

FINALISTA



The bottom-up approach
to human rights:
Giving voice to the oppressed
and the marginalized

Irantzu Pinillos Urra



THE BOTTOM-UP APPROACH
TO HUMAN RIGHTS:
Giving voice to the oppressed
and the marginalized

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Generalitat de Catalunya
Departament d'Interior,
Relacions Institucionals i Participació
**Oficina de Promoció de la Pau
i dels Drets Humans**

INDEX

INTRODUCTION	7
THE EXPANSION OF TRANSNATIONAL CHANNELS OF CONTACT	8
THE BOTTOM-UP APPROACH TO HUMAN RIGHTS	9
SOCIETY AND THE UNITED NATIONS HUMAN RIGHTS MACHINERY	13
SETBACKS AND CHALLENGES	19
CONCLUSION	22
BIBLIOGRAPHY	23
Books	23
Articles	25
Articles from electronic resources	25
Reports	26
Internet Sites	26

INTRODUCTION

Nowadays we live in an era of great promise, but also of great risks. Amid unprecedented prosperity, there is staggering poverty and inequality¹. Human rights violations still occur on a regular basis throughout the world and it would seem that oppressed and marginalised communities are more vulnerable than ever².

Human rights are formulated and adopted by international institutions, lawyers and politicians who seem to have little knowledge of the local contexts in which human rights crises emerge and of the local communities to whom these rights are conferred. Eventhough the major international human rights instruments³ have been widely ratified by states, the lack of political will on behalf of governments to meet their international obligations, together with a lack of sufficient implementation and enforcement mechanisms make these instruments ineffective in many cases. To top it all, local communities are often regarded as having considerable lack of knowledge of international human rights provisions and protection mechanisms. As a result, the usefulness and potential impact of human rights norms at the local level might be seriously limited.

This paper is an attempt to single out a mechanism to bridge the existing gap between global human rights norms and institutions, and human rights abuses that take place at the local level in context-specific situations. What if local communities are involved in the interpretation and further development of human rights norms? What if these communities are given the chance to raise their voices in order to make decisions in each and every human rights issue that affect their lives? And how could these communities participate in the definition and framing of human rights?

Koen de Feyter suggests that human rights should be localized. According to him, "Localization implies taking the human rights needs as formulated by local people as the starting point both for the further interpretation and elaboration of human rights norms and for the development of human rights action, at all levels ranging from the domestic to the global⁴".

1 See United Nations Development Programme (UNDP), *Globalization with a Human Face: Human Development Report 1999*, New York, Oxford University Press, 1999. See also UNDP, *International Cooperation at a Crossroads: Aid, Trade and Security in an Unequal World: Human Development Report 2005*, New York, Oxford University Press, 2005.

2 See Amnesty International Reports from 2006 and 2007 on the state of the world's human rights available at <http://web.amnesty.org/report2006/index-eng> and <http://thereport.amnesty.org/eng/Homepage>

3 The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the first Optional Protocol to the International Covenant on Civil and Political Rights (individual complaint procedure) and the second Optional Protocol to the International Covenant on Civil and Political Rights (abolition of the Death Penalty). There are also a number of other relevant treaties such as the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance (not yet into force) and the Convention on the Rights of Persons with Disabilities (not yet into force).

4 Quoted in K. De Feyter, *Localizing Human Rights* (Discussion Paper 2006/2), Antwerp, Institute of Development Policy and Management, 2006, p. 2.

This paper fits in the analytical angle of regionalizing human rights by means of applying a bottom-up approach in a network which should be composed by four main partners: community based organizations, local human rights non-governmental organizations, international human rights non-governmental organizations and allies in governmental and intergovernmental institutions⁵. The bottom-up approach to human rights should be seen as a mechanism to bring local examples of human rights abuses to the international arena and to global human rights institutions in order to influence the development of human rights norms and standards, as well as to implicate local communities in the decision-making processes that affect their lives.

THE EXPANSION OF TRANSNATIONAL CHANNELS OF CONTACT

International and state-society relations have undergone significant changes worldwide due to globalization. The rise of the market driven economy and a revolution in information technology are among the most important factors that have contributed to an acceleration of the process of globalization in recent decades. Eventhough the economic aspect of globalization has become a subject of growing interest and controversy due to the impact of neoliberal policies, the process of globalization encompasses multiple changes in other areas, such as society and politics, too.

The expansion of telecommunications and the Internet has overcome the barriers between states and increased the range of interactions between many actors in the international arena, enabling exchange at the local, national, regional and international level and allowing a diversity of people to form alliances.

The advances made in the field of information technology have contributed decisively to the rise in the number of civil players and to the expansion of transnational channels of contact, such as transnational advocacy networks and varied coalitions of civil society organizations. These entities are now powerful enough to influence governments and their policies, and to reshape national and world politics, with demands for democratization and respect for human rights. Campaigns for the eradication of anti-personnel mines⁶ and for the establishment of the International Criminal Court⁷ constitute two significant examples of the achievements that can be made by means of coordinated global citizen action. Both the International Campaign to Ban Landmines (ICBL) and the campaign that led to the adoption of the Rome Statute which established the International Criminal Court were carried out by transnational coalitions composed by a variety of players and led by international non-governmental organizations (NGOs). These campaigns had an impact at the highest level of political power because they managed to create an international movement composed by large civil society constituencies and because they succeeded in gaining the support of the United Nations (UN) and like-minded coalitions of governments which was decisive for the final outcome.

5 Ibidem, pp. 8-13.

6 Almost 1,000 transnational NGOs participated in the coordination of the campaign through Internet. The campaign proved very effective and the treaty to ban landmines was signed in 1997. In addition, the ICBL and its representative Jody Williams were awarded the Nobel Peace Prize. For more information see M. Scott, *Danger-Landmines! NGO-Government Collaboration*, in M. Edwards, J. Gaventa, *Global Citizen Action*, London, Earthscan, 2001, pp. 121-134.

