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Reflections about Civil Society and Human Rights Multilateral Institutions

What does civil society mean and why a strong civil society is important for the respect of the human rights? The term "civil society" has been appropriated by different and sometimes antagonistic intellectual and political traditions. From a normative perspective, it can be defined as the sphere of life that was not colonized by the instrumental ethos of the state and the market. In the Machiavellian tradition, the struggle for power among and within states is based on strategic action, in which the legitimacy of means is measured by results.[1] This instrumental ethos collides with the morality of rights, for which people are an end in themselves, and morality cannot be used to achieve other goals. In the market, this instrumental ethos also prevails, since the logic of the economy is the maximization of (economic) benefits through the use of minimum resources, in which people (the workers) is a mean for the profit production. In a world dominated by the market and states, the continuous social, political and economic debate into civil society is essential for the creation and strengthening of the necessary conditions for the respect of the human rights. This does not diminish the strategic importance of developing good democratic governance and incorporating social responsibility into it. However, more responsible human rights models will only be catalyzed by a healthy civil society.

The definition of civil society proposed by Jan Aart Scholte may be a useful starting point: "Civil society is the political space where voluntary associations explicitly seek to formulate rules (in terms of specific policies, broader norms and deeper social structures) to govern one or another aspect of social life".[2] Civil society organizations and associations take different forms, but they have in common the characteristic of widening voices of particular interests and naturally advocate for excluded and invisible groups. Jean Cohen and Andrew Arato point out four characteristics of it that we may take as a framework for understanding the extent of the potential impact of human rights discussion on civil society: publicity (cultural and communication institutions); plurality (differentiation of interests and forms); privacy (an environment that supports the development and expression of the people); and legality (the structure of basic laws and rights that promote publicity, plurality and privacy).[3]

Human rights associations have often emerged in response to government abuse, generic or human rights restrictions, or other adverse circumstances. The movement includes a range of organizations that formulate a liberating discourse and social justice. These associations made a strategic decision to promote the human rights speech in opposition to other forms of political action. They are divided, reflecting the development of these concepts in United Nations agreements, in: civil and political rights (participation in government, protection and individual security, association and expression, access to justice); social and economic

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[1] Niccolo Machiavelli, The prince. University of Chicago Press, 1985.
[2] Jan Aart Scholte, Civil Society and Democracy in Global Governance. CSGR Working Paper n. 65/01, Centre for the Study of Globalization and Regionalization, University of Warwick, jan. 2001.
[3] Jean L. Cohen & Andrew Arato, Civil Society and Political Theory, p. 347. Massachusetts Institute of Technology, 1994.

rights (income, employment, education and training, health services, access to information); and cultural rights.

How is civil society an essential actor for human rights?

The progress on the human rights issue requires leading conditions towards its respectability. These conditions create norms taking into account the cognitive, instrumental and moral aspects arising from progressive dialogue, bringing together diverse perspectives and constantly recreating such norms as dynamic and universal principles. If justice is sought, it is impossible to escape from this process, because dialogue itself is a component of justice. The realization of rights is a process, which is not only due to the incorporation of rights in national and international legal structures. Civil society creates and recreates the conditions for validating and realizing human rights. It is emphasized five aspects of this action: (1) to offer a sphere of action for all social groups; (2) publicize and make injustice generally known; (3) protect the private space from incursion by the State and the market; (4) intervene and interact directly in legal and political systems; (5) promote social innovation.

A plural speech

The human rights speech must be practical, accountable and accessible to the most diverse perspectives. It must engage despised and invisible groups as proponents of the changes they deem necessary to justice. Obviously, the civil society is the origin of conflicts between claims for justice, and one aspect of dialogue is the negotiation between various rights and the distribution of resources to be invested in solutions. For example, some people may think that have personal security and a good treatment by the laws may correspond to the idea of justice. The perspective will be different for someone who lives in a state of insecurity, or is directly affected by legal actions. The discussion of human rights is not a mechanism for resolving these issues; it is a space in which they can be resolved through interaction and dialogue between all those involved in the problem.

