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FOREIGN POLICY AND HUMAN RIGHTS

David Petrsek

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Adriana Erthal Abdenur and Danilo Marcondes de Souza Neto

Brazil's Development Cooperation with Africa:
What Role for Democracy and Human Rights

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PRESENTATION



Foreign Policy and Human Rights

The fields of human rights and foreign policy have coincided with increasing frequency in recent years. The convergence of these areas, however, has not been widely explored in academic circles of the Global South, and is often considered secondary by activists working at the national level. This issue of SUR, prepared in partnership with **Asian Forum for Human Rights and Development**, **CIVICUS: Worldwide Alliance for Citizen Participation** and **Commonwealth Human Rights Initiative**, proposes, on the one hand, to raise awareness about the different interfaces and interactions between the international activities of countries and the national *protection* of human rights, and, on the other, to examine contemporary international dynamics such as the emergence of a multipolar world and its impact on the global protection of human rights.

The thematic group of articles addresses the changes in the international system – primarily the more prominent role played by so-called emerging powers (Brazil, South Africa, India and China, among others) – and their impact on the global protection of human rights.

Reviewing the foreign policy of these countries and their impact on human rights includes, for example, analyzing their increased commitment to and engagement with regional and international human rights protection mechanisms. With respect to this point, the potential role of emerging powers in the field of human rights is examined by David Petrasek in **New Powers, New Approaches? Human Rights Diplomacy in the 21st Century**. In his article, Petrasek argues that, despite the reluctance of these new powers to adopt “traditional” tactics such as naming and shaming and the imposition of conditionalities in their bilateral relations, these countries play an important role in the international protection of human rights through standard-setting on specific human rights issues in multilateral forums.

In **Foreign Policy and Human Rights in Emerging Countries: Insights Based on the Work of an Organization from the Global South**, Camila Asano, coordinator of Foreign Policy and Human Rights at Conectas, examines the role of emerging countries,

with a focus on Brazil, in international and multi-lateral bodies. Based on the experience of Conectas, the article provides insights for other civil society organizations wishing to engage with the formulators and implementers of foreign policy to promote policies that are more respectful of human rights. SUR 19 also features a **joint interview with Maja Daruwala, of the Commonwealth Human Rights Initiative (India), and Susan Wilding, of CIVICUS World Alliance for Citizen Participation (South Africa)**, two additional organizations that monitor how their countries’ activities abroad are affecting human rights. Both for Asano and for Daruwala and Wilding, the international performance of their countries leaves a lot to be desired in terms of consistency.

A subgroup of articles analyzes, more specifically, two topics of Brazilian foreign policy: health and international development cooperation. In **Public Health and Brazilian Foreign Policy**, Deisy Ventura addresses Brazilian diplomacy in the field of health – at a regional and international level – and analyzes how the human rights topic has been included in this agenda. In the article, Ventura demonstrates the solidarity that underpins Brazilian health diplomacy, but also warns of the proliferation of cross-cutting contradictions – both internal and external – that weaken, in the current context, the prevalence of human rights and the very effectiveness of Brazilian health cooperation. In **Brazil’s Development Cooperation with Africa: What Role for Democracy and Human Rights?**, Adriana Erthal Abdenur and Danilo Marcondes de Souza Neto revisit the role and presence of Brazil on the African continent, analyzing how and to what extent the “Brazilian model” of cooperation directly and indirectly impacts the dimensions of democracy and human rights on the African continent. The authors identify, despite the non-interventionist rhetoric of Brazilian foreign policy, a positive – albeit cautious – role of the country in its relationship with African nations. They point out, however, that Brazil could be a more active and decisive partner in the promotion of democracy and human rights on the continent.

This group also includes two articles on the national implementation of international norms, decisions and recommendations. These articles were

included with the aim of countering the normative analysis that usually underlies studies on this topic by including the political dimension that permeates the domestic incorporation of international instruments, given that, in the same one country, we find cases of active engagement, limited respect and even defiance of international norms. These dynamics interest us, since they have a considerable impact on the scope that victim protection systems will have in each specific context.

