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Sur – Human Rights University Network

Rua Barão de Itapetininga, 93 – 5º andar - República

São Paulo - SP - Brasil - CEP: 01042-908

Tel/Fax: 55 11 3884-7440

E-mail: <contato.sur@conectas.org>

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SUR - HUMAN RIGHTS UNIVERSITY NETWORK is a network of academics working together with the mission to strengthen the voice of universities in the South on human rights and social justice, and to create stronger cooperation between them, civil society organizations and the United Nations. Conectas Human Rights, a not-for-profit organization founded in Brazil, is home to Sur. (See website <www.conectas.org> and portal <www.conectasur.org>. To access the online version of the journal, please go to: <www.surjournal.org>.)

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PRESENTATION



This issue of the Sur Journal was developed in collaboration with the International Network for Economic, Social, and Cultural Rights (ESCR-Net). This network is a global initiative dedicated to promoting collective work between organizations and scholars around the world that strive to guarantee economic and social justice through human rights. To this end, the Network contributes to the development of a collective voice and joint activities among members, the exchange of information and mutual learning, the promotion of new tools and strategies, and the strengthening of links between different regions, languages, and disciplines.

Four of the articles published in this issue are revised versions of documents produced for the International Strategy Meeting on Economic, Social, and Cultural Rights and the ESCR-Net General Assembly held in Kenya, December 5-8, 2008, that grew out of the intense and valuable debates led by the participants in the event. The objective of these documents was to provide a critical evaluation of human rights work, placing a special focus on economic, social, and cultural rights – and, in particular, the collective work that the members and participants of the ESCR-Net have been developing in different thematic areas. At the same time, the articles sought to evaluate the future opportunities and challenges and discuss potential strategic interventions for ensuring effective human rights protection*.

In this way, we are presenting a dossier in this issue that discusses which challenges and opportunities organizations and social movements fighting for global social rights are facing in certain areas, their main strategies, and a catalogue of recommendations for future action.

In the first article of the dossier, Ann Blyberg presents a brief history of civil society's use of budgetary analysis and explains in what working with a public budget as a tool for enforcing rights consists, in particular, in terms of economic, social, and cultural rights. She discusses different foci – transparency, gender, and right to food – of current work in this field and provides examples of experiences gained by civil society groups from different countries.

Aldo Caliori analyzes the manners in which increased international commerce and transnational financial flows, deregulation, privatization, and reduced State functions, have culminated in the debilitation of States' abilities to adopt active measures necessary for respecting, protecting, and satisfying human rights in their territorial jurisdiction. Based on a general description of tendencies posed by the intersection of commercial, financial, investment and human rights policies, Caliori presents a panorama of the strategies used by diverse organizations for protecting human rights in this context, including some success stories.

Patricia Feeney describes the ups and downs of the process for developing universal standards regarding corporate responsibility for human rights violations. She reflects on the reasons that lead to the disintegration of the Draft UN Norms on the Responsibilities of

* Other articles addressing the use of human rights strategies by social movements and base communities and work in the area of women's economic, social, and cultural rights were produced on this occasion and can be directly requested from the Network's secretary by email: info@escr-net.org.

Transnational Corporations and evaluates the strengths and weaknesses of 'Protect, Remedy and Respect Framework' adopted by the Human Rights Council in 2008, at the proposal of the UN Secretary-General's Special Representative for that subject, John Ruggie.

Finally, Malcolm Langford offers a socio-juridical panorama of the justiciability of economic and social rights in the national arena, formulating some questions regarding their origins, content, and strategies. He also includes the debate surrounding the impact of litigation and an evaluation of the main lessons learned. In conclusion, he offers some ideas about the future development of this field.

Completing this issue of the Journal are five articles, on diverse subjects, and an interview. In the first article, Víctor Abramovich presents a general panorama of some strategic discussions surrounding the role of the Inter-American Human Rights System (IAHRS) in the regional political scenery. The author suggests that, in the future, the IAHRS should expand its political role, setting its sight on the structural patterns that affect the effective exercise of rights by subordinate sectors of the population.

In their article, Viviana Bohórquez Monsalve and Javier Aguirre Román carry out a conceptual reconstruction of the three tensions existing in the concept of human dignity: i) the tension between one's natural and artificial character (or consensual or passive); ii) the tension between one's abstract and concrete character, and iii) the tension between one's universal and particular character.

In the third article, Débora Diniz, Livia Barbosa, and Wederson Rufino dos Santos seek to demonstrate the way in which the field of disability studies has been consolidated into the concept of disabilities as constituting a social disadvantage. As a result of this new concept, as adopted by the 2006 UN Convention on the Rights of Persons with Disabilities, disabilities are not summarized as a catalogue of diseases listed by biomedical experts, but rather constitute a concept that denounces the inequality imposed by environments with barriers on bodies with impediments.

Building on a description of violence faced in Colombia by lesbian, gay, bisexual, transvestite, transsexual, and transgendered (LGBT) persons and on decisions passed down by the Constitutional Court regarding the protection of free sexuality options, Julieta Lamaitre Ripoll analyzes, in the fourth article, the law's symbolic role and argues that activists in her country have an ambivalent relationship with the law; at the same time as they distrust it, because of its ineffectiveness, they mobilize themselves for legal reform and celebrate the progressive jurisprudence of the Constitutional Court.

