

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Abstract

Critiques of the Universal Human Rights (UHRs) discourse condemn its reliance on the paradigmatic heritage of “modernity,” which further entrenches “Western” neoliberal, ethnocentric and patriarchal conventions into the dominant global social order. Yet, despite their epistemological and practical limitations, UHRs represent a salient platform in local/national/regional/international/global politics. They provide political leverage, by lending legitimacy to claims against discrimination, exploitation and violence. Beyond dogmatic universalism or absolute relativism, “human rights” have the potential to be “substantively defined” and perhaps in turn, “universally” endorsed as point of departure for a sustainable global social project. The potential of UHRs lies in that they fundamentally hail everyone and anyone. Concomitantly, the international institutionalization of human rights creates a new impetus for the development and implementation of the UHR platform. With this in mind, six fields of responsibilities are examined and the roles of overlapping sets of stakeholders are discussed. Ultimately, it is argued that key stakeholders have a structural influence on fields of social practice, which in turn, imparts fundamental responsibilities related to the advancement of UHRs. Without the commitment of these key stakeholders, sustainable globalization is but a castle in the sky.

Economic, political, cultural and technological phenomena drive globalization through the push and pull of hegemonic and counter-hegemonic forces. Such forces are manifested, in part, through the global institutionalization of (inter)national politics, non-governmental organizing, markets, academe/education, law and telecommunications. By praxis, Western conventions about nation-states, secular governance, civil order, the public/private split, individual sovereignty, rational choice, social contract ideology among others, exert structural influences on global realities. Thus precepts of “modernity” and “civilization” taint Universal Human Rights (UHRs).

Enlightenment political-philosophy inserted the principles of human rights into the constitutional debates that shaped “modern” forms of civil organization.¹ In turn, Western societies’ reliance on the rule of law as a discursive frame and “functional” model for “social order” acts as a powerful structuring force worldwide. In this context, UHRs emerge as a pivotal platform, a starting point for the elaboration of a sustainable global social project; even if contemporary law is, initially, (mis)informed by Western canons.

In the following, a number of discrepancies regarding the adequacy of the current UHRs framework are briefly reviewed. Nonetheless, I argue that UHRs are being defined and improved as we move along—in the face of practical tensions and productive negotiations. Six particular fields of responsibility are defined based on the structural influence of institutional apparatuses. I propose that “six overlapping groups of stakeholders” operating in the fields of (inter)national politics, non-governmental organizing, markets, academe/education, law (enforcement) and telecommunications should be hailed to partake in UHRs debates and take on official responsibilities with regards to their implementation. This paper posits that UHRs are a viable starting point to work toward a sustainable global social project.

1 Gershon Shafir and Alison Brysk. “The Globalization of Rights: From Citizenship to Human Rights” in *Citizenship Studies* 10 (3), July, 2006.
See for example: Locke. *Second Treatise of Government* (1689); Montesquieu. *The Spirit of the Laws* (1750); Rousseau. *The Discourse on the Origin of Inequality* (1755); and *The Social Contract or Principles of Political Right* (1762) and DeToqueville. *Democracy in America* (1835, 1840).

UHRs, the state and the global arena

Key precepts of “modernity” and features of globalization make UHRs a central issue in international politics. On the global stage, the power of states and state unions is determined by their position in the global economy, their military capacity, and their socio-historical relations with other states. Conversely, “economic globalization and trade liberalization have given multinational corporations [...] economic and political powers that match and often surpass that of national governments.”² So aside from the fact that non-state actors cannot “legitimately” use “force,” they can sometimes afford to be very persuasive and even corruptive and coercive. Thus, the assumption that governments “represent” the population of the territory they control, that they heed the general will of this population, is problematic and constitutes a crucial loophole in the UHRs framework.

Though states and state unions (like the EU and the UN) remain key stakeholders in the definition and implementation of UHRs, it is becoming difficult to justify why only signatory states and state institutions are liable/accountable vis-à-vis UHRs conventions. This overemphasis on national politics and state jurisdiction does not adequately contend with the fact that globalization disrupts the linkages between sovereignty and territoriality.

The conclusion that we reach here gives an indication how one of the gravest conflict of our day might be [‘understood’]. [...] No matter how devoted men may be to their native land, they all today are aware that beyond the forces of national life there are others [...]. [...] We might say that the moral forces come to have a hierarchic order according to their degree of generality of diffusion.

Thus, everything justifies our belief that national aims do not lie at the summit of this hierarchy—it is human aims that are destined to be supreme.³

2 R. Shamir. “The De-Radicalization of Corporate Social Responsibility” in *Critical Sociology* 30 (3), 2004, p.669.

3 Emile Durkheim. *Professional Ethics and Civic Morals* (New York: Routledge, 2001 [1957]), p.72.

But “modernity” left us rigid ethos. To think globally is almost counter-intuitive, so we try to think trans/inter-nationally so as to hold on to the underpinnings of contemporary geo-politics. If we are to contemplate directions for a sustainable global future, then the state has to be de-centered. Only this can provide legitimacy to global inter-institutional (not just inter-national) systems of accountability.

UHRs and markets

International affairs are often propelled by “special interests.” This is relevant to UHRs because beyond the conventions that make “willing” governments subject to international standards, there is still little in the way of regulations that confer “global social responsibilities” to ensure UHRs are respected by other powerful sets of stakeholders. There remains great urgency to establish measures that are responsive to the effects of trade, finance, commerce and industries on human rights.⁴

On one hand, there is the *International covenant on economic, social, and cultural rights*, which speaks to most states’ “commitments” towards achieving specific standards of living within their jurisdiction: at the national and international level, this is the domain of public law. On the other, an adjacent regime of international financial, industrial and commercial conventions implicate private stakeholders (banks, industrial establishments, corporations, etc.) who, in order to secure the terms of their “foreign investments,” strike up “private market deals” with state institutions. This is problematic!