In this context, in **Incorporating International Human Rights Standards in the Wake of the 2011 Reform of the Mexican Constitution: Progress and Limitations**, Carlos Cerda Dueñas examines how the 2011 constitutional reform in Mexico established respect for human rights as a guiding principle of the country's foreign policy and what the impact of this has been on the incorporation of international norms by the country. Elisa Mara Coimbra, meanwhile, discusses the relationship between Brazil and the Inter-American System of Human Rights. In **Inter-American System of Human Rights: Challenges to Compliance with the Court's Decisions in Brazil**, the author comments on the implementation status of the decisions in five cases in which Brazil was condemned by the regional system.

Despite the variety of issues present in this edition, we should briefly mention the major research topics and agendas that emerged during the conception and production of this issue of SUR and that, for practical reasons, have not been fully addressed here. Prominent among them are, for example, the dynamics of transparency, accountability and citizen participation in foreign policy, and comparative studies of foreign policies of two or more countries from the Global South. As expected, and fortunately, the debate does not end with this issue, and SUR remains committed to continuing this dialogue.

Non-thematic articles

This issue of SUR includes four articles in addition to the dossier. The first, **Finding Freedom in China: Human Rights in the Political Economy**, written by David Kinley, addresses human rights in China from an economic policy perspective, proposing new ways of viewing the relationship between the Chinese

economic model and the realization of fundamental freedoms in the country.

Laura Betancur Restrepo, in **The Promotion and Protection of Human Rights through Legal Clinics and their Relationships with Social Movements: Achievements and Challenges in the Case of Conscientious Objection to Compulsory Military Service in Colombia**, presents an analysis of the work of the Constitutional Court of Colombia on the subject of conscientious objection in the specific case of mandatory military service. Based on discourse analysis, the author attempts to comprehend the legal translation of social demands and its direct and indirect impacts for social movements.

Finally, the issue contains two articles that tackle the issue of sexual and reproductive rights. The first, **Modern-day inquisition: A Report on Criminal Persecution, Exposure of Intimacy and Violation of Rights**, written by Alexandra Lopes da Costa, discusses the implications of the ban on abortion in Brazil, in a quasi-journalistic account of a case that occurred in the state of Mato Grosso do Sul.

The second, **Case Study on Colombia: Judicial Standards on Abortion to Advance the Agenda of the Cairo Programme of Action**, by Ana Cristina González Vélez and Viviana Bohórquez Monsalve, examines how Colombia and, more broadly, Latin America, have advanced in the implementation of the Cairo Programme of Action, which addresses access to abortion and the protection of other reproductive rights.

Finally, we would like to emphasize that this issue of the Sur Journal was made possible by the support of the Carlos Chagas Foundation (FCC). Conectas Human Rights is grateful for the collaboration of the partner organizations throughout the production of the thematic section of this issue. We also thank Amado Luiz Cervo, Bridget Conley-Zilkic, Celia Almeida, Daniela Riva Knauth, Deisy Ventura, Eduardo Pannunzio, Eloisa Machado de Almeida, Fernando Sciré, Gabriela Costa Chaves, Gilberto Marcos Antonio Rodrigues, Gonzalo Berrón, Guilherme Stolle Paixão e Casarões, Katia Taela, Jefferson Nascimento, Louis N. Brickford, Márcia Nina Bernardes, Renan Honório Quinalha, Renata Avelar Giannini, Salvador Tinajero Esquivel and Thomas Kellogg for reviewing the articles published in this issue.



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INTERVIEW WITH MAJA DARUWALA (CHRI) AND SUSAN WILDING (CIVICUS) EMERGING DEMOCRACIES' FOREIGN POLICY: WHAT PLACE FOR HUMAN RIGHTS? A LOOK AT INDIA AND SOUTH AFRICA

Camila Lissa Asano and Laura Trajber Waisbich
(Conectas Human Rights).