7 See W. Pace, J. Schense, *International Lawmaking of Historic Proportion: Civil Society and the International Criminal Court*, in P. Gready, *Fighting for Human Rights*, London, Routledge, 2004, pp. 104-116.

More specifically, it can be argued that these campaigns were carried out by transnational advocacy networks. The concept of transnational advocacy networks was introduced by Margaret Keck and Kathryn Sikkink in the book titled *Activists Beyond Borders*⁸. These forms of organization are characterised by the four following traits:

- Cause specific
- Principled ideas (values and norms)
- Advocacy for policy change
- Compliance with human rights

These networks may include a wide variety of actors such as international and domestic non-governmental organizations, social movements, the media, foundations, trade unions, consumer organizations, churches, intellectuals, parts of regional and international intergovernmental organizations and sections of the executive and/or parliamentary branches of governments. According to Keck and Sikkink, international and local NGOs play a prominent role in these advocacy networks, as they initiate actions and pressure more powerful players to take positions⁹. Eventhough these types of networks are not new¹⁰, they have proliferated in recent decades and have considerably improved their ability to pressure, influence and change the behaviour of both international organizations and governments.

Based on new technologies, these new ways of interaction between a broad range of actors in society has proved to be a very useful mechanism in the battle towards the realization of human rights and social justice for all. In the words of Gaventa, “the broadening of citizen action into the world sphere recognises a new contemporary reality in which power relations at local and global levels are increasingly intertwined¹¹”.

THE BOTTOM-UP APPROACH TO HUMAN RIGHTS

There has been a long tradition to wrongly equate civil society only with non-governmental organizations. Nonetheless, civil society is composed by a variety of organizations rather than just by formally organised, officially registered and professionally administered NGOs. There are other voices such as community based organizations¹² and social movements which play a

8 See M. Keck, K. Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*, London, Cornell University Press, 1998.

9 Ibidem, p. 9.

10 The nineteenth century campaign for the abolition of slavery and the international campaign for women suffrage can be regarded as older examples of these networks.

11 Quoted in M. Edwards, J. Gaventa, *Global Citizen Action*, London, Earthscan, 2001, p. 275.

12 For the purposes of this paper, a community based organization will be regarded as an organization based in a local community which serves the needs of that community; its staff and/or membership are drawn from the local community; and it has some kind of accountability to the local community in the form of a board or committee.

very important role not only in mobilizing for human rights, but also in legal transformation¹³. Apart from claiming rights for themselves, these grassroots organizations can influence the decision-making processes that lead to the adoption of standards and norms.

Eventhough human rights crises arise locally in various social and cultural contexts, in international institutions where human rights are formulated and their codes created, there seems to be little knowledge of the local communities for whom these rights are made. This might eventually lead to tensions between general human rights principles and specific human rights situations. Therefore, human rights needs should be addressed acknowledging both the violations that occur on the ground, as well as the local contexts of power and meaning in which they take place. Moreover, it is the people who experience human rights abuses in their daily lives who should be involved in defining human rights. Makau Mutua notes that in order to enhance the human dignity of all, societies at their grassroots have to participate in the construction of principles and norms¹⁴. He suggests that “those norms and structures must be grown at home, and must utilize the cultural tools familiar to the people at the grassroots¹⁵”. According to Upendra Baxi, “in the making of human rights it is the local that translates into global languages the reality of their aspirations for a just world¹⁶”. Baxi believes that the local remains the decisive site of struggle for the enunciation, implementation, enjoyment, and exercise of human rights. If human rights are to have an impact on the ground, they need to be “absorbed” by local communities and embedded in everyday social practices, which means that human rights need to be structured in terms of local values and images.

In an increasingly interconnected and interdependent world there is a need not only to think in global terms and act in local environments, but also to think in local terms and act at a more global level. As stated by Peter Evans “activists think locally by pursuing local solutions to local problems, but act globally, to generate political momentum to support local changes¹⁷”.

Existing approaches to human rights are frequently dominated by a top-down process or process from above, in which global human rights lawyers and politicians tend to focus on formal sources and treaties ignoring the voices of local communities that experience human rights abuses in their daily lives. According to the Cardoso Report, this top down approach is the most usual in international law and politics¹⁸.

What if human rights are localized by means of applying a bottom-up approach which explores human rights from the point of view of the lived experiences of ordinary people and local communities? A bottom-up approach to human rights should be composed by four main

13 See B. Rajagopal, *International Law from Below: Development, Social Movements and Third World Resistance*, Cambridge, Cambridge University Press, 2004, pp. 233-271.

14 See M. Mutua, *Human Rights: A Political and Cultural Critique*, Philadelphia, University of Pennsylvania Press, 2002, p. 5.

15 Ibidem.

16 Quoted in U. Baxi, *The Future of Human Rights*, Oxford, Oxford University Press, 2002, pp. 101-102.

17 Cited in B. Rajagopal, *International Law from Below: Development, Social Movements and Third World Resistance*, Cambridge, Cambridge University Press, 2004, p. 268.

18 See *We the Peoples: Civil Society, the United Nations and Global Governance*, Report of the Panel of Eminent Persons on United Nations–Civil Society Relations. A/58/817. United Nations General Assembly, 11 June 2004, United Nations, New York, p.29.

partners in a network that starts the process from below¹⁹. The first partner in the network are community based organizations as essential actors to identify local human rights needs. Local²⁰ human rights non-governmental organizations are the second partner in the network, as these NGOs play a fundamental role in assisting community based organizations to acquire the rights knowledge, so that they can bring their claims in human rights terms to the domestic level and beyond. The third partner in the network refers to international human rights non-governmental organizations, which can be very helpful in gaining access to those international institutions that can influence governments and global regulatory processes. Finally, the fourth partner is composed by allies in governmental and intergovernmental organizations, as they are essential actors in order to affect standard-setting and law enforcement.