- 1) Assumptions about representative and publicly accountable national politics are the anchors of human rights law⁵; in this sphere, states have special social responsibilities toward the public. This creates a paradox, because in the sphere of international economic policy, or private law, “public institutions” are made to contractually act as private stakeholders, as if they are “free” market actors.

4 Jeanne M. Woods and Hope Lewis. *Human Rights and the Global Marketplace: Economic, Social and Cultural Dimension*. (Ardley, NY: Transnational Publishers, 2005).

5 Ethan B. Kapstein. “Distributing the Gains: Justice and International Trade” *Journal of International Affairs* (52 (2) Spring, 1999).

- 2) In the occidental tradition, private law is founded on contract rights while “public rights” and therefore public law, are founded on statute principles; but these, it has been shown, are intricately interwoven.⁶ The fact that the “private sphere of society [...] has become publicly relevant”⁷ has long been established and is increasingly relevant given the proliferation of multi-stakeholder initiatives involving governments, corporations and civil society organizations.⁸

We should keep in mind that capitalism “within societies and as an international system [...] is continually generating new conflicts and contradictions that have to be resolved or contained through conscious activity.”⁹ In other words, the dominant neo-liberal market has to be regulated in order to contend with crises of (dis)order. Market “self-regulation” is a myth and a practical impossibility. Yet, capitalism and neoliberalism have to be de-centered as well, because all economies, from the micro to the macro, from the formal to the informal, are interwoven. So it is not only capitalist or neoliberal practices that may have human rights implications. All political economies and any financial and production regime may have relative or substantial effects on the conditions that incur human rights abuses.

Civilization, UHRs and universalism

“Modern civilization” is historically driven by occidental “normativity,” which has been imposed largely through the colonial and imperial practices of Western Nations. Civilizing structures “are constantly expanding within Western society [...] and spreading] over wider [...] areas, [...] of the rest of the world.”¹⁰ The problem with this civilizing process and the force of global institutionalization is that Western

6 Jeanne M. Woods and Hope Lewis. *Human Rights and the Global Marketplace: Economic, Social and Cultural Dimension* (Ardley, NY: Transnational Publishers, 2005).

7 J. Habermas. *The Structural Transformation of the Public Sphere* (Cambridge, Mass.: MIT Press, 1991 [1962]). p.19. citing Hannah Arendt. *The Human Condition* (Chicago: University of Chicago Press, 1998 [1958]).

8 Ricardo Petrella. *Écueils de la mondialisation, Urgence d'un nouveau contrat social* (Montréal: Éditions Fides, 1997).

9 Fred Block. “Rethinking ‘Capitalism’” in Nicole Woolsey Biggart, (Ed.), *Readings in Economic Sociology* (Oxford: Blackwell Publishers, 2002). p.223. based on Karl Polanyi. *The Great Transformation* (Boston: Beacon Press, 1957. [1944]).

10 Norbert Elias. *The Civilizing Process (Revised edition)* [Dunning E., Goudsblom J., and S. Mennell (Eds)] (Oxford: Blackwell, 2000). p.382.

paradigms tend to orient policy development and administrative mechanisms, with little heed to alternative ways of thinking, doing and living. In fact, the process of defining and implementing UHRs principles may, in effect, be experienced as an imperial or neocolonial form of domination.¹¹ As such, mounting skepticism is expressed regarding the moral authority of foundational Western claims.¹²

For some, the *Universal Declaration of Human Rights*, proclaimed in 1948 as an *Act of the General Assembly of the United Nations*, serves as a platform for the establishment of standards. Though this *Act* is scarcely “enforceable,” it is important because it is a tool for diplomatic persuasion that encourages the hegemonization of values and practices. As such, the articulation and dissemination of UHRs principles can be perceived as emblematic of the normalization of Western rhetoric and values. It follows that international law and UHRs may, to a relative extent, derive significant principles from ethnocentric assumptions.

For others, UHRs are “universal” simply because most, if not all, societies have developed notions about forms of basic human entitlements.¹³ “This has generated a large body of literature on so-called non-western conceptions of human rights.”¹⁴ Some challenge the idea that human rights are “essentially” Western, suggesting that notions of human rights can be drawn from religious texts and tradition. Zakaria¹⁵ wrote about the way Arab literature establishes parallels between UHRs and traditional Islamic conventions. Wai¹⁶ examined Sub-Saharan perspectives for the ideological basis of UHRs; and Coomaraswamy¹⁷ as

well as Khushalani¹⁸ maintain that notions of human rights constitute important bases of Asian cultures and societies. Claims have also even been made in an attempt to “demonstrate” that the Hindu caste system represents a nuanced and more “traditional” and “multidimensional” understanding of human rights.¹⁹

But the debate on the origins of human rights stirs us away from the real problem. The central question is not whether human rights are tenable for diverse and plural human societies, but rather whether it is possible for human rights and incumbent debates/resolutions/compromises to serve as a catalyst for a more inclusive, just and sustainable global social project. Even with wide variations in both the meanings and applications, most countries worldwide have endorsed the UHRs platform, at least insofar as it constitutes a comprehensive frame for “justice.”