The role of Global South nations in the international sphere has, until recently, been mostly restricted to the one of targets of other countries' foreign policies and of multilateral bodies' human rights recommendations. In the past few years, however, these countries—notably the so-called “emerging democracies”—have been assuming more proactive stances in international affairs as a whole. Their foreign policy – including policy-making dynamics, narratives and policy priorities – as well as their international engagements affecting human rights, therefore, call for a more systematic review.

To discuss the matter, Conectas has reached out to two major human rights organizations from the Global South, both actively working with foreign policy issues in their countries, to explore some of the dynamics of foreign policy in two different countries: India and South Africa.

To comment on India, we have invited **Maja Daruwala**, director of the Delhi-based Commonwealth Human Rights Initiative (CHRI), a 26-year-old organization devoted to ensure the *practical* realization of human rights in the countries of the Commonwealth. Based in Delhi, CHRI has offices in London and Accra. CHRI programs focus on human rights monitoring and advocacy, access to information, and access to justice.

To speak about South Africa, we have **Susan Wilding**, project manager for the Civic Space Initiative at CIVICUS: World Alliance for Citizen Participation. Based in Johannesburg, CIVICUS works to strengthen citizen action and civil society throughout the world, especially in areas where participatory democracy and citizens' freedom of association are threatened. CIVICUS has a vision of a global community of active, engaged citizens committed to the creation of a more just and equitable world. This

is premised on the belief that the health of societies exists in direct proportion to the degree of balance between the State, the private sector and civil society.

Camila Lissa Asano and Laura Trajber Waisbich (Conectas) – In your country, are human rights seen as a foreign policy issue? What is the current governmental discourse on this relationship?

Maja Daruwala (CHRI, India) – India sees itself as having been part of the history that formulated human rights norms in the UN. The government is very conscious that human rights are a factor that affects the country's image. But it also feels that Western governments use it to flay other countries while having skeletons in their own cupboards. As with all countries, human rights are not the fundamental factor for designing foreign policy but rather a negotiating chip and a reputational factor. In relation to other countries, India positions itself on a case-by-case basis, subjecting its positions to realpolitik.

I have not seen a strong or consistent policy against which one can measure whether or not human rights are the guiding principles in foreign policy formulation. The Indian government measures its human rights record as gauged by adherence to or compliance with international obligations and with our own constitutional norms. The government's discourse is that, in terms of human rights, India it is constantly going toward compliance with international obligations and its own constitution.

Susan Wilding (CIVICUS, South Africa) – South African foreign policy has, since the first democratic government in 1994, held human rights at its core. Following the atrocities of the Apartheid Era, the South African Constitution was written into law. The Constitution was adopted to 'heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights' and 'to build a united and democratic South Africa able to take its rightful place as a sovereign state in the family nations' (The Constitution, 1996). As such, the protection of human rights as enshrined in the constitution was translated into all components of South Africa's foreign policy.

South Africa's foreign policy moved from a human rights focus under Nelson Mandela to a Pan-African focus under President Mbeki. Mbeki's vision of an 'African Renaissance' affected every decision made by South Africa under his presidency. His slogan "African Solutions for African Problems" described how South Africa's foreign policy was focused on the continent and on African issues in international fora.

Currently, under the Presidency of Jacob Zuma, human rights remain an integral part of South Africa's foreign policy, although there have been some subtle shifts towards a foreign policy focused on economic gain. However, The White Paper on South Africa's Foreign Policy, drafted in 2011, attempts to outline South Africa's current foreign policy and illustrates its commitment to human rights with the following; 'In pursuing our national interests, our decisions are informed by a desire for a just, humane and equitable world order of greater security, peace, dialogue and economic justice', which remains the rhetoric with South Africa's Principals and diplomats.

C.L. Asano and L.T. Waisbich – In your view, what are the main strengths about your country's current foreign policy and what positions related to human rights should be reviewed? Why?

M. Daruwala—India's strength lies in its soft power, which is evident, for instance, in peacekeeping and peace-building efforts in Africa and its assistance in democracy-building in Afghanistan. India's expertise in creating institutions and providing technical advice on legal frameworks is recognised and sought by countries moving towards democracy, especially ones based in the Global South or those that have had a colonial past and may not be completely trusting of outside interference.