According to the World Bank Report *Voices of the Poor* the most important institutions in poor and marginalized people's daily lives are their own community based organizations²¹. These organizations have generally close ties to the local populations and are sensitive to local needs. Furthermore, they are usually the only organizations which poor and marginalised feel they own and trust. This report also notes that "poor people value their own community based organizations and informal networks because within them they feel they can be heard and make a difference²²". John Gaventa argues that through community based organizations local communities have found ways to have their voices heard and to influence the decisions and practices of larger institutions that affect their lives²³.

A survey on the role of community based organizations carried out in nine countries in Southern Africa revealed some interesting findings. According to this survey, the intervention of community-based organizations benefits local communities by giving these increased levels of confidence and hope, increased awareness, shifting attitudes and behaviour, increased levels of information/knowledge/skills, increased awareness of their rights and the rights of others and increased levels of participation and action²⁴. For all reasons referred to above, community based organizations could be regarded as playing a fundamental role at the local level.

If the bottom-up approach to human rights is to be applied, it is also necessary that community based organizations work in partnership with local²⁵ human rights NGOs and vice versa. However, the report *Voices of the Poor* mentions that community based organizations are often disconnected from local NGOs²⁶. Community based organizations need legal assistance and

19 K. De Feyter, *Localizing Human Rights* (Discussion 2006/2), Antwerp, Institute of Development Policy and Management, 2006.

20 The term 'local' in this context means that they are based in the same country as the relevant community based organization.

21 Footnote carries over the next page - See D. Narayan, R. Chambers, M. K. Shah, P. Petesch, *Voices of the Poor. Crying Out for Change*, New York, Oxford University Press, 2000, p. 219.

22 Ibidem, p. 220.

23 See M. Edwards, J. Gaventa, *Global Citizen Action*, London, Earthscan, 2001, p. 275.

24 See Fahamu, *Community Based Organizations: the Emerging Force within the Third Sector*, January 2004, p. 35. <http://www.eldis.org/static/DOC10674.htm> & [http://www.fahamu.org/downloads/COMMUNITY BASED ORGANIZATIONSurveyReport.pdf](http://www.fahamu.org/downloads/COMMUNITY_BASED_ORGANIZATIONSurveyReport.pdf)

25 The term 'local' in this context means that they are based in the same country as the relevant community based organization.

26 See D. Narayan, R. Chambers, M. K. Shah, P. Petesch, *Voices of the Poor: Crying Out for Change*, New York, Oxford University Press, 2000, p. 197.

legal education in order to use the language of rights against the threats they face. Local human rights NGOs have precisely the capacity to assist community based organizations in identifying the human rights angle to the abuses they face and help them frame their problems in the language of rights, in legal human rights terms that the state is obliged to protect. Similarly, local human rights NGOs have to learn from community based organizations about the reality of human rights struggles on the ground, so that the specifics and particularities of local contexts in which human rights crises emerge are acknowledged. Community based organizations and local human rights NGOs have to work together to bring about changes that benefit voiceless and marginalized communities. According to Hans-Otto Sano “local NGOs and community organizations are important in institutionalising change, not least when they cooperate and undertake advocacy vertically within states and within international organizations or cooperate horizontally among themselves in local networks and functional organizations of lobbying and advocacy²⁷”.

Local human rights NGOs not only foster the gradual emergence of a local rights consciousness among grassroots people, they also act as intermediaries between community based organizations and global actors. Hence, they play a critical role in translating and placing local abuses in specific socio-cultural contexts into the international arena and international human rights. For this purpose, it is indispensable for domestic human rights NGOs to be connected to international human rights NGOs. The involvement of the latter is important, because in a context of globalization, the causes of human rights violations are no longer exclusively domestic. Moreover, in countries where the space for political actions is very narrow, intervention by external players proves vital.

Governments have the primary responsibility of protecting human rights. It is through action at the national level that international human rights obligations are transformed into meaningful rights for individuals. Nevertheless, when a state commits a human rights violation or simply refuses to recognise rights, local civil society organizations, directed by community based organizations and local human rights NGOs will need to seek recourse beyond domestic political or judicial arenas²⁸ to bring about changes in the human rights behaviour of that state. At this point, community based organizations and local human rights NGOs have to link up with international human rights NGOs because they have the experience and capacity to lobby intergovernmental organizations and states and to influence public opinion in different countries. If successfully done, this lobbying should succeed in exerting some pressure on repressive governments to change their behaviour, improve their human rights conditions and force them to abide by norms enshrined in international law. Eventhough alliances with governments can be regarded as very challenging NGOs should increasingly work with sympathetic states or with sympathetic individuals herein. At the domestic level, it is of the utmost importance to engage with members of the parliament and judges that are eager to protect and promote human rights.

International human rights NGOs provide leverage, information, capacity-building, knowledge for lobbying and advocacy at national and international fora, social empowerment and sensitisation to domestic human rights NGOs. In addition, they play a very important role in creating greater awareness of local human rights issues among global activists for further

27 See H. O. Sano, Human Rights Reinforcement and Globalization: Reflections about Global Governance, in S. Lagoutte, H. O. Sano, P. S. Smith, Human Rights in Turmoil: Facing Threats, Consolidating Achievements, Leiden, Martinus Nijhoff, 2006, p. 65.