Public injustice

Civil society groups are good hunting dogs for injustices because they give voice to prospects and points that otherwise would not be heard. In order to do this real, association and dialogue must be open and with a minimum of intervention. Thus, civil society contributes to the realization of human rights by bringing injustice to the public sphere. Problems can arise when powerful groups stifle the voices of the less powerful in civil society itself. This is partly protected by the associative principle - people associate at many levels and with diverse interests based on their own needs for social and particular expression - and also because its strength stems directly from the coexistence of diverse perspectives. This way, various groups act on human rights publicizing and bringing injustice to light by advocating changes or by putting pressure to make them happen. Groups can pressure through the production and availability of information, educating the public and other groups, proposing public policies and giving direction to legal actions.

Protection of private space

The civil society defines a space for the individual expression and development, which is distinguished from the logic of the citizen and the consumer regarding the state or the market. Individuality can be expressed through association or non-participation - being therefore largely elective. In terms of rights, this individual view is crucial because it regards each person as an end in itself. Human rights groups protect this space by seeking necessary and positive conditions that foster individual expression and reinforce the limits of state and market action.

Direct participation in legal and political systems

In each country and at the international level, laws and public policies that lead to the realization of human rights have been enacted to some extent. The laws and norms incorporated into such systems become effective only as they are used, refined, and approved - and thus validated by civil society. Human rights groups have been directly involved in this process by bringing legal cases to the courts, providing information and essential data for the refinement of public policies and the proposal of new mechanisms - or eradicating those that are ineffective - for the creation of a support system for human rights. This intervention must be strategic, with a focus on the paradigm shift and the pressure on government policy, to become more consistent with the progressive human rights speech.

Lead the social innovation

The social innovation is a proactive approach to human rights that needs to take place at feasible levels where dialogue, feedback and results are open and can be explained from many perspectives. Innovation occurs through the creation of smaller scale models that show the possibility of solutions to issues of intransigence of justice at a wider scale. It emerges into the civil society as a direct answer to localized injustices. Innovators are deeply aware and involved with those who have been affected by injustice and, working with them, experiment and create ways to find solutions. This was the case, for example, in South Africa where the Social Change Assistance Trust established and maintained legal aid structures for the community during the apartheid period, demonstrating that it is possible, with a minimum and low-cost infrastructure, making justice accessible in rural areas.[4] Nowadays, many social groups are seeking in Brazil more effective ways to use the courts and the Constitution to redress cases of old injustice. The Pro Bono Institute (São Paulo, Brazil), which provides highly qualified volunteer advocates for social groups, is an example of this type of action.[5]

The civil society is a central actor in creating the conditions for the realization of human rights. It promotes the human rights speech that legitimates the norms of rights, particularly by including despised and invisible groups. The forms of this discourse also vary and lead to different strategies and means that allow the human rights logic to be realized in the society. The rapid discussion of the role of civil society leads us to an obvious question. If

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[4] Please check at http://www.scat.org.za/
[5] Please check at http://www.probono.org.br/

civil society is a powerful and important agent for the implementation of human rights, what prevents it from put them effectively in practice?

What impedes civil society from having a greater impact on human rights?

Some forces of the civil society such as flexibility, diversity and volunteering are also its weakness. It is not protected against the state and the market, nor does it have power over them. It is also massively divided and lacks funding and other resources. Many of these characteristics are reflected in the challenges of the current human rights movement. This text will discuss three of them: fragmentation (both thematic and geographical); the neutralization of the speech; and the resources dependence.

Fragmentation

The fragmentation of the movement creates a competition for space, voice and resources that weakens the solidarity around human rights. In order to become more effective, human rights organizations must seek ways to bring together the actions and speeches of diverse actors.