The other facet of India's foreign policy that I see as its strength is its ability to maintain flexibility in creating partnerships: it has not locked itself in any one coalition or grouping. For instance, while it maintains strategic economic and military ties with the US, it has not let its stand on the question on Palestine be dictated by America, nor has it agreed to toe America's line on Iran. Similarly, while it seeks to strengthen ties with partners in the Indian subcontinent, it has kept up its ties since the days of the struggle for independence with its African counterparts. India has also increasingly sought to move beyond its traditional allies and seek associations with countries as far as Brazil, through platforms like IBSA and BRICS, as well as bilateral commissions, due to mutual interest and scope for dialogue and exchange.

Because India is seen as an ally by many, it should use this position to seek commitment to human rights and not cite these partnerships to block movement on human rights issues. Owing to India's own struggle against abuses of those in power and its eventual freedom and embracing of democracy, India should be robust in implementing human rights within and outside of its borders. But, too often it cedes this potential leadership role. Its consistent opposition to 'outside interference' and 'respect for sovereignty' allows it to resist international oversight of itself and other countries and also to remain silent on human rights violations in other countries, — essentially turning its tall foreign policy ideals. This has to change. I think there is a great advantage to India as an international player if it champions human rights.

S. Wilding—When South Africa emerged onto the foreign stage in 1994, the international community looked to this new bright nation as a leader in championing the values of democracy, human rights, reconciliation and, most of all, of building equality with the eradication of poverty. South Africa has since played a meaningful role on these issues locally, regionally and abroad.

The White Paper on Foreign Policy (2011) describes the strengths of South Africa's foreign policy thus: 'South Africa's greatest asset lies in the power of its example. In an uncertain world, characterised by a competition of values, South Africa's diplomacy of Ubuntu, focusing on our common humanity, provides an inclusive and constructive world view to shape the evolving global order.' In other words, South Africa's strength lies in its past, in its power to overcome great adversity and its role in taking these values to the world.

While our progressive constitution, which informs foreign policy, does not leave much room for criticism, the reality stands that there are still human rights positions that need to be reviewed. These positions need review not because of the value system South Africa holds, nor because of its foreign policy objectives, but because South Africa often makes bad decisions based on factors outside of its national interest.

South Africa has shown a tendency to vote against resolutions in both the UN Security Council and the Human Rights Council in a way that goes against the very core of its national values. Aside from the recent example of South Africa's

vote against sanctions on Zimbabwe, South Africa also voted against a resolution on Burma that called for democratic reforms and condemned human rights abuses in the country. Once again, this vote was with Russia and China and against the West. South Africa's Ambassador explained that South Africa was worried that the resolution would interfere with the work of the UN Secretary-Generals envoy to Burma and that it overstepped the mandate of the Council. South Africa's reputation as a golden light for human rights and democracy was tainted, and would continue to be tarnished through the many examples similar to this in both the UN Security Council and the Human Rights Council.

South Africa often hides behind the dictum of non-intervention in the sovereignty of nations, stating that a nation's issue should not be in the purview of what they view as a skewed international order. This belief, although it has some merit in certain instances, is also the biggest hindrance to spouting justice and democracy in the world.

From a nation that has suffered an unthinkable past, freed in part because of the support of other nations, it is disheartening to watch South Africa deny others the support that was so readily given to them in their time of need.

C.L. Asano and L.W. Waisbich—In your opinion, can the existence of major domestic human rights challenges be seen as an obstacle for your country to assume a more vocal stance towards human rights abroad?

M. Daruwala—Yes, this is one significant factor. While at a domestic level measures to address human rights issues exist, India would not want to be under international glare and pressured for compliance. India considers this a sovereignty issue. This same concept directs the way India sees human rights situations abroad – as domestic matters in which it may not involve itself in beyond a point.

The other obstacle for countries like India to take a proactive stand internationally is the shifting stance of those who traditionally consider themselves to be the champions, upholders of human rights and their own selectivity. This gives non-complying countries a finger-pointing opportunity that does not help take forward universal human rights compliance.