28 A boomerang pattern of influence takes place when domestic human rights NGOs bypass their State and directly seek international allies to try to put pressure on their own State from outside. See M. Keck, K. Sikkink, Activists Beyond Borders: Advocacy Networks in International Politics, London, Cornell University Press, 1998, pp. 12-16.

actions and campaigns. International human rights NGOs are also involved in monitoring compliance, by setting standards and in policy making. They play a part in the negotiations and working groups drafting international agreements, both indirectly as members of experts groups and directly as members of official national delegations. The clout of international human rights NGOs in the human rights area stems from the power of their moral authority, legitimacy and a generally accepted claim to knowledge. Thomas Risse believes that in the eyes of the international community “Amnesty International, Human Rights Watch and the Lawyers Committee for Human Rights define what constitutes a human rights violation²⁹”. Given the global reputation for accuracy and political neutrality these NGOs have acquired, it can be argued that they somehow represent the “public interest” or the “common good” of society.

International human rights NGOs have also performed an essential work providing information and lobbying global institutions on human rights violations. If the bottom-up approach to human rights is to be applied effectively, international human rights NGOs should commit themselves to support the human rights concerns of local civil society organizations by working closely with local human rights NGOs and community based organizations. This will bring to the global policy making process, the voice of vulnerable communities that complements and broadens policy discourse, resulting in more legitimate decisions.

CIVIL SOCIETY AND THE UNITED NATIONS HUMAN RIGHTS MACHINERY

In recent years, the participation of civil society organizations in global institutions has increased considerably and the role NGOs is playing in these institutions is gaining further importance. For instance, civil society relations with the United Nations have significantly expanded in the last two decades, particularly with respect to the Global Conferences organised throughout the 1990s³⁰. Due to the efforts made by civil society to pose the issues in a way that required government action³¹, NGOs made a considerable impact in agenda-setting at these conferences and some of the issues selected for discussion became a focus for international attention. The power of civil society was first visible at the Earth Summit in Rio in 1992³², as well as at the 1993 Vienna Conference on Human Rights and Development. In the year 1995, 40,000 NGO delegates along with 6,000 governmental representatives attended the Fourth World Conference on Women in Beijing, where the Women's Caucus at the parallel NGO Forum became a very important communications point between governments and NGOs. This allowed NGOs unprecedented access to relevant delegations and lead to success at influencing

29 Quoted in T. Risse, *The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights*, in A. M. Florini, *The Third Force: The Rise of Transnational Civil Society*, Tokyo, Japan Center for International Exchange, 2000, p. 187.

30 The Rio Conference on Environment and Development in 1992, the 1993 Vienna Conference on Human Rights and Development, the 1994 Cairo Conference on Population and Development, the 1995 World Summit for Social Development in Copenhagen and the Beijing Conference on Women and Development and the 1996 Istanbul Conference on Human Settlements.

31 R. Krut, *Globalization and Civil Society: NGO Influence in International Decision-Making*, Geneva, UNRISD, 1997, pp. 25-28.

32 About 2400 NGO representatives came to play a central role in the process of deliberations.

final texts³³. The global movement which led to the UN Declaration for the Elimination of Violence against Women in 1993³⁴ constitutes another thriving example of the impact of civil society at the UN level. According to Thomas Risse “In the absence of sustained campaigns and lobbying efforts by international NGOs and particular individuals, probably not a single human right would have been written into international law³⁵.” The work of international human rights NGOs at these conferences was supported by local human rights NGOs and other civil society organizations that took part in the unofficial conferences or forums, organised in parallel with the diplomatic conference.

NGOs have become prominent in shaping public opinion, in policy making and in affecting priorities on the UN agenda, and are increasingly working and forming coalitions with likeminded governments, delegations and other actors to lobby in favour of human rights and social justice. The Cardoso Report addresses the issue of NGO participation at the UN level and attempts to present proposals for enhancing interaction between civil society and the UN³⁶. Furthermore, civil society actors and the UN are now increasingly trying to adopt a multi-stakeholder approach to UN participation. Nonetheless, civil society participation with UN organs still varies significantly from body to body to the extent that it could be regarded as being ad hoc – the rules of engagement are generally quite unclear and much depends on the discretion of individual Chairs or other individuals leading the intergovernmental processes.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) constitutes a remarkable example of the flourishing interaction between civil society and the UN. OHCHR was established in 1993 following the Vienna World Conference on Human Rights. OHCHR is the United Nations office with the primary responsibility for promoting and protecting the enjoyment and full realization of all rights enshrined in the charter of the United Nations and in international human rights laws and treaties.

The High Commissioner for Human Rights Plan of Action, released in 2003, highlights the importance of building closer partnerships with civil society and acknowledges that human rights are most effectively realized when the United Nations and civil society work together towards common goals³⁷. Undoubtedly, the Plan of Action creates an opening for the UN to act as a global player that could support the application of a bottom-up approach to human rights.

In the year 2004, OHCHR appointed an NGO liaison officer and established a Civil Society Unit to provide support for civil society organizations in their interface with OHCHR and the UN human rights machinery. This unit has been working towards strengthening OHCHR

33 See M. Alter Chen, *Engendering World Conferences: The International Women's Movement at the UN*, in T. G. Weiss, L. Gordenker, *NGOs, the UN and Global Governance*, Boulder, Lynne Rienner, 1996, pp. 139-155.

34 See C. Bunch, *International Networking for Women's Human Rights*, in M. Edwards, J. Gaventa, *Global Citizen Action*, London, Earthscan, 2001, pp. 217-229.

35 Quoted in T. Risse, *The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights*, in A. M. Florini, *The Third Force: The Rise of Transnational Civil Society*, Tokyo, Japan Center for International Exchange, 2000, p. 184.