Human rights groups focus on a variety of issues, including torture, police abuse, AIDS, housing, social and economic rights, discrimination, environmental protection and development. The thematic fragmentation has positive and negative aspects. A positive aspect is that the diversity of action and involvement reflects the diversity of interests in social speech, leading to a significant human rights system. Their work cover many important areas for the excluded, giving voice to invisible groups and bringing to light those who are forgotten or ignored. However, there are several negative aspects: (1) the diversity of interests can create a competition for the attention and public resources necessary to direct certain rights, minimizing the sense of a shared cause; (2) associated to the first aspect is the focus of social energy in different directions, pauperizing the social discourse.

Another division that must be discussed is the geographical criterion (North / South). Actually, it is less related to physiography itself than a "peripheral" concept of access to resources by the majority of the world's population. Some of the international agreements, such as those relating to human rights, had a small participation of the less affluent populations in the past. It should be noted that the most recent United Nations conferences had a welcoming increase in the participation of countries from the South part. The southern actors need to become stronger proponents of international human rights movements. Recognizing that the strongest organizations naturally develop in the shadow of international governmental agencies and with the resources and power of the Northern countries, it is necessary to bring the human rights issue to them. They must participate on a larger scale at the international level of human rights action, as they have huge necessities for the protection and access to human rights - their populations are the least served by the existing legal infrastructure of rights. One aspect of the division between North and South is the need to strengthen the credibility of local human rights organizations in their own governments and societies. Often, they work in the shadows of the Northern organizations, or as their subsidiaries being linked to organizations based in Washington, New York, London, Paris, Geneva and Tokyo. It is undoubtedly a survival strategy in countries that

actively repress human rights and for those who advocate in their favor. But it might not be a good strategy, as minimal protections are won because human rights need to be public and visible. Human rights organizations in the South need to refine their reach and credibility in their own contexts and in the international level as well.

Speech neutralization

Human rights have been at the height of evidence during struggles against authoritarian regimes in Latin America, Europe, Africa, and Asia. In the North, human rights constitute an important subtext right now. Human rights organizations need to understand this and act in the political arena. When crises end, human rights organizations often slip into the background. Some of the most qualified leaders join the government; others, having fulfilled the task to which set themselves, abandon the social sphere. With the reestablishment of democratic structures and the regulation of laws, human rights movements face their most difficult challenge: turning rights into reality. After a period of repression, it is common to confuse the struggle for rights with a revolution that can be overcome with a constitutional charter, direct elections and freedom of expression. Then more specific policies, broader norms and deeper social structures are required to make human rights come true. All of this must be experienced and developed in the communities where we live, in partnership with the government and the private sector.

It is therefore a mistake for human rights organizations to seek political neutrality (as far as this is possible) to make their speech more acceptable and trustworthy for the public and the state. If the political neutrality of speech avoids conflicts, it also dispels critical debate. Undoubtedly, human rights organizations should avoid party struggles, but they also need to be able to understand them. Moving away from the political sphere takes away the legitimacy of the efforts of those who seek change through political means. Thus, the movements for social justice like in Chiapas, Mexico; the landless movement in Brazil; AIDS-related movements in South Africa, among other social "rebellions", are carefully seen by some human rights organizations. Human rights must be relevant to the real demands of the underprivileged. The realization of rights stems from deep, gradual and progressive processes of social negotiation. The professionalization of human rights - qualification, training and institutional support - is an important activity but should be complemented by the general human rights trend in the political sphere and by greater links with social justice movements.

Resource dependence and action focused on financing

The need for funding and other resources grows as organizations move into new areas, their workforce shifts from volunteer activists to highly trained professional advocates, and when challenges require long-term approaches. Nevertheless, only few foundations and other sponsors invest in human rights, and very few among these are willing to invest in more heterodox, minor and transitional organizations. These sources are being obtained from governments and governmental associations from northern governments and, to a certain extent, from other regional groups and from some southern governments, foundations created by the private sector, family foundations, and some individuals. The funding source

has a significant impact on the conceptualization of priorities and the definition of human rights.

