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COMMEMORATIVE ISSUE
HUMAN RIGHTS IN MOTION



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INTRODUCTION



HUMAN RIGHTS IN MOTION: A MAP TO A MOVEMENT'S FUTURE

Lucia Nader (Executive Director, Conectas)
Juana Kweitel (Program Director, Conectas)
Marcos Fuchs (Associate Director, Conectas)

Sur Journal was created ten years ago as a vehicle to deepen and strengthen bonds between academics and activists from the Global South concerned with human rights, in order to magnify their voices and their participation before international organizations and academia. Our main motivation was the fact that, particularly in the Southern hemisphere, academics were working alone and there was very little exchange between researchers from different countries. The journal's aim has been to provide individuals and organizations working to defend human rights with research, analyses and case studies that combine academic rigor and practical interest. In many ways, these lofty ambitions have been met with success: in the past decade, we have published articles from dozens of countries on issues as diverse as health and access to treatment, transitional justice, regional mechanisms and information and human rights, to name a few. Published in three languages and available online and in print for free, our project also remains unique in terms of geographical reach, critical perspective and its Southern 'accent'. In honour of the founding editor of this journal, **Pedro Paulo Poppovic**, the 20th issue opens with a biography (by João Paulo Charleaux) of this sociologist who has been one of the main contributors to this publication's success.

This past decade has also been, in many ways, a successful one for the human rights movement as a whole. The Universal Declaration of Human Rights has recently turned 60, new international treaties have been adopted and the old but good global and regional monitoring systems are in full operation, despite criticisms regarding their effectiveness and attempts by States to curb their authority. From a strategic perspective, we continue to use, with more or less success, advocacy, litigation and naming-and-shaming as our main tools for change. In addition, we continue to nurture partnerships between what we categorize as local, national and international organizations within our movement.

Nevertheless, the **political and geographic coordinates** under which the global human

rights movement has operated have undergone profound changes. Over the past decade, we have witnessed hundreds of thousands of people take to the streets to protest against social and political injustices. We have also seen emerging powers from the South play an increasingly influential role in the definition of the global human rights agenda. Additionally, the past ten years have seen the rapid growth of social networks as a tool of mobilization and as a privileged forum for sharing political information between users. In other words, the journal is publishing its 20th issue against a backdrop that is very different from that of ten years ago. The protests that recently filled the streets of many countries around the globe, for example, were not organized by traditional social movements nor by unions or human rights NGOs, and people's grievances, more often than not, were expressed in terms of social justice and not as rights. Does this mean that human rights are no longer seen as an effective language for producing social change? Or that human rights organizations have lost some of their ability to represent wronged citizens? Emerging powers themselves, despite their newly-acquired international influence, have hardly been able – or willing – to assume stances departing greatly from those of “traditional” powers. How and where can human rights organizations advocate for change? Are Southern-based NGOs in a privileged position to do this? Are NGOs from emerging powers also gaining influence in international forums?

It was precisely to reflect upon these and other pressing issues that, for this 20th issue, SUR's editors decided to enlist the help of over 50 leading human rights activists and academics from 18 countries, from Ecuador to Nepal, from China to the US. We asked them to ponder on what we saw as some of the most urgent and relevant questions facing the global human rights movement today: 1. Who do we represent? 2. How do we combine urgent issues with long-term impacts? 3. Are human rights still an effective language for producing social change? 4. How have new information and communication technologies influenced activism? 5. What are the challenges of working internationally from the South?

The result, which you now hold in your hands, is a **roadmap for the global human rights movement** in the 21st century – it offers a vantage point from which it is possible to observe where the movement stands today and where it is heading. The first stop is a reflection on these issues by the founding directors of Conectas Human Rights, **Oscar Vilhena Vieira and Malak El-Chichini Poppovic**. The roadmap then goes on to include **interviews and articles**, both providing in-depth analyses of human rights issues, as well as **notes from the field**, more personalized accounts of experiences working with human rights, which we have organized into **six categories**, although most of them could arguably be allocated to more than one category:

Language. In this section, we have included articles that ponder the question of whether human rights – as a utopia, as norms and as institutions – are still effective for producing social change. Here, the contributions range from analyses on human rights as a language for change (**Stephen Hoggood and Paulo Sérgio Pinheiro**), empirical research on the use of the language of human rights for articulating grievances in recent mass protests (**Sara Burke**), to reflections on the standard-setting role and effectiveness of international human rights institutions (**Raquel Rolnik, Vinodh Jaichand and Emílio**

Álvarez Icaza). It also includes studies on the movement's global trends (**David Petrusek**), challenges to the movement's emphasis on protecting the rule of law (**Kumi Naidoo**), and strategic proposals to better ensure a compromise between utopianism and realism in relation to human rights (**Samuel Moyn**).