36 See *We the Peoples: Civil Society, the United Nations and Global Governance*, Report of the Panel of Eminent Persons on United Nations–Civil Society Relations. A/58/817. United Nations General Assembly, 11 June 2004, United Nations, New York.

37 UN High Commissioner for Human Rights, *The OHCHR Plan of Action: Protection and Empowerment*, Geneva, OHCHR, 2005, p. 2 and p. 25.

interactions and partnerships with civil society organizations, predominantly NGOs, both at the international and national levels.

Civil society organizations can work with OHCHR by engaging with human rights mechanisms, such as special procedures and treaty bodies, and by participating in and contributing to the sessions of the Human Rights Council³⁸.

Special Procedures is the name given to the group originally established by the Commission on Human Rights to examine, monitor, advise and publicly report on human rights situations in specific countries or territories (these are known as country mandates) or on major cases of human rights violations (these are known as thematic mandates). Currently, there are 39 special procedures in operation³⁹, including special rapporteurs, representatives, special representatives, independent experts and working groups. All NGOs and civil society representatives can have access to special procedures regardless of being in consultative status with the Economic and Social Council (ECOSOC) or not⁴⁰. Civil society organizations and victims of alleged human rights abuses can submit individual allegations of human rights violations to the relevant special procedures mandate-holders. When well-documented information on alleged human rights violations is received by a special procedures mandate-holder, they can send either an urgent appeal⁴¹ or a letter of allegation⁴² to the government concerned. Civil society actors can also provide information and analysis of human rights related issues and support for visits to countries. These kind of visits are very important for two main reasons. Firstly, they allow mandate-holders to make first-hand assessments on specific human rights situations in a given country. Secondly, during these visits, mandate-holders meet national authorities, NGOs, community based organizations, victims of human rights violations, academics and the media. On the basis of their findings, mandate-holders make recommendations in public reports. Furthermore, during some of these visits, civil society forums take place where testimonials of human rights violations related to the mandate are given. These forums usually make a significant impact on the civil society organizations which participate in them, as they serve to empower them, to share information and strategies and to make new contacts and build new networks among the participating organizations and individuals.

Special Procedures constitute, without a doubt, a fundamental tool for the prevention and protection of human rights. Human rights civil society organizations have been at the forefront of the advocacy for the creation of specific mandates and have decisively contributed to the work of appointed mandate-holders.

38 The Human Rights Council was established by General Assembly resolution 60/251 of 15 March 2006 to replace the Commission on Human Rights, the intergovernmental body that guided the United Nations human rights programme for over 60 years. The Commission convened for the last time in March 2006, at its 62nd session. The Human Rights Council met for the first time on 19 June 2006 for a couple of weeks.

39 At the fifth session of the Human Rights Council held in Geneva from 11 to 18 June 2007, the Council determined by consensus to retain 39 of the 41 special procedures mandate-holders the body previously had, dropping the mandates to scrutinize Belarus and Cuba.

40 This point will be further explained in the following pages.

41 Used to bring to the attention of a Government information regarding a human rights violation that is allegedly ongoing or about to occur so that the appropriate State authorities can intervene to end or prevent it.

42 Used to inform and request clarification about human rights violations that have already occurred.

The treaty bodies are the committees of independent experts⁴³ that monitor the implementation of the provisions of the core United Nations human rights treaties⁴⁴ by states. These treaties create legal obligations for states to protect and promote human rights at the national level. When a country adopts a treaty, it assumes the legal obligation to implement the rights set out in that treaty and it is obliged to submit a report on measures that it has taken to implement its provisions. The committees of independent experts review the implementation reports submitted periodically by states, consider the written information and material submitted by NGOs⁴⁵ and National Human Rights Institutions, and raise a number of questions to the state. Based on this process, the committee adopts the so-called "concluding observations", which refer to positive aspects of a state's implementation of the treaty and areas in which it should take further action. Apart from submitting a shadow report, NGOs can also become involved in committee sessions as observers, by making oral submissions and through informal briefings⁴⁶. Any NGO working in the field of human rights can interact with the treaty bodies. NGOs are generally not required to be in consultative status with ECOSOC to work with treaty bodies.

Contrary to the Special Procedures mechanism and to the treaty bodies, consultative status with ECOSOC is a requirement for NGOs to participate in the work of the Human Rights Council. It should also be pointed out that NGOs are the only civil society organizations which are awarded consultative status with ECOSOC⁴⁷. The consultative membership of NGOs in ECOSOC is divided in three categories: general, special and roster⁴⁸. Depending on the status they are awarded, NGOs have different rights and duties, as can be seen in the following table⁴⁹:

43 At present there are seven human rights treaty-based bodies: The Human Rights Committee, the Committee on Economic, Social and Cultural, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee against Torture, the Committee on the Rights of the Child and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

44 See footnote number 2 in page 2.

45 Civil society organizations can get involved and influence the work of these committees by submitting information to treaty bodies in what are called alternative or shadow reports. These reports are aimed at undertaking a systematic analysis of the extent to which policy, law and practice in the State party comply with the standards and principles enshrined in the treaty. In general terms, the best reports are those produced in cooperation with several civil society organizations.

46 Committee sessions usually offer opportunities for informal meetings with committee members. These briefings constitute an excellent opportunities for members of civil society organizations to interact with committee members and to raise key concerns relevant to the issues and countries the committee is addressing.

47 See ECOSOC resolution 1996/31 at (<http://www.un.org/documents/ecosoc/res/1996/eres1996-31.htm>). For more detailed information see P. Willetts, Consultative Status for NGOs at the United Nations, in P. Willetts, *The Conscience of the World: the Influence of Non-governmental organizations in the UN system*, London, Hurst & Co, 1996, pp. 31-62.