The competition for these sparse resources creates a perverse cycle in which human rights organizations adapt their initiatives and speech to funding priorities. Resources are sent to organizations that are trusted from the point of view of the fund controllers' goal. The problem is not so much the priorities of the capitalist organizations, but mainly the alignment with them. Human rights organizations are tempted to mimic hegemonic discourse, for their own credibility and survival. One way to revert this picture may be strategies adopted by the funders in order to trigger open dialogue and link human rights movements of diverse sizes, ages, and geographic locations, and to help develop more consistent funding. Moreover, human rights movements must expand the full spectrum of their resources: new ideas, skills, knowledge, time, space, and commitment. Strategic financial resources can leverage these contributions, but not replace them.

How to strengthen the human rights movements action?

In the future, the human rights movement should strategically focus on strengthening and deepening the validation of norms that lead to the creation of a logic of respect for human rights. Its action, as discussed above, should promote this process by participating in a plurality of perspectives - publicizing injustices, protecting the private space and promoting social innovation. Fragmentation, the neutralization of discourse and the dependence of resources are obstacles that delay the progress of each of these areas. But there are several important strategies that will provide more impact and better results, as in the following reflections.

Improvement of communication and education skills

Nowadays, both communication and education systems could have a better effectiveness on promoting a social speech regarding the dissemination of human rights information. Human rights organizations need to improve their ability to make use of these systems, as they exist to broaden the scope of social dialogue. This means continuing and improving educational initiatives that not only introduce people to the language of human rights, but also open the way for proactive dialogue with governments, the private sector and other social movements. New modalities of accessible media are opening up, in which the human rights movement needs to become fluent. The mere exposition of human rights, its potential benefits and the value of humanity is an essential message that needs to be penetrated by a wide range of educational experiences aimed at reaching a wider audience. In addition to the dissemination of principles and language in accessible forms, it is necessary to emphasize that human rights do not constitute a closed body of knowledge. It is necessary to disseminate them, using the existing education and communication systems, means by which mechanisms of progressive feedback and permanent dialogue are obtained.

Investments in socially innovative models

Human rights organizations are more and more experienced in publicizing injustices as they should. However, the negative history behind human rights issue must be counterbalanced by the existence of viable alternatives. It requires a proactive approach. With regard to civil and political rights, for example, models should be developed to show how access to judicial systems can be improved, how criminals can be treated on a more human way, how more citizens can participate in government and how to abolish discriminatory practices. In the area of economic and social rights, in addition to the continuing pressure for government and the market to move towards achieving it, we also need models to show how that goals can be achieved. The innovation in the approach to human rights on a smaller scale will demonstrate that better systems are possible on a broader scale, giving human rights organizations a stronger position.

Build human rights networks that cease fragmentation and strengthen the use of resources

By identifying and participating in certain networks, human rights organizations exchange information, learn from the experience of others, stimulate international solidarity and create an environment of dialogue that favors balanced participation in the universal debate on human rights. By definition, networks are horizontal. They facilitate the speech without monopolizing it, allowing individual organizations to enhance the effective use of resources and provide opportunities to less visible groups. There are innumerable networks today, from those formally constituted to those bound by ties so tenuous that it becomes difficult to give them a name. Networking is to take the reality of the social process as a crucial element for the realization of human rights. This engagement must take place along the levels of society, with individuals, community groups, universities, government agencies and corporations; it also implies an active and constant dialogue with varied interests and not only with those who agree with us.

Conclusion

This text sought to propose some practical ideas to improve the participation of the civil society in the human rights issue. To achieve this goal, it is suggested that the logic of the rights system must be developed. A promising way to do this is to understand respect for human rights as something that emerges from a process that must be continually materialized through the social speech. This has implications for the current human rights movement. While it achieves some successes, particularly in the areas of law and education, it could be far more effective in convening underrepresented groups and perspectives and creating space for the strengthening of human rights norms. These arguments are not intended to provide a single and simple answer. However, they suggest some optimistic reasons if the awakening of civil society consciousness in various parts of the world may lead to greater respect for human rights. Believing in a social discourse process may be insufficient for those whose rights are being violated today, but without this process the situation of these people remains invisible and the moral dimension to which they are entitled remains a theoretical construction. Optimism is guaranteed because the social processes discussed in this text are achievable and, in some cases, already being done.