There is also resentment over the fact that gains in human rights compliance are not being acknowledged, nor are structural difficulties, cultural contexts and degrees of development that obstacle human rights compliance. However, these are too often used as an excuse for tolerating ongoing bad practices and for doing too little to proactively and rigorously protect and promote human rights compliance within its borders.

S. Wilding—While South Africa faces human rights challenges at home, these do not hinder it from taking a vocal stance abroad. This is because South Africa has one of the most progressive Constitutions in the world. This, along with a history of struggle and discrimination, gives the country a 'soap box' on which to stand and criticise human rights abuses abroad.

While South Africa feels that it has the right to be vocal on human rights abroad, it often fails to speak up when it should. It is swayed by political groupings, power politics and [predictions of] economic gain into staying mum on issues about which it should be the most vocal.

An example where South Africa failed to be vocal is the recent case where it voted along with China, Russia, Libya and Vietnam against sanctions on the

Zimbabwe government in addition to an arms embargo in the UN Security Council. South Africa's ambassador to the UN explained the vote as an obligation to follow African consensus in the African Union (AU) and the Southern African Development Community (SADC). It was an opportunity lost for a new democratic nation to speak up with power and conviction against a suffering autocratic neighbor.

C.L. Asano and L.W. Waisbich – Are there formal or informal channels for civil society participation in foreign policy-making in your country?

M. Daruwala—Foreign policy in India has always been the preserve of a small, elite group, and the public has been kept out of such debates. However, of late, the scene seems to be experiencing some change, not just in the form of civil society demanding that their voice be heard on specific foreign policy issues, but there also seems to be more openness on the part of policy-makers to discuss foreign affairs. A prominent government television channel recently organised debates and talk shows with top level participation from the government, studying the trajectory of foreign policy in India. This sort of thing is very new.

Of course, there are the traditional mechanisms that come with being a parliamentary democracy. The most prominent example of this is the Parliamentary Standing Committee on External Affairs. It acts as an expert group on India's foreign engagements and, while preparing its report to the government, it seeks expert advice and submissions from civil society, specialists and others outside of the government. This mechanism offers a channel for civil society to make its views known. To what extent these views influence the final policy is moot, but the institution is alive and functioning. Civil society should push for its views to be considered by making use of the opportunities that such institutions offer.

A very recent development is the establishment of the Forum for Indian Development Cooperation by a Ministry of External Affairs-funded think-tank – *Research and Information System for Developing Countries (RIS)*. In its own words, the Forum seeks to study the various facets of development partnership in achieving India's foreign policy objectives. And to this end, it holds monthly seminars and open discussions, inviting civil society organisations and academics. This is a step in the right direction.

That said, there is need for a lot more to be done in order to democratize foreign policy formulation and agenda-setting on matters of external affairs. India's policy projections outside its boundaries are far away from representing the true aspirations of its people.

S. Wilding—'The business of national interest cannot be the purview of the state alone, but it can encourage an enabling environment of dialogue and discourse among all stakeholders to interrogate policies and strategies, and their application in the best interests of the people' (White Paper, 2011).

President Zuma has, on two recent occasions, while speaking to the Department of International Relations and Cooperation (DIRCO), highlighted the importance of civil society dialogue and pushed for stronger engagement. For many years, there was distrust between civil society and government, neither being sure of the others motives, but this discourse appears to be changing.

One example of civil society engagement with DIRCO has been the drafting

of the White Paper on Foreign Policy. Civil society was invited to engage in the formulation of the paper during discussions that lasted over a few days. Another example is the Universal Periodic Review, during which consultations with civil society were held to reflect on the state of South Africa's human rights situation. Finally, a third example would be the consultations held on the LGBTI resolution at the UN HRC in 2011.

Formally, civil society can use the South African Parliament to lay complaints, make enquiries and influence Foreign Policy by going to their party representatives in Parliament. Informally, civil society is free to, and indeed do request meetings with DIRCO officials on specific foreign policy Issues. This informal dialogue is then translated into formal submissions, which carry the main points of the meeting and are relayed to DIRCO heads.