48 Organizations wishing to apply for General Category must be "concerned with most of the activities of the ECOSOC and its subsidiary bodies". These tend to be fairly large, established international NGOs with a broad geographical reach. Special Category is granted to NGOs "which have a special competence in, and are concerned specifically with, only a few of the fields of activity covered by the ECOSOC". These NGOs tend to be smaller and more recently established. Organizations which "can make occasional and useful contributions to the work of ECOSOC or its subsidiary bodies" are included in the Roster. These NGOs tend to have a rather narrow and/or technical focus.

49 For more information go to <http://www.un.org/esa/coordination/ngo/faq.htm>

	General	Special	Roster
Relevance to the work of ECOSOC	all areas	some areas	limited
Are in consultative status with ECOSOC	yes	yes	yes
Attend UN meetings	yes	yes	yes
Designate UN representatives	yes	yes	yes
Invited to UN International Conferences	yes	yes	yes
Propose items for ECOSOC agenda	yes	no	no
Distribute statements at ECOSOC meetings	2000 words	500 words	no
Can speak at ECOSOC	yes	no	no
Circulate statements at ECOSOC subsidiary bodies' meetings	2000 words	1500 words	no
Can speak at ECOSOC subsidiary bodies' meetings	yes	yes	no
Must submit quadrennial reports	yes	yes	no

The Human Rights Council⁵⁰ is the key United Nations intergovernmental body responsible for human rights. At present, the council is going through a process of reviewing and, where necessary, improving and rationalizing all mandates, mechanisms, functions and responsibilities previously entrusted to the Commission on Human Rights. Besides, the council is also developing its own rules for procedures and modes of operation. The council meets at least three times annually for a minimum of 10 weeks or 50 days per year, with provisions in place for special sessions when requested by any state representative.

The participation of NGOs in the council is based on arrangements and practices by the Commission on Human Rights, mainly those set out in ECOSOC resolution 1996/31 of 25 July 1996. In sessions of the council⁵¹ held until today, arrangements for participation of NGOs that were previously observed by the commission were applied quite successfully⁵². NGOs accredited under ECOSOC had the chance to deliver a number of oral statements throughout segments of these sessions and to submit written statements. They also organized parallel events to present, discuss and highlight human rights related issues of concern and to facilitate networking with other NGOs, with representatives of other civil society organizations and with members of delegations. Victims of human rights violations are sometimes invited to participate in these events as speakers, which constitutes an excellent opportunity to publicly expose human rights abuses suffered by different communities and individuals.

50 Hereinafter referred to as the Council.

51 The Human Rights Council has already convened five regular sessions and four special sessions since its inception in June 2006.

52 It should be pointed out that the supportive and sympathetic attitude towards NGO participation during the first year of the Human Rights Council (June 2006-June 2007) by the President and Chair Mr. Luis Alfonso de Alba, Ambassador of Mexico, contributed decisively to maintain and even expand the arrangement and practices developed at the Commission, in spite of the protests and complaints of some State delegations.

Although representatives from community-based organizations and NGOs without ECOSOC status cannot take part in the session of the Council, NGOs in consultative status with ECOSOC are allowed to accredit a number of representatives from civil society organizations so that they can attend these sessions. In some occasions, victims of human rights violations and representatives of community-based organizations and local communities are given the opportunity by NGOs in consultative status with ECOSOC to expose their cases and claims during sessions of the Council. Similarly, NGOs without ECOSOC consultative status and other civil society players can add their names in support of written statements submitted to the sessions of the Council by NGOs with ECOSOC status⁵³.

Future sessions of the Council⁵⁴ are going to be crucial in the process towards the achievement of greater civil society participation therein. Plenty of fundamental issues are still at stake and their final outcome is far from being certain. The Council should assess if ECOSOC accreditation needs to be a requirement for all levels of participation. Several mechanisms of the Council should be open not only to NGOs without ECOSOC consultative status, but also to other civil society organizations, such as community based organizations which may wish to participate in the sessions of the Council without having to depend on an NGO with ECOSOC status. The Council should develop practices that strike a balance between allowing for substantive discussions and offering a platform for civil society organizations to voice issues of concern raised by victims of human rights violations.

In addition to working with the afore-mentioned United Nations human rights mechanisms, there are several ways for civil society organizations to engage in regular dialogue and consultation with OHCHR on thematic human rights issues⁵⁵. There is no need to be in consultative status with ECOSOC in order to attend and participate in these kind of events. Consultations with OHCHR could be regarded as very valuable for civil society organizations, since they facilitate the exchange of information, provide input for human rights standard-setting and serve as a conduit for reporting on existing or arising human rights situations.

To sum up, civil society organizations led by international human rights NGOs have been vital in the process of defining and accomplishing human rights worldwide. NGOs are currently helping to build, develop and strengthen the international human rights system, and their contribution to bring grassroots experiences to the development of international standards is very important. Without question, NGOs are a crucial link between local experiences of human rights violations and the international level of action. Despite the involvement and participation of NGOs in United Nations human rights affairs being regarded as a very positive advance, if the bottom-up approach to human rights is not put into practice, the legitimacy of the achievements made should be questioned. According to Mutua, in spite of an increased participation of NGOs, many remain voiceless in the corridors of power at the United Nations⁵⁶. Decisions and actions taken

53 See footnote one in NGO Written Statement number 4 (A/HRC/5/NGO/4) named the 'Catalan declaration of support for the special procedures of the United Nations Human Rights Council' submitted by the UNESCO Center of Catalonia to the 5th session of the Human Right Council. This statement, available at

<http://daccessdds.un.org/doc/UNDOC/GEN/G07/128/52/PDF/G0712852.pdf?OpenElement> was supported by a considerable number of Catalan civil society actors.