As of 6 December 2006, the six core international human rights treaties (on civil and political rights, economic, social, and cultural rights, racial discrimination, women, torture, and children) had an average 168 parties, which represents a truly impressive 86 percent ratification rate.^{20, 21}

Albeit overwhelming support for UHRs, its ethnocentric, patriarchal, liberal, neo-liberal and other paradigmatic limitations are confronted by valid contestations that warrant consideration. Criticisms point to the need to review the UHRs framework, to examine the possibility of a more substantive reading of basic economic, social, cultural, and political entitlements and their relation to both the constructions of subjecthood in local, regional, national, international and global society (based on gender, race, ethno-cultural affiliations, class, age, physical ability or mental condition), and the moral aims of justice.

11 Uwe-Jens Heuer and Gregor Schirmer. “Human rights imperialism” in *Monthly Review* (49 (10) March, 1998); Michael Ignatieff. “The Attack on Human Rights” *Foreign Affairs* (November/December, 2001); Anthony Padgen. “Human Rights, Natural Rights, and Europe’s Imperial Legacy” in *Political Theory* (31 (2), Apr., 2003).

12 Jeanne M Woods and Hope Lewis. *Human Rights and the Global Marketplace: Economic, Social and Cultural Dimensions* (Ardley, NY: Transnational Publishers, 2005).

13 Adamantia Pollis and Peter Schwab. “Human Rights: A Western Construct with Limited Applicability” in Pollis, Adamantia and Peter Schwab (Eds.) *Human Rights: Cultural and Ideological Perspectives* (New York: Praeger, 1979); David R. Penna and Patricia J. Campbell. “Human Rights and Culture: Beyond Universality and Relativism” *Third World Quarterly* (19 (1), 1998).

14 Jack Donnelly. “The Relative Universality of Human Rights” *Human Rights Quarterly* (2007).

15 Fouad Zakaria. “Human Rights in the Arab World: The Islamic Context” in UNESCO. *Philosophical Foundations of Human Rights* (1986).

16 Dunstan M. Wai. “Human Rights in Sub-Saharan Africa” in Pollis, Adamantia and Peter Schwab (Eds.) *Human Rights: Cultural and Ideological Perspectives* (New York: Praeger, 1979).

17 Radhika Coomaraswamy. “Human Rights Research and Education: An Asian Perspective” in *International Congress on the Teaching of Human Rights: Working Documents and Recommendation* (Paris: Unesco, 1980).

18 Youngindra Khushalani. “Human Rights in Asia and Africa” *Human Rights Law Journal* (4 (4) (1983).

19 Ralph Buultjens. “Human Rights in Indian Political Culture” in Kenneth W. Thompson (Ed.) *The Moral Imperatives of Human Rights: A World Survey* (Washington, D.C.: University Press of America, 1980).

20 Information on Ratification reports at <http://www.ohchr.org>

21 Jack Donnelly. “The Relative Universality of Human Rights” *Human Rights Quarterly* (2007).

Section II

Fields of responsibilities

While we work out the quirks of the UHRs framework, implementation should not be delayed. Indeed, for anyone, whose human rights are being violated, the need to expand institutional commitments to UHRs is pressing. Fields of responsibility provide insight into a different model of governance, whereby inter-institutional, multilateral and local/global mechanisms, can promote shared accountability. I propose to define fields of responsibilities in terms of the stakes at play for key groups of stakeholders. For the purpose of intelligibility I propose that six groups of stakeholders (actors, actants and collectives) can be identified on the basis of their fundamental structuring effects in spheres of social relations. Therefore fields of responsibilities can be understood as axes of organizational, associative, corporative and institutional power. I start from the view that, because of their power, or structural influence, all institutions, organizations, establishments, and corporations have moral obligations. Behind this reasoning is the principle of civil responsibility.

I frame these fields of responsibilities based on spheres of social life, which are shaped by the structural influence of key stakeholders. Therefore I propose that “six overlapping groups of stakeholders” operating in the various fields of (inter)national politics, non-governmental organizing, markets, academe/education, law(enforcement) and telecommunications should be hailed to partake in UHRs debates and take on responsibilities with regards to their implementation.

I take for granted that actors, actants and collectives cannot be clustered into “stakeholder” categories; that they always have vested interests in separate institutions; and that institutions do not necessarily “fit” perfectly in any convenient typology. A politician can also be a business owner, an environmental activist and a professor—recouping four categories; and a telecommunications network may also function as a business and a state institution—recouping 3 categories. So I acknowledge the difficulties that emerge in identifying “functional” institutional categories. I use “fields of responsibility,” not to cluster people and organizations, but to speak of the structural influence of institutions, and to clarify how institutions can use UHRs to help stir

globalization towards more sustainable forms of “world development.” Moreover, I mean to suggest that roles and responsibilities are not mutually exclusive and that they always intersect in complex ways.

The following discussion on fields of responsibilities does not represent a thorough account of the many roles social institutions play in the development and implementation of the UHRs framework. Nor do I claim that these six fields of responsibility are “the only ones” that should be considered as fundamental to the advancement of UHRs—I am thinking about health care, which I do not cover here. As such, each of the following sections is only an outline of broader arguments on the “billowing” responsibilities of key institutional stakeholders.

Inter-national politics

Some of the main implications of globalization on territoriality and sovereignty have been outlined previously. Nonetheless, national jurisdiction constitutes (for the moment) a fundamental dimension in the implementation of UHRs—which should also be understood in relation to “citizenship” and differentiated entitlements in particular locations.²²

A priori, it is assumed that individual states have their own system of law and courts to deal with crime, including constitutional (human) rights violations, which are occurring domestically. In general, international law apparatuses do not extend their jurisdiction to the level of “internal affairs.”²³ Yet, states and state unions have vested interests in negotiating “internationally” the legal terms associated with the conferring of rights to individuals.