Themes. Here we have included contributions that address specific human rights topics from an original and critical standpoint. Four themes were analysed: economic power and corporate accountability for human rights violations (**Phil Bloomer, Janet Love and Gonzalo Berrón**); sexual politics and LGBTI rights (**Sonia Corrêa, Gloria Careaga Pérez and Arvind Narrain**); migration (**Diego Lorente Pérez de Eulate**); and, finally, transitional justice (**Clara Sandoval**).

Perspectives. This section encompasses country-specific accounts, mostly field notes from human rights activists on the ground. Those contributions come from places as diverse as Angola (**Maria Lúcia da Silveira**), Brazil (**Ana Valéria Araújo**), Cuba (**María-Ileana Faguaga Iglesias**), Indonesia (**Haris Azhar**), Mozambique (**Salvador Nkamate**) and Nepal (**Mandira Sharma**). But they all share a critical perspective on human rights, including for instance a sceptical perspective on the relation between litigation and public opinion in Southern Africa (**Nicole Fritz**), a provocative view of the democratic future of China and its relation to labour rights (**Han Dongfang**), and a thoughtful analysis of the North-South duality from Northern Ireland (**Maggie Beirne**).

Voices. Here the articles go to the core of the question of whom the global human rights movement represents. **Adrian Gurza Lavalle** and **Juana Kweitel** take note of the pluralisation of representation and innovative forms of accountability adopted by human rights NGOs. Others study the pressure for more representation or a louder voice in international human rights mechanisms (such as in the Inter-American system, as reported by **Mario Melo**) and in representative institutions such as national legislatures (as analysed by **Pedro Abramovay and Heloisa Griggs**). Finally, **Chris Grove**, as well as **James Ron, David Crow and Shannon Golden** emphasize, in their contributions, the need for a link between human rights NGOs and grassroots groups, including economically disadvantaged populations. As a counter-argument, **Fateh Azzam** questions the need of human rights activists to represent anyone, taking issue with the critique of NGOs as being overly dependent on donors. Finally, **Mary Lawlor and Andrew Anderson** provide an account of a Northern organization's efforts to attend to the needs of local human rights defenders as they, and only they, define them.

Tools. In this section, the editors included contributions that focus on the instruments used by the global human rights movement to do its work. This includes a debate on the role of technology in promoting change (**Mallika Dutt and Nadia Rasul**, as well as **Sopheap Chak and Miguel Pulido Jiménez**) and perspectives on the challenges of human rights campaigning, analysed provocatively by **Martin Kirk** and **Fernand Alphen** in their respective contributions. Other articles point to the need of organizations to be more grounded in local contexts, as noted by **Ana Paula Hernández** in relation to Mexico, by **Louis Bickford** in what he sees as a convergence towards the global middle, and finally by **Rochelle Jones, Sarah Rosenhek and Anna Turley** in their movement-support model. In addition, it is noted by **Mary Kaldor** that NGOs are not the same as civil society,

properly understood. Furthermore, litigation and international work are cast in a critical light by **Sandra Carvalho and Eduardo Baker** in relation to the dilemma between long and short term strategies in the Inter-American system. Finally, **Gastón Chillier and Pétalla Brandão Timo** analyse South-South cooperation from the viewpoint of a national human rights NGO in Argentina.

Multipolarity. Here, the articles challenge our ways of thinking about power in the multipolar world we currently live in, with contributions from the heads of some of the world's largest international human rights organizations based in the North (**Kenneth Roth** and **Salil Shetty**) and in the South (**Lucia Nader, César Rodríguez-Garavito, Dhananjayan Sriskandarajah** and **Mandeep Tiwana**). This section also debates what multipolarity means in relation to States (**Emilie M. Hafner-Burton**), international organizations and civil society (**Louise Arbour**) and businesses (**Mark Malloch-Brown**).

Conectas hopes this issue will foster debate on the future of the global human rights movement in the 21st century, enabling it to reinvent itself as necessary to offer better protection of human rights on the ground.