54 The 6th regular session is scheduled from 10 to 28 September 2007.

55 OHCHR hosted a consultation on human rights obligations related to access to water and sanitation on 11 May 2007 in Geneva.

56 See M. Mutua, *Human Rights: A Political and Cultural Critique*, Philadelphia, University of Pennsylvania Press, 2002, p. 37.

at UN fora on human rights should reflect the human rights needs at the local level, home of the intended beneficiaries of their actions.

SETBACKS AND CHALLENGES

When the bottom-up approach to human rights is applied, the four partners involved – community based organizations, local human rights NGOs, international human rights NGOs and allies in governmental and intergovernmental institutions – contribute to create a more powerful and legitimate voice for change. They also bolster advocacy in order to help vulnerable groups get their views to the decision-making tables at the national and international level. Nonetheless, opening up to a strategy of localizing human rights may pose several challenges to all the above-mentioned actors. Such a diversity of players may create divisions and lead to inequities of power and divergent strategies and interests. Accordingly, fruitful relationship between these partners may be difficult to form and sustain, and tensions and differences that confront their ability to cope with problems may arise. Balancing the need to acknowledge difference and diversity and the need to build collective solutions for the needs of the people is definitely a big challenge of the bottom-up approach to human rights. The most difficult alliances are probably with governments, because they are generally very reluctant to work with non-governmental civil society actors and because they still perceive international relations and international law as their domain. Many governments, particularly those criticised by NGOs, persistently work to limit the formal access and participation of human rights NGOs in global institutions and to defy the legitimacy of their findings. The governments and delegations being criticised tend to respond by denying the right of any outsiders to interfere in their internal affairs and may subject NGOs to pressure and political attacks⁵⁷. The Cardoso Report acknowledges this issue and mentions that “governments do not always welcome sharing what has traditionally been their preserve⁵⁸”. Therefore, “many increasingly challenge the number and motives of civil society organizations in the United Nations – questioning their representation, legitimacy, integrity or accountability⁵⁹”. This report further notes that “developing country governments sometimes regard civil society organizations as pushing a ‘Northern agenda’ through the back door⁶⁰”. This perception, though, may have its basis in the fact that only 251 of the 1,550 NGOs associated with the UN Department of Public Information are based in developing countries⁶¹. Such a situation mirrors the biased nature of power relations between the North and the South. As further noted in the Cardoso Report, “It is necessary to redress the

57 During the 4th and the 5th session of the Human Rights Council held in Geneva from 12 to 30 March 2007 and from 11 to 18 June 2007 respectively, a number of delegations and governments, particularly from developing countries, expressed sharply their objection to NGO participation in the debates and regarded them as unwelcome intruders into what they consider as their exclusive political domains.

58 Quoted in *We the Peoples: Civil Society, the United Nations and Global Governance*, Report of the Panel of Eminent Persons on United Nations–Civil Society Relations. A/58/817. United Nations General Assembly, 11 June 2004, United Nations, New York, p. 7.

59 Ibidem.

60 See *We the Peoples: Civil Society, the United Nations and Global Governance*, Report of the Panel of Eminent Persons on United Nations–Civil Society Relations. A/58/817. United Nations General Assembly, 11 June 2004, United Nations, New York, p. 7.

61 Go to <http://www.un.org/dpi/ngosection/about-ngo-assoc.asp>

evident and lamentable imbalance between the voices of Northern and Southern actors in international policy forums”⁶².

Financial constraints could be regarded as one of the reasons behind the imbalance referred to above. The lack of economic resources is, undoubtedly, one of the biggest problems community-based organizations and Southern NGOs⁶³ have to face. When global agendas are set and campaigns designed, community-based organizations and Southern NGOs may be ignored or put aside due to big disparities of resources between them and Northern NGOs. In the long run, resource inequalities may lead to asymmetrical network interactions among the afore-mentioned actors. As stated by Keck and Sikkink, “power is exercised within networks, and power often follows from resources, of which preponderance exists within Northern network nodes”⁶⁴. Resource inequalities do also affect the participation of civil society organizations in international institutions. Non-attendance to international events by community-based organizations and NGOs from developing countries may be caused by a lack of funds and resources of these organizations to cover travel and accommodation expenses, and not by lack of interest. In the end, if the bottom-up approach to human rights is to be applied, these disparities of resources will have a negative impact in the whole process because the voices of the most vulnerable groups may end up being excluded and subordinated. As an illustration, the Cardoso Report indicates that “The participation of civil society organizations in the United Nations tends to display familiar imbalances. The organizations represented tend to be headquartered in the global North; those from the South tend to be active largely in the major cities, with unclear accountability to the grassroots. Speakers are largely male, Northern and Anglo-Saxon and the voices of vulnerable groups are underrepresented”⁶⁵. It is of upmost importance to redress the evident and lamentable imbalance between the voices of Northern and Southern civil society actors in international policy forums or this imbalance will have a negative impact in the relations between Northern and Southern NGOs. In a discussion paper on the role of NGOs in international decision-making processes, Riva Krut is very critical with splits in the NGO community caused by Northern NGOs attitudes of racism, patriarchy and colonialism towards Southern NGOs⁶⁶. Likewise, in a seminar on the role of NGOs in civil society during the World Summit for Social Development in Copenhagen in 1995, the finger was pointed at Northern NGOs attitudes of sensationalism and romanticism towards Southern civil society organizations. Also, there is a lack of understanding of the conditions of the South by Northern NGOs. These NGOs should carefully and thoroughly think about the afore-mentioned criticism and should change their behaviour and attitude. This will help Southern civil society organizations change the perception they have about them and a relationship based on trust and confidence can be built among them all⁶⁷. This change of behaviour and attitude should go

62 See *We the Peoples: Civil Society, the United Nations and Global Governance*, Report of the Panel of Eminent Persons on United Nations–Civil Society Relations. A/58/817. United Nations General Assembly, 11 June 2004, United Nations, New York, p. 29.