The global human rights regime is based largely on the treaty commitments of states to respect and ensure human rights, and on customary international law [...]. The consequences of non-compliance with customary international law or a human rights treaty are generally limited to moral and political censure. International human rights bodies [...] also scrutinize and make recommendations. Only under two regional human rights

22 Gershon Shafrir and Alison Brysk. “The Globalization of Rights: From Citizenship to Human Rights” in *Citizenship Studies* 10 (3), July, 2006).

23 Jack Donnelly. “The Relative Universality of Human Rights” *Human Rights Quarterly* (2007).

regimes, those of the Inter-American and the European Courts of Human Rights can an international judicial body order a state to pay compensation to affected individuals.²⁴

While liability may be limited to pressure and censure from the international community, governments and nation-states apparatuses remain key stakeholders in the development and implementation of UHRs. An important point is that the language of UHRs is permissive, therefore “states are encouraged to promote human rights, not commanded to do so.”²⁵ Thus we should expect, but without “guarantee,” that they abstain from oppressive/discriminatory practices and work to put in place domestic conventions, services, and the means of enforcement to ensure the fulfillment of basic human rights. Yet, with the widening gap between state commitments and state practices²⁶ we are left to ponder, “what is the extent” of both responsibility and liability in international law? And how can state criminality be properly sanctioned?

State crime is a contentious matter.

The International Criminal Court (ICC), ad hoc Tribunals or Truth Commissions all struggle with the state’s capacity for ‘othering’ its deviant acts. The repositioning of the state within wider governance networks of nonstate actors (e.g. indigenous paramilitaries, mercenaries, private contractors) or indeed state surrogates renders the task of identifying and prosecuting the planners and perpetrators of violations particularly difficult.²⁷

States should not overestimate their authority, or overemphasize their perceived right over their “geo-politico-demographic” jurisdiction. The conception of a sovereign nation state that cannot be contained, monitored or be made accountable to a supranational/global system

24 Naomi Roht-Arriaza. “Institutions of International Justice” *Journal of International Affairs* (52 (2) Spring, 1999). pp.475–476.

25 Michael Ignatieff. “Looking Forward: Intervention and State Failure” *Dissent* (49 (1) Winter, 2002). p.116.

26 Emilie M Hafner-Burton and Kiyoteru Tsutsui. “Human Rights in a Globalizing World: The Paradox of Empty Promises” *The American Journal of Sociology* (110 (5) March, 2005).

27 Ruth Jamieson and Kieran McEvoy. “State crime by proxy and juridical othering” in *The British Journal of Criminology* (45 (4), 2005). p.505.

of governance is incoherent with the principle of accountability that underscores international law. Finally, the role of states should be considered to expand through its “interconnections” with the stakeholders that exert parallel structural influences in other fields of social life. Indeed, their direct impact on the development and implementation of the UHRs framework is even greater considering that they can directly constrain or promote certain institutional behaviors both domestically and internationally, in turn creating the conditions for the fulfillment or violation of UHRs.

As a growing number of nations voluntarily join this regime, the regime itself is expanding to incorporate new core human rights [...]. These treaties supply various monitoring bodies that work to improve governments’ practice in the specified areas of human rights by collecting and disseminating information, often with nongovernmental activists’ cooperation.²⁸

In fact, the impact of states’ (in)actions on social conditions usually corresponds with reactions by NGOs and civil associations, social movements and cultural institutions that respond to important gaps in the social safety net.²⁹

Non-governmental organizing

NGOs, associations and public establishments, representing the different population segments of societies around the world, play a fundamental role with regards to the development and implementation of the UHR platform. First, because they contribute to the (re)production of knowledge, ideas, and beliefs, and in turn, promote certain kinds of social behaviors; second, because they provide essential ethno-cultural, ideological, and humanitarian forms of supports, which in turn create social and cultural capital; and third, because they are, very often, committed to improving or maintaining living standards/

28 Emilie M Hafner-Burton and Kiyoteru Tsutsui. “Human Rights in a Globalizing World: The Paradox of Empty Promises” *The American Journal of Sociology* (110 (5) March, 2005). p.1374.

29 Peter Van Tuijl. “NGOs and Human Rights: Sources of Justice and Democracy” in *The Journal of International Affairs*. (52 (2) Spring, 1999).

conditions.³⁰ NGOs, public associations, civil groups, social movements, cultural institutions, ethno-cultural networks and activists are essential extensions of communities of interest/practice. And as such, their UHRs responsibilities revolve around (1) translating the principles of UHRs into something politico-culturally relevant; and implementing forms of interventions that respond to local social needs while fostering principles of justice; and (2) contributing to the debates and consultations required to develop and improve the UHRs framework.

The role of NGOs in developing concepts, effectively outlining important issues and supporting institutions with information and publicity has become accepted in many international circles. The United Nations dramatically increased its acceptance of NGO participation in world conference deliberations [since the 90s...]. Most of the international human rights treaty bodies welcome NGO support in the form of shadow reporting and participation in special discussion. [...]. Even the highly formalized procedures of the Commission on Human Rights include opportunities for NGO intervention on certain subjects.³¹

In this field of responsibility, the most varied forms of articulations emerge from UHRs debates and commitments. Competing spheres of interests may pose a great challenge for defining UHRs and programmatic priorities. Within this field of responsibility, huge differences exist in the ways rights are defined and in the forms of advocacy and intervention, which may be privileged by different population groups. But implementation cannot wait until all debates are settled. Considering that resources are scarce and situations often critical, groups interested in promoting certain rights and improving the living/social conditions of population segments are essential partners. The last 25 years are marked by the proliferation of organizations and associations

30 Peter Van Tuijl. "NGOs and Human Rights: Sources of Justice and Democracy" in *The Journal of International Affairs* (52 (2) Spring, 1999).