C.L. Asano and L.W. Waisbich – How do you see the civil society landscape when it comes to working with human rights and foreign policy? What are the major issues you and your partners are focusing on currently?

M. Daruwala – Domestically, the overall landscape is never steadily upward and onwards. It is shifting. Civil society has the space to dissent and aver with government stances. There are areas in which there is a great deal of consultation and in which civil society initiatives are welcome and become government agendas. In other areas, there is a reluctance to engage or include.

Aside from providing expert input through academics and think- tanks – a majority of them security-centred – there has been little input from civil society on foreign policy matters. There remains a discomfort with such interventions on the side of government. Civil society organisations that hope to input into foreign policy agendas have to develop greater expertise before they can gain a respected place at the table.

S. Wilding – Civil society in South Africa is in a state of dormancy. During the Apartheid era, South Africa had a strong civil movement that was well supported, well-resourced and held a common cause. Today, civil society is fragmented, under resourced and lacking broad support.

From a common cause, civil society split into issue specific causes as democracy settled in. The causes range across the broad spectrum of human rights issues and have resulted in smaller organisations that do not necessarily share a common cause with their previous partners. Today, without a common cause, there is a vacuum where a strong civil society once stood, allowing it to be filled with unhindered government prerogative.

Some of the biggest issues that are being tackled by South African civil society are economic, social and cultural rights (right to housing, water, education etc.) and civil and political rights (women's rights, LGBTI rights, the rights of the child).

With the national elections coming up in 2014, civil society is focusing on the non-delivery of services to the people. In the months previous to the elections, most of civil society will have a common cause – holding government accountable for the promises made and the promises broken.

C.L. Asano and L.W. Waisbich – How the fact that the country sees itself, or is seen by others, as an emerging power has affected the way you work with foreign policy?

M. Daruwala- For a long time civil society has been engaging with international agencies in relation to standard-setting and monitoring country compliance, producing shadow reports and taking issues to the international community through influencing the National Human Rights Commissions, etc. To this extent, the processes of civil society organizations and government have been parallel, but also engaged with each other when status, papers etc. have to be produced. There is input.

In the recent perception of being an ‘emerging power’, there is more government consciousness of the embarrassment that might be caused by being seen negatively as well as a defensiveness about it. At the same time, there are more openings for civil society to engage with and provide input to government. The perception that India is an emerging power has also encouraged civil society outside the country to seek alliances and collaboration with country-based civil society with more deliberation than before. But this is a very nascent area and everyone is still feeling their way around it.

S. Wilding- South Africa has long seen itself as an ‘emerging power’ in Africa and, as such, has presumed a role of leadership in the continent, often playing the role of mediator in conflicts on the continent or raising African issues in international fora.

South Africa has also taken up a leading role in various multilateral arenas, including SADC (Southern African Development Community), the African Union (AU), the Non-Aligned Movement (NAM), G77+China, the Commonwealth, and the United Nations. South Africa exhibited leadership in promoting the causes of developing nations and Africa in particular. As a non-permanent member of United Nations Security Council (UNSC) from 2007-2008 and for the period 2001-2012, South Africa promoted peace and security with emphasis on Africa and improving cooperation between the UNSC and regional organisations such as the AU Peace and Security Council.

Although South Africa aligns itself strongly with the African continent, it also promotes South-South cooperation as a main tenet of its foreign policy. As an ‘emerging power’, South Africa has played a strong yet humble role in groupings such as IBSA and BRICS. These new groupings serve to further South-South cooperation and have, without a doubt, influenced South Africa’s foreign policy as it chooses to build consensus with these nations while picking up issues it may not have previously been active on.

During her Budget Speech in March 2010, the Minister of International Relations and Cooperation, Ms. Maite Nkoana-Mashabane, emphasized that South Africa’s foreign policy should be “assessed against the weight of rising expectations”. These are the expectations of South Africa as an emerging power, capable of playing a successful role in stabilising the power poles evident in the current world order while fighting for a more just and equitable world on behalf of nations of the South.

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