63 The term Southern NGOs refers to NGOs from developing countries.

64 Quoted in M. Keck, K. Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*, London, Cornell University Press, 1998, p. 207.

65 See *We the Peoples: Civil Society, the United Nations and Global Governance*, Report of the Panel of Eminent Persons on United Nations–Civil Society Relations, 11 June 2004 (UN document A/58/817), p. 59.

66 See R. Krut, *Globalization and Civil Society: NGO Influence in International Decision-Making*, Geneva, UNRISD, 1997, p. 13.

67 For a constructive critique on the role of Northern NGOs in Southern countries see P. V. Rajagopal, *Solidarity with the Forgotten: North-South Solidarity for the Future of Voluntary Activism*, available at:

<http://www.ektaparishad.org/pdfs/solidarity.pdf>

hand in hand with the means that contribute to adjust the imbalances referred to in the Cardoso Report, so that Southern civil society actors are brought into the decision-making processes at the United Nations.

Another big challenge the bottom-up approach to human rights has to face is related to the public image of certain civil society organizations. While the predominant image of NGOs is that of entities independent and critical of governments, one cannot forget that powerful governments turn to, or even create, NGOs to further the interests of the state. This type of NGO is known as GONGO (government funded or government organized NGO). The same Cardoso Report acknowledges the growing and worrying phenomenon of accrediting non-governmental organizations that are sponsored and controlled by governments and reflect their government's position⁶⁸. This report highlights that speaking opportunities GONGOs use in United Nations forums would be better used by others⁶⁹.

Another significant matter civil society organizations concerned with human rights issues need to work out has to do with how accountability, democracy, transparency and representation could be guaranteed among their own structures. According to Mike Dottridge, "being organizations that advocate democracy and justice, human rights organizations must demonstrate that they do not conduct their own affairs in an undemocratic or unjust way⁷⁰". The need for accountability depends on the internal structures and the external activities of these organizations. For this reason, community-based organizations and national and international human rights NGOs should report not only to their members, but also to those who are affected by the activities of the organization and who have a legitimate interest in their effects⁷¹.

As previously mentioned in this paper, grassroots organizations are frequently regarded as having a considerable lack of knowledge of international human rights treaties and provisions⁷². More research should be carried out on how rights and justice are perceived by community-based organizations and local communities. Furthermore, it is very important to know whether these groups think about their problems in human rights terms and whether they recognise their entitlements and assert their rights. From a human rights perspective, community-based organizations are of particular interest when they start using the language of rights as a defence against the threats they face.

In spite of all the above-mentioned challenges and setbacks, community-based organizations should empower and engage local communities in advocacy and lobbying with the assistance of human rights NGOs.

68 We the Peoples: Civil Society, the United Nations and Global Governance, Report of the Panel of Eminent Persons on United Nations–Civil Society Relations, 11 June 2004 (UN document A/58/817), p.54.

69 We the Peoples: Civil Society, the United Nations and Global Governance, Report of the Panel of Eminent Persons on United Nations–Civil Society Relations, 11 June 2004 (UN document A/58/817), p.54.

70 See M. Dottridge, Deserving Trust: Issues of Accountability for Human Rights NGOs, in L. Dhundale, E.A. Andersen, Revisiting the Role of Civil Society in the Promotion of Human Rights, Copenhagen, Danish Institute for Human Rights, 2004, p.272.

71 Ibidem, p.271.

72 The reasons behind this lack of knowledge might be twofold: ignorance due to a lack of information and/or different conceptions on the meaning of human rights.

Oppression and discrimination can breed paralysis and resignation, and generate frustration and anger that can ultimately foster hostility and hopelessness. More efforts should be made to empower local communities to build confidence with the most vulnerable and marginalized and to eliminate the barriers that underpin exclusion and powerlessness.

CONCLUSION

This paper sought to look at a possible way to narrow down the gap between human rights norms adopted in international institutions by lawyers and politicians and human rights violations that occur locally in context-specific situations. The application of a bottom-up approach to human rights was identified as a mechanism with the potential to bridge that gap and bring the voices of oppressed and marginalized local communities to the decision-making tables of far-off international organizations, such as the United Nations. The bottom-up approach depends on the existence of a network consisting of four partners: community-based organizations, local human rights NGOs, international human rights NGOs and allies in governmental and intergovernmental institutions. It should be pointed out that this approach from below could be regarded as having the structure of a transnational advocacy network. In fact, this kind of network might well be a requirement for a bottom-up approach to human rights. In any case, the creation of such a network in itself is not enough to guarantee that human rights will be built from below. It might well happen that a network claims to speak from below in order to gain legitimacy, while in reality the priorities are set at the global level first. Afterwards illustrative cases on the ground are selected to try to show that the bottom-up approach is applied in practice. In this case the participation of grassroots organizations and decentralisation are used more as slogans than as a planned strategy.

In order for a network to be considered as applying the bottom-up approach to human rights, it is compulsory that the human rights experiences of the local communities set the agenda of the entire network. In other words, the agenda has to be based on the priorities of the people on the ground. This, of course, poses a number of challenges and setbacks and will require a change in the working methodology of the network players. The question of whether these are able to apply the bottom-up approach in such a way as to base human rights on the experiences of local communities is beyond the scope of this study. In order to answer this question, it will be necessary to carry out interdisciplinary field research on the operation of a specific network over a sufficient period of time.

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