Finally, we would like to emphasize that this issue of Sur Journal was made possible by the support of the Ford Foundation, Open Society Foundations, the Oak Foundation, the Sigrid Rausing Trust, the International Development Research Centre (IDRC) and the Swedish International Development Cooperation Agency (SIDA). Additionally, Conectas Human Rights is especially grateful for the collaboration of the authors and the hard work of the Journal's editorial team. We are also extremely thankful for the work of Maria Brant and Manoela Miklos for conceiving this Issue and for conducting most of the interviews, and for Thiago Amparo for joining the editorial team and making this Issue possible. We are also tremendously thankful for Luz González's tireless work with editing the contributions received, and for Ana Cernov for coordinating the overall editorial process.



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Human Rights in Motion

Perspectives

NICOLE FRITZ

Human Rights Litigation in Southern Africa: Not Easily Able to Discount Prevailing Public Opinion

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"The Particularities in Cuba Are Not Always Identified nor Understood by Human Rights Activists from Other Countries"



MARIA LÚCIA DA SILVEIRA

Maria Lúcia da Silveira is a founding member and Administrative Officer of the Association for Justice, Peace and Democracy (AJPD), an Angolan organization created in 2000 with the goal to contribute to the active and responsible participation of Angolan citizens in the process of consolidating democracy and the rule of law in Angola and the promotion of peace, development and respect for human rights in the country. Among its

other goals, the AJPD also conducts research, documents and denounces human rights violations in Angola.

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ABSTRACT

In this article, the author reviews the recent challenges to the human rights movement in Angola. On the national level, despite the approval in 2010 of the new Constitution of Angola, the government continues to persecute human rights defenders. The author tells, in particular, of restrictions on the exercise of the right to assembly and protest in the country. On the international level, Angolan civil society organizations have used international instruments to pressure for greater respect for human rights by the government. The article argues that even in a hostile context like Angola, human rights are an effective language for producing social change, particularly when they are used as an instrument of external pressure on governments to observe them internally, and when there are large social movements trained in human rights. Despite the challenges faced by human rights defenders, the author argues that the vision of a more just and equal country for all Angolans is what keeps the will to fight for social change alive.

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KEYWORDS

Angola – Freedom of assembly – International System – Social change



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HUMAN RIGHTS AND SOCIAL CHANGE IN ANGOLA

MARIA LÚCIA DA SILVEIRA

1 Introduction

The rights and fundamental freedoms of Angolan citizens are constitutionally guaranteed. There are numerous legal instruments for the protection of human rights on the national level as well as international treaties incorporated into the internal legal order. However practice has shown that these documents alone do not guarantee respect for these rights. Several factors contribute to this.

First, the idea still prevails in Angola that human rights are incompatible with the country's ethnic, cultural and religious differences. Moreover, the violation of rights is one of the methods used by political rulers to impose their will, inhibit citizen participation and, as a result, cement and perpetuate their power as the main obstacle to the process of democratization in the country.

As a result of the context of war, which the country lived through for 30 years, all analysis of social problems is conducted from two distinct angles: that of the party in power and that of the parties in opposition. Human rights activists and leaders of the struggle for equality in Angola are, therefore, labeled as sympathizers of one opposition party or another and are generally viewed as being "opposed" to the government and in the service of foreign powers. In other words, a partisan culture has arisen in Angola, to the detriment of civic awareness for the defense of human rights. The problem with this situation is that there will always be someone to judge everything one does with the same ferocity they confront their political adversaries with, even though the intention of human rights defenders is only to criticize something that is wrong and to point out the best way to satisfy and protect the common interest. We spend too much time policing one another and have lost sight of what really matters, which is the struggle for the democratization of the country and, consequently, for more tolerance and respect for human rights.

Even in this hostile context, however, human rights are an effective language for producing social change, particularly when they are used as an instrument of external pressure on governments to observe them internally. I present here my arguments from the perspective of a human rights defender.

2 Progress in the law, setbacks in practice

Angola approved a new constitution in 2010 that revoked the Constitutional Law of 1992. The new Constitution made some positive legislative changes, particularly in the chapter on the rights and fundamental freedoms of citizens. For example, the number of articles increased from 35 in the Constitutional Law to 59 in the current Constitution. It is also worth mentioning that the current constitutional text is far better organized with regard to the generations of rights. However, this is no more than a technical observation that is merely decorative, since there is a gulf that separates constitutionally protected rights from their actual realization.