31 Marsha A Freeman. "International institutions and gendered justice" *Journal of International Affairs* (52 (2) Spring, 1999). p.530.

that "have contributed to international and national discourse on issues of global scope such as the eradication of poverty and the promotion of gender equality, peace, sustainable development and human rights. Most [of them] no longer work alone, but rather in networks that transfer information and other resources across borders."³² Ultimately countless NGOs have played a fundamental role in formulating and strengthening the UHRs framework and they continue to do so.

It is also with this in mind that accountability is required, not just from state institutions, but also from other key sets of stakeholders.

The non-profit NGOs that ostensibly pursue pro-development goals have been recognized for the useful role they play in holding governments to account, through domestic and international channels. However, their increasing power [... has led to criticisms and] their own accountability [is now] questioned. [... Thus, while they work] to address the accountability of [...] corporations [... if] they appear responsible for, or complicit in, human rights abuses, stunted social development, and environmental degradation. [...] This has led to an explosion of voluntary efforts by companies, often in collaboration with those same NGOs, to develop policies about, and processes to address, their relationship to society [...].³³

The triangular cooperation, and mutual accountability of states, NGOs and corporations constitutes a fundamental strategy to improve and implement the UHRs platform. A sustainable global social project cannot be envisaged without it.

Markets

Corporations, businesses, entrepreneurs, industrialists, and financial/trade institutions play a vital role in the establishment of standard market practices but they generally give little heed to human rights. For many

32 Peter Van Tuijl. "NGOs and Human Rights: Sources of Justice and Democracy" in *The Journal of International Affairs* (52 (2) Spring, 1999). pp.493-494.

33 Jem Bendell. "In whose name? The accountability of corporate social responsibility" *Development in Practice* (Vol. 15 (3 & 4) June, 2005). p.362.

reasons, the politics of UHRs implicate corporate responsibility, not as a series of special initiatives, but rather, as a mindset of business ethics and a crucial social duty, because we can only acknowledge the obvious impact of market policies and practices on living/working conditions. Like all the stakeholders who operate in other fields of responsibility, market stakeholders should be made accountable for their practices. The problem is that corporate responsibility, which should be conceived as basic civil obligation, remains “voluntary.”

Aside from national laws and multi-lateral agreements that are usually centered on the terms of trade, there is little in the area of enforceable regulatory structures to assess, monitor and control international market activities. Moreover, it is believed that (inter-)national legal provisions to protect labour rights, public welfare, and the environment, among others, contribute to inequalities between geo-political jurisdictions and impinge rather than promote investments and trade.³⁴ Not surprising then, that attempts by human rights and environmental organizations to push for the establishment of enforceable regulations to protect civil societies and ecosystems worldwide from international corporate/institutional “abuses” have not been successful.³⁵

The need for accountability as well as the relevance of international law, global governance and UHRs are only enhanced by the fact that commercial, financial, trade and industrial institutions have extended their reach across borders. In the international arena, market stakeholders are bound primarily by World Trade Organization (WTO) conventions that are ratified by states and backed by powerful lobbies. Essentially, the WTO works to clarify the terms of trade between nations to facilitate the production/distribution of goods and services worldwide. WTO subsidiary agencies, such as the International Labour Organization (ILO), the World Health Organization (WHO), the World Bank Group, the International Monetary Fund (IMF), and the World Intellectual Property Organization (WIPO), may also develop conventions that may impose relative “pressures” on states and by praxis, market stakeholders.

The world of market conventions is astonishingly complex and it is

34 B. F. Bobo. *Rich Country, Poor Country: The Multinational as Change Agent* (Westport: Praeger, 2005).

35 R. Shamir. “The De-Radicalization of Corporate Social Responsibility” in *Critical Sociology* 30 (3), 2004; J. Clapp. “Cleaning up their act” *Forum for Applied Research and Public Policy* (Summer, 2002).

hard to believe that UHRs are not fully integrated into WTO regulatory frameworks. ILO, as an example, was established in 1919 “to pursue a vision based on [...] universal, lasting peace [...] and the] decent treatment of working people.”³⁶ Since its inception, it has enacted 188 different conventions to regulate industries and production processes, and provide labour protections. Despite ILO conventions, the IMF’s and the World Bank’s

loan conditionalities include[d] a variety of provisions that undermine[d] labor rights [...] and] tens of millions of workers’ standard of living. [...] The] downsizing of the civil service [...] and the] privatization of government-owned enterprises; [the] promotion of labor flexibility [, which allowed firms] to hire [...] and] fire workers, [...] with minimal regulatory restrictions; [...] wage rate reductions, minimum-wage reductions [and] pension reforms [...] constituted some of the ‘recommended’ conditions] of broader IMF [and] World Bank structural adjustment packages that emphasize[d] trade liberalization, [...] at the expense of labor [rights].³⁷

Despite the existence of “guidelines” in the area of labour rights—which nonetheless rely on voluntary adherence—market institutions may deliberately disregard the UHRs implications of their practices.

There is also the International Organization for Standardization (ISO), which is a network of 157 “national standards institutes” with a membership of one institute per country. While most ISO conventions define standards for very specific products, materials or processes, a new brand of “generic conventions” have been developed to “standardize” corporate practices with regards to quality requirements (ISO 9000) and environmental impact (ISO 14000).³⁸ To date, no convention has been developed on the basis of UHRs, and adherence to existing social responsibility programs by market stakeholders remains voluntary.