For the first time, and at the request of the event's participants, a brief account of the IX International Human Rights Colloquium will be included in the Sur Journal. Furthermore, during the IX Colloquium, an interview was conducted with Rindai Chipfunde-Vava, Director of the Zimbabwe Election Support Network (ZESN) that ends this issue of the Sur Journal. In it, Rindai emphasizes the importance of electoral observation in Africa and insists on the necessity for human rights defenders to see elections as a human rights issue.

We appreciate the support from the Ford Foundation, the ESCR-Net and the Observatório Interdisciplinar de Direitos Humanos of the Universidade Federal do Rio Grande do Sul (UFRGS) for the publication of the present issue of the Sur Journal.

Finally, we are extremely pleased to report that the Carlos Chagas Foundation will support the Sur Journal in 2010 and 2011. This new cooperation is exceptionally promising, because, in addition to financial support, this prestigious research institution will complement the Journal's editorial efforts.



RINDAI CHIPFUNDE-VAVA

Rindai Chipfunde-Vava is the Director of the Zimbabwe Election Support Network (ZESN). She is a political scientist and a Stanford University fellow. Rindai formerly served as the Zimbabwe Country Coordinator for Southern African Human Rights NGOS Network (SAHRINGON) and as the Program Coordinator for the Zimbabwe

Human Rights Association (ZimRights). She has observed many elections under the different bodies of the Southern African Development Community (SADC), as well as in many countries in Africa, Asia, North and South America.

Original in English.



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INTERVIEW WITH RINDAI CHIPFUNDE-VAVA, DIRECTOR OF THE ZIMBABWE ELECTION SUPPORT NETWORK (ZESN)

By Conectas Human Rights*

Conectas conducted this interview during Rindai's participation in the IX International Human Rights Colloquium in São Paulo, Brazil in November 2009. Since June 2007, Conectas has facilitated the cross-regional campaign "Friends of Zimbabwe", which is composed of seven NGOs from six Latin American countries (Argentina, Brazil, Chile, Mexico, Peru and Venezuela). The campaign is carried out in partnership with NGOs in Zimbabwe, including the ZESN and Zimbabwe Lawyers for Human Rights (ZLHR).

The objectives of the campaign are: (1) to increase awareness of the current situation in Zimbabwe among different stakeholders; (2) to empower NGOs from Zimbabwe, by sharing experiences and supporting their actions; (3) to lobby governments from Latin America to pressure and influence the government of Zimbabwe to reestablish the rule of law and protect human rights; and (4) to promote collaborative actions at the African Union (AU), Organization of American States (OAS) and United Nations (UN) levels.

Conectas: *How did you become involved in monitoring elections?*

R: I started my career working for a human rights organization named ZimRights during the late 1990s. Whilst working there, I observed elections. I once observed elections in Malawi and realized that positive electoral changes were taking place because of the presence of observers. I also realized that in Zimbabwe there was nothing in this regard for elections. As a result, a group of non-governmental organizations (NGOs) formed the Zimbabwe Election Support Network (ZESN) in 2000. The elections held upon its inception were very contestable and the stakes were very high. The elections were very

*We would like to thank Rebecca Dumas for her collaboration in the transcription of this interview and Tamaryn Nelson for the final editing

controversial because, for the first time, there was a very strong opposition - the Movement for Democratic Change (MDC). This made election observation very relevant to every civil society organization. Had the election observation not happened, I think most of the irregularities would have gone undetected.

Conectas: *How is the ZESN organized?*

R: ZESN was formed at the end of 1999, but the actual work began when we observed the local government elections in 2000. Since then, we never have stopped observing elections. In terms of the structure, we are a coalition of 30 organizations, all of which participate in the annual general meeting. There is also a Board and the Secretariat, which I am heading as the National Director. We also have field offices in three provinces, in addition to the head office in Harare.

Conectas: *What activities did ZESN conduct during the last election in Zimbabwe?*

R: In the 2008 election we went beyond general observation. Most election observation groups do “parallel vote tabulation*”, but for Zimbabwe we decided on doing “sample-based observation”.

Sample-based observation works in the following way: statistically based, a sample of polling stations is chosen and an observation team is deployed. As soon as the results are counted at the polling station, they are transmitted to the main communication center, where they are tallied and the projection is calculated, taking into consideration the margin of errors, confidence levels, and so forth. In addition to using this method, we had ten thousand observers at nine-thousand polling stations all over the country so we were physically present in almost all polling stations. This alone built confidence in the Zimbabweans, even in terms of our projection. After we released the results of our projection, the Electoral Commission could not release results for a month. Finally, when the results were released, they fit into our margin of error and, therefore, the official results were within our projection.

This was the first time that ZESN used “sample-based observation” so we hired consultants to guide us. A lot of research was conducted and it was very successful. Many countries have used this methodology, but I think we are the first group to do it in Africa.