36 <http://www.ilo.org>

37 Vincent Lloyd and Robert Weissman. “How International Monetary Fund and World Bank Policies Undermine Labor Power and Rights” *International Journal of Health Services* 32(3), 200). p.433.

38 See <http://www.iso.org/>

Through what mechanisms can market stakeholders become systematically accountable for the human rights implications of their policies and practices? I am sure that there is a way for market stakeholders to meet the ethical challenges posed here, without engendering “a catastrophic global recession.”

Academe and education

Under the banner of the fourth field of responsibility, schools, colleges and universities, and networks of scientists, scholars, researchers, and teachers represent a group of stakeholders that can easily influence the development of social realities and sway the main debates of academic disciplines, the priorities of governments, and the orientation of market trends. More importantly, these stakeholders are also strategically positioned to ensure the accessibility of knowledge, which, inevitably, will affect living/working conditions, as well as access to resources that raise public awareness of UHRs. From basic literacy to specialized forms of knowledge, from early childhood to adult education, the linkages between education, human development and socio-economic development have long been established, so we know “why” education is important.

It may be useful however to outline how education intersects with the human rights platform.

1) When the UN General Assembly adopted the Universal Declaration of Human Rights it asked all member countries “to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories”.³⁹ The UHRs platform relies explicitly on “learning about UHRs;” thus it follows that schools, colleges, universities, and knowledge-producing institutions have a particular role in the implementation of UHRs, from dissemination, to translation and appropriation.

2) The Declaration also makes clear that education should be

39 <http://www.un.org/Overview/rights.html>

accessible, and that it should promote “the full development of the human personality and [...] the strengthening of respect for human rights and fundamental freedoms [... in addition to fostering] understanding, tolerance and friendship among all nations, racial or religious groups [...]” (*Ibid.*) The implications of this are that educational and knowledge-producing stakeholders have, de facto, a role to play not only in “disseminating” the principles of UHRs (my first point), but also a fundamental duty regarding “accessibility,” “content” and “outcome.”

3) Finally, education intersects with human rights because through education other rights become more accessible. As the Chinese proverb goes, “Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime.” My reasoning is this: education helps people develop “needed” skills, allowing them to integrate societies in way that fundamentally improve their living standards and working conditions. To know how to count and read constitutes a basic requirement of social integration. Moreover, “basic education is widely [regarded as ...] a key to poverty alleviation and sustainable human development”.⁴⁰ To know and learn more is the basis of individual and collective advancement and, perhaps, social improvement!

Educational and knowledge-producing stakeholders are also intimately connected to the stakeholders that exert structural influences in other fields of responsibility. Speaking to their connections with the states, NGOs and market stakeholders, it should be noted that “globally, around 63 per cent of the cost of [basic] education is met by governments and 35 per cent comes from parents, communities, the private sector and [NGOs]. Only 2 per cent comes from overseas aid [...]”⁴¹ Governments, state institutions and state unions play a huge part in regulating, enabling or limiting education. NGOs, public associations, social movements

40 Hendrik Van der Pol (Dir.). *Global Education Digest 2007, Comparing Education Statistics Across the World* (Montreal: UNESCO, Institute for Statistics (UIS), 2007). p.7.

41 World Education Forum (2000). *Education for All: The Global Scorecard* (UNESCO) from http://www.unesco.org/education/efa/wef_2000/press_kit/scor.shtml (accessed September 12, 2007) p.3.

and cultural institutions also have huge investments in education, and sometimes even take charge of the education of certain population segments. Concomitantly, “literate,” “educated” and “skilled” labour forces bolster economic vitality; and market stakeholders have been known to invest in basic education through corporate social responsibility or in higher education through investments in research and development.

Developed countries have high literacy rates, maintain high levels of investments in basic education, and are dramatically expanding access to higher education. With regards to post-secondary education, “enrollment ratios are rapidly climbing past 50 and even 80 percent in some industrialized countries, foreshadowing the possibility of universal higher education (UNESCO 2004).”⁴² The system of higher education in the West is becoming increasingly de-centralized, thus allowing institutions to deploy means for direct access to international partnerships while also engaging in “knowledge transfers” with governments, NGOs and corporations.

Conversely, most developing countries struggle to make education “accessible” for “all” and people in rural regions, as well as ethnic minorities, bear the bulk of these shortcomings.⁴³ Many population segments still struggle to gain access to basic education. “In developing countries,” for example, “78 per cent of girls are in school as opposed to almost 86 per cent of boys [... and] sixty per cent of out-of-school children are girls.”⁴⁴ So ironically, the people who would benefit most from an awareness of UHRs are those who have limited means to learn about them.

Differences in values, beliefs, ethical standards, social norms, local/global priorities, and epistemological heritages play a part in influencing the methods and the content of education. This I do not see as a problem in itself, because debates and tensions related to the relevance and applicability of the UHRs framework contribute to improving it. What matters is that stakeholders take up UHRs to find ways to understand

and contend with social ills. In this way, UHRs can be translated into practices that empower people and improve living/working conditions. To be accountable from this vantage point means that educational and knowledge-producing stakeholders have to be answerable for their pedagogies and research methods, for their administrative practices, for the reliability of the knowledge and techniques they develop, and for the ethical and political consequences of the educational and knowledge-producing activities they carry out. I suggest that multilateral “inter-institutional” as well as local, national, regional and international mechanisms of accountability have to be further developed.

Law (enforcement)

This field of responsibility is obviously crucial in the development and implementation of the UHRs framework. Stakeholders within this field of responsibility are mainly legal and paralegal institutions, including courts, judges, lawyers, prosecutors and even juries, as well as law enforcement bodies including police, military and peace-keeping forces, investigation machineries and prisons. Their roles rest primarily on the articulation, interpretation, protection and defense of civil and human rights within their spheres of activity.

Yet again, their particular responsibilities clearly overlap with those of stakeholders who operate primarily within other fields of responsibility. In many cases, in fact, the stakeholders within this field are controlled or constrained by state institutions or state unions; remain reliant on NGOs, public associations, social movements and cultural institutions to provide additional forms of support to criminals, victims and defendants; operate within the sphere of markets through affiliations with firms or businesses (good examples are the proliferation of law firms in the commercial industry of legal services and the use of prison or prison-like labour by corporations); and depend on academic scholarship and knowledge-producing institutions to develop legal and policing interventions/methods/technologies and to train legal or armed-force professionals. It follows that these intersections point to the need for multi-lateral mechanisms of accountability, but also to the difficulties associated with power monopolies at different scales and in different fields of social life.

Since the Second World War, “some 250 international and regional

42 Evan Schofer and John W. Meyer. “The Worldwide Expansion of Higher Education in the Twentieth Century” *American Sociological Review* (70 (6) December, 2005). p.898.

43 World Education Forum (2000). *Education for All: The Global Scorecard* (UNESCO) from http://www.unesco.org/education/efa/wef_2000/press_kit/scor.shtml (accessed September 12, 2007)

44 World Education Forum (2000). *Education for All: The Global Scorecard* (UNESCO) from http://www.unesco.org/education/efa/wef_2000/press_kit/scor.shtml (accessed September 12, 2007) p.3.

conflicts have occurred. These conflicts, along with human rights violations perpetrated by tyrannical regimes, have produced an estimated 170 million casualties as well as other incalculable losses.⁴⁵ In addition, “the vast tragedies of the 20th century are also due to the absence of a permanent system of international criminal justice. In the context of such an international system, where national and international actions are problematic [...] we need an effective system to deter or lessen the scope of international violence and crime, and provide needed accountability and redress.”⁴⁶ Essentially, power imbalances and prejudicial interests make the use of force and (il)legality a highly-contested human rights terrain locally, nationally, regionally and internationally. To complicate matters, governing authorities have the power to suspend the law in arbitrary cases of “crisis,” creating moments and zones of “exceptions.”

At the local and national levels, the role of legal and armed-force institutions resides in securing the authority and legitimacy to pursue actors, actants and collectives—including state authorities and other legal or armed-force stakeholders—for human rights violations within the geo-political jurisdiction of the nation-state. At this level, the administration of justice can take many forms, often related to cultural traditions and the configuration of dominant politico-economic regimes. At the international level, the administration of justice is most complex, considering the challenge of structuring international law in a manner that echoes respect for the varied ways “justice” may be administered within countries.

With increased and intensifying global activities, and their underlying economic, political and military stakes, “political policing” is also on the rise, and with it, the structuring of legal and armed-force institutions to contend with “misconducts.” Both international law as well as interference in domestic affairs by other states constitute part of that “policing.”⁴⁷ The impetus for stronger, more effective juridical mechanisms to make perpetrators accountable for their human rights violations is being felt and is creating new conditions for the administration of “global” justice.

45 Cherif Bassiouni. “Policy Perspective Favouring the Establishment of the International Criminal Court” *Journal of International Affairs* (52 (2), 1999). p.795.

46 Ibid, p.796.

47 Austin Turk. *Political Criminality, The Defiance and Defense of Authority*. (Beverly Hill, CA: Sage, 1982).

International criminal law flourished briefly at the Nuremberg and Tokyo Tribunals and then languished before reemerging in the last decade in the International Criminal Tribunals for the former Yugoslavia and Rwanda, Special Courts in Sierra Leone, East Timor and Cambodia, and the still largely nascent International Criminal Court.⁴⁸

At the moment, the ICC depends on the adherence of states (104 countries had signed on as of January 2007); that is, it constitutes a “treaty-created body” that possesses power to try cases related to genocide, crimes against humanity and war crimes, though it will not bypass the authority of national legal apparatuses if the case is fairly tried domestically. In cases where armed forces have to be used to make arrests, seize evidence, protect witnesses, secure peace, etc., state unions, such as NATO and the UN, have been known to mobilize national military forces to support legal proceedings/interventions. Involvement in such interventions, it is said, is not meant to:

serve strategic interests but [...] to enforce human rights in non democratic countries. [...] Up to the bombing of Serbian cities by NATO airplanes in 1999, measures to realize this aim had mainly been political pressure, help for the victims, or economic sanctions. Through NATO’s intervention into the conflict between Serbs and Albanians in the Kosovo conflict, a new measure for the enforcement of human rights—namely military intervention—was introduced.⁴⁹

Ultimately the ICC still has to rely on the will and capacity of state governments, national courts and armed forces, as well as civil society organizations for its prosecutorial and enforcement needs. One thing is certain: the failure of states (state authorities) in securing conditions for

48 John Hagan and Ron Levi. “Crimes of War and the Force of Law” *Social Forces* (83 (4) June, 2005). p.1500.

49 Detlef Fetschenhauer and Hans-Werner Bierhoff. “Attitudes Toward a Military Enforcement of Human Rights” *Social Justice Research* (17 (1) March, 2004). p.76.

peace and the fulfillment of basic human entitlements often compels legal and armed-force intervention in the name of humanitarianism.⁵⁰ Finally to deal with both state failures and (inter)national conflicts, other ad hoc mechanisms such as truth commissions have also been deployed to protect the interests of some stakeholders. Whether the flexibility of the international structure is an asset depends on whether “justice” is served from the point of view of victims, and whether it serves to close rather than create loopholes.