Conectas: *What was essential to organize it successfully?*

R: To ensure the success of the project it needs a statistician, telephonists, Information Technology (IT) staff, data capturers, a database developer and a project manager to run the whole process. As far as equipment, you need

*The Parallel Vote Tabulation (PVT) is an election observation methodology that is employed for independent verification (or challenge) of election results. It involves observation of the voting and counting of ballots at the polling stations, collection of official polling station results and independent tabulation of these results, parallel to election authorities.

efficient communication systems, including satellite phones, cell phones, and vehicles. These are very important for the collection of results. Most importantly, there is need for a lot of volunteers.

As I mentioned earlier, we worked with a total of ten thousand (10,000) volunteers. Within those ten-thousand (10,000), 500 were for the projection only. These volunteers were prioritized in terms of communication because the results collected are supposed to be known and announced within twenty-four (24) hours. The results are then compared with the Electoral Commission's results but we wanted to announce beforehand so as to *deter* any kind of fraud in the election results. Therefore, it was very important for us to collect and announce the results within 24 hours. Otherwise, the whole purpose of the project would have been defeated.

Conectas: *During the Colloquium, we discussed how difficult it is for human rights advocates to understand elections as a human rights issue. What is your view?*

R: Elections fall under citizen and political rights, and when you look around the world - for example, in Kenya and Zimbabwe - there are lots of human rights violations associated with elections. These are in the forms of torture, beatings, killings, forced disappearances, arson and so forth. For me, that's when elections become a human rights issue. In Zimbabwe, elections are very much related to human rights violations. If it weren't for the elections, I don't think we would have such a bad record. When you look at the records of Zimbabwe's crises, they all took place during the years of elections. When you look at elections, there are so many rights that are involved: the right to assembly, the right of association, the right of free speech and free association, etc. These rights are somehow violated within the context of elections and that's the key. I think human rights organizations should consider this and focus on it as a thematic issue in their various scopes of work.

Conectas: *Why do you think there has been a recent increase in violence after elections in several African countries?*

R: After independence, most political parties that had taken part in liberation struggles pursued the single-party system. Therefore, from the 1980s to the 1990s, there were virtually no opposition political parties. At the end of the 1990s, we noted opposition parties emerging as was the case in Zambia. As other countries realized that it was the "end warning" [to the single-party system], there was need for them to "watch out" for opposition parties. As a result, these parties began to be treated as "enemies" that were representing Western interests and coming to unsettle the liberation struggle regimes. For these opposition parties, the only way to fight back was through violence, which they had experienced during the liberation struggle and they hadn't forgotten. The result of this polarization is violent elections because of a lack of tolerance for differing political views. When you look also at our electoral systems, most countries use the "first past the post" voting, where

the winner takes all and forms the government. It is unlike a proportional representational system, where many are represented in Parliament and power is shared across parties.

Conectas: *How do you see the role of the international community within this context of polarization?*

R: In terms of elections, the international community should support local initiatives such as domestic observers. At the same time, they also should send international observers to augment the work we do. I also think that the international community should fund more projects related to democracy, elections and voter education. Voter education is fundamental. It is important that people know their rights and how to vote so that they will do so on an informed basis. I also think that once they know their rights, they will feel more confident that their vote counts.

Conectas: *What about the international role of African countries? Do you think it is possible to break the pattern of African countries voting in block at the United Nations?*

R: It's a process and it depends on the situation. I think that the United Nations (UN) should be more thematically oriented, rather than country-based. If you want to put a country such as Zimbabwe on the agenda before discussing any specific issue, other countries such as China, Russia and even South Africa will sit on the fence. If specific countries are placed on the agenda, I don't see how those voting blocks would go away. There is also Pan-Africanism. We need strategies on how to put the specific issues on the table.

Conectas: *As you mentioned China, we would like to ask you what in your opinion is its role as a member of the international community, specially in the context of Africa?*

R: China is very present in Zimbabwe. We used to have countries from the European Union as our main investors and now we have China. It is a pity that some of the countries or organizations, like the Commonwealth, have disengaged from Zimbabwe.

At the beginning of the crisis, the European Union pursued the policy of non-engagement, which gave China space to come into Zimbabwe. No matter how bad a country's situation may be I don't think that the international community should ever disengage. It should keep on hammering the point and pushing on so that other countries like China don't monopolize the investment opportunities. Right now we see China investing in minerals and farming in Zimbabwe. For me, China's strong presence is a problem because there is no democratic history in the country. If these are the friends of Zimbabwe, they will be invited to observe our elections, without having a history of free and fair elections. Other examples are Libya and Russia. A country must invite a mix of states, including those with good human rights records, so that these countries scrutinize the process in a

very objective manner and give recommendations on how Zimbabwe can improve its electoral system.

Conectas: *Finally, can you give us your personal opinion regarding the International Criminal Court's indictment of Omar al-Bashir, President of Sudan?*

R: I think it was very good because where I come from there is a belief that sitting presidents cannot be indicted. This is a warning to all Presidents that if they abuse human rights, they can still be indicted and no one is above the law. Nothing else has really happened so far, but I think it's good progress. It's a warning to the sitting presidents who violated human rights and abused their power. The world is watching.

São Paulo, November 14th, 2009.

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