For the most part, the agencies of the UN that are centered on UHRs have a “reporting” “modus operandi.” That is, they rely on member states and other stakeholders to “report” on their practices, and to produce “reliable” data on local, national and regional trends. With such “accountability” mechanisms in place, it matters that we ask whether national and international legal and armed-force stakeholders partake in these strategies. At any scale, legal and armed-force stakeholders may collude with any of the stakeholders who work primarily within other fields of responsibility and who may not comply with UHRs. For this reason, legal and armed-force institutions should have to demonstrate their commitment to UHRs, through transparent reporting and reforms, if necessary; thus, especially when contentious cases reveal the possibility of misconduct.

Telecommunications networks and the media

This field of responsibility is also intrinsically linked to all the others. In short, telecommunications networks and media institutions contribute to the articulation of meanings surrounding local, national, regional and international events, which in turn allows people to “know” who stakeholders are; what various stakeholders at different scales and in various spheres of social life are “doing” (or not doing); and how their actions (or lack there of) are linked to social problems or their solutions. In fact, without telecommunications and broadcasting institutions, without the media, journalists, news anchors, reporters, etc., UHRs would be impossible to effectively implement. In a way, mass information flows enable “public forms of audit” and mass politicization.

50 Michael Ignatieff. “Looking Forward: Intervention and State Failure” *Dissent* (49) (1) Winter, 2002).

Stakeholders in this field of responsibility produce “relevance” through the dissemination of information and messages. In turn, peoples form opinions, discuss issues and develop forms of local, national, regional, international and global consciousnesses. Media stakeholders produce “geo-political” relevance for it unites as well as divides peoples on the basis of national and regional interests/allegiances. I believe this is inherent in the structure of “mainstream” media, which construct local, national and international events as if they constitute separate phenomenological realms. Yet, despite the shortcomings of the media (biases and hidden interests/agendas), mainstream as well as radical journalism also prompts outrage, outcry and public mobilization around issues. And in turn, public mobilization against human rights abuses needs the visibility that the media affords.

Freedom of expression and of the media is inextricably tied to freedom of conscience, freedom of thought, and the ability to exercise political will. It has long been seen as a necessary condition for effective civil society (Emerson 1970, 6-8; Bickel 1976, 62-63). More recently, others involved in fostering civil society in developing countries have noted that free expression is essential for building working economies and stable societies (Wolfenson 1999).⁵¹

Though let us be wary, censorship takes many forms and some might not be so bad... Institutional self-censorship, for example, could have avoided the “September 2005 Muhammad Cartoon riots” in Denmark and the subsequent social upheaval and accidental deaths incurred internationally. Stakeholder responsibilities in this field thus also encompass public accountability for media content.

Today, geo-political borders and regulations may no longer contain the media, and telecommunications enable the rise of network society and the formation of transnational, multinational, inter-regional and intercontinental coalitions that tap into information flows to avail

51 Kurt Wimmer. “Toward a World Rule of Law: Freedom of Expression” *Annals, AAPSS*, (603, January, 2006). pp.202–203.

themselves of objects of knowledge, regardless of their location.⁵² Through their dissemination, UHRs principles act as forms of knowledge, ideas to debate, ideals to negotiate, political leverages and axes of mobilization. What matters is that through the media, UHRs become “objects” mediated by transpositions of realities. So people learn about UHRs, not as a “rigid” discursive framework, but rather as a set of notions that inform contextual claims and actions for better living conditions.

To summarize, stakeholders that operate within this field have a key role in providing people with information on their human rights; in promoting a global consciousness; in assisting the implementation of the UHRs platform by soliciting debate and proposing practical applications; in reporting human rights abuses; and in facilitating the formation of human rights coalitions. They also have responsibilities related to their accountability for the impact, reliability, thoroughness and accuracy of the information they disseminate, and for the conduct of their institutional activities. These responsibilities are fundamental to making UHRs the point of departure for a sustainable social project. And if they too shall be made accountable, then it is in the context of multilateral, inter-institutional and public answerability that their practices should come under scrutiny.

Conclusion

Views on human rights do represent a wide paradigmatic spectrum, ranging from absolute relativism to universalism, though at the extremes there is no truly productive debate to be had. UHRs are being defined, implemented and defended on an on-going basis. And clearly there is a need for models of substantive interpretation, which can conciliate the requirements of contextuality, difference, diversity and alterity on one hand, and the values that underscore the moral aims of justice on the other.

The UHRs framework ought to be conceived as a living thing. It grows to the rhythms of social, economic, political and cultural transformations, but we need to take care of its “growing pains.” UHRs

52 Manuel Castells. *The Information Age: Economy, Society and Culture Vol. I: The Rise of the Network Society* (Cambridge MA and Oxford UK: Blackwell Publishers, 1996).

represent the only platform that attempts to set basic human entitlements to globally ensure both personal and collective welfare and the conditions for auto-determination. I don't know what else could constitute the basis for sustainable human development. For this reason, UHRs constitute a catalyst to work together towards a sustainable, global social project; especially if we agree that UHRs are “works in progress.”

I outlined some discrepancies regarding the UHRs framework and believe that these can be improved as we go along. That is, as we contend with claims and evidence of UHRs violations, and as we try to improve living standards and working conditions on the ground. What is certain is that key sets of stakeholders exert structural influences on social realities. In fact, they should be hailed to take up responsibilities within and between the fields of their institutional power. Without their commitment, a global social project that integrates UHRs is but a fantasy: a castle in the sky!

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<http://www.ohchr.org>

International Labour Organization

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<http://www.iso.org/>