The government still persecutes human rights defenders, just as abductions and killings of activists and political adversaries continue to occur. In other words, despite progress in the law, in practice things have remained suspended in time—to say nothing of the areas where matters have got markedly worse. For example, it is currently almost impossible for citizens to exercise their constitutionally guaranteed right to assembly and protest,* although this right is respected by the police and government bodies if the events are organized by the ruling party or by support groups. The arbitrary detention of people with opinions that contrast with the interests of ruling party members is still a current practice. The job of the Angolan police is to maintain order, assure public safety and uphold the constitutionally protected fundamental rights and freedoms of citizens, but instead this agency of the State continues, in many cases, to intimidate, use force and firearms against citizens, make arrests and detentions without observing legal procedures, and engage in the torture and cruel and degrading treatment of citizens who protest peacefully and without arms. These illegal practices have generally been accompanied by detentions and the criminalization of journalists who cover them.

One recent example of this contradiction between legislation and practice began on September 3, 2011 (CLUB-K, 2011), when a group of young people took to the streets to demonstrate peacefully against the undemocratic way the country was being run. National Police officers used disproportionate force and arbitrarily detained 18 demonstrators. On September 12, less than 10 days after their detention, the young people were summarily tried. Five of the organizers of the demonstration were sentenced to three months in prison and payment of damages of US\$1,400 for the alleged crimes of disobedience, resistance and “corporal offenses”. In addition to violating rights during the repression of this protest and the summary trial of the young demonstrators, the authorities again curbed the right to assembly and protest two weeks later, when another 80 young people took to the streets to demand the release of the five detainees. This time, according to the demonstrators, State security agents infiltrated the crowd near the Santa Ana cemetery in Luanda. The march was blocked by National Police

*“Freedom of assembly and peaceful, unarmed demonstration shall be guaranteed to all citizens, without the need for any authorization and under the terms of the law” (Political Rights, Article 47, Item 1 of the Constitution of the Republic of Angola).

officers 20 minutes later, some 800 meters from its starting point by the Congolese market area, where it remained for three hours.

Another example occurred in 2013. Demonstrators organized a protest on September 19 against what they called, according to reports, the authoritarian regime of President José Eduardo dos Santos. At the time, seven protesters were arrested and, the next day, three journalists who were covering their release were assaulted and detained by the police.

Outside a courthouse in Luanda, police officers from the Angolan Rapid Intervention Unit surrounded the journalists Rafael Marques de Morais, editor of the independent news website *Maka Angola*; Coke Mukuta, a freelance correspondent for Voice of America, funded by the U.S. government; and Alexandre Neto. According to Rafael Marques de Morais (MORAIS, 2013), the police ordered the journalists to lie down on the ground and then shouted threats while kicking them repeatedly. Marques de Morais said he was struck on the head with an unidentified object, while Alexandre Neto claimed that the officers put them in a car and took them to the police station, where they were released with an apology after being detained for five hours. Rafael Marques said the police returned their equipment that had been confiscated, with the exception of his camera, which was worth nearly US\$2,000, because it had been destroyed. In spite of the aggression they experienced, the journalists revealed that they did not suffer any serious physical injury. The brutality of the Angolan police was clearly intended to intimidate and prevent any reporting on the actions carried out during the demonstrations.

While Angola was ratifying, in New York, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, on September 24, 2013, the police were torturing Angolan citizens for exercising their right to assembly and peaceful demonstration that is protected by the Constitution of the Republic of Angola.

3 International action

The effectiveness of human rights in producing social change is closely related to the effectiveness of the Judiciary in enforcing these rights. Just as we do not give up on the justice system to resolve social conflicts, even though it is not always just, I am convinced, as a human rights defender in Angola, that the human rights approach is still the best means we have to effect social change, namely: greater freedom of expression, access to justice and rights, greater freedom of assembly and protest and many other rights guaranteed by the Constitution and international treaties signed by Angola.

In other words, the language of human rights is indeed an effective language for generating social change, provided we know how to use it in accordance with each context. For it to work, we need large social movements that are trained to play an educational role, in the sense of creating the habit of exercising rights, and to exert pressure on the rulers, who are usually the main perpetrators of human rights violations, for not enforcing the law and upholding rights.

One of the methods used by Angolan civil society organizations to pressure for more respect for human rights by the government is international action, through periodic reports to the UN Periodic Review mechanism and the African Commission, as well as complaints to the international community.

Angola is currently one of Africa's major economic powers and has often been cited in other countries as an example of peace and national reconciliation, which has been used by the government to promote its image abroad. Since there is still a great deal to be done in terms of human rights, considering the systematic violations being committed in the country, a number of Angolan rights organizations have stepped up their actions in defense of human rights beyond national borders. The most effective organizations are less than fifteen years old, as they came into existence during the wartime period. In the context of war, the human rights approach is less effective, but it is different than the approach in peacetime. Still, we have noted that things are starting to change in the field of human rights, albeit tentatively, as citizens grow more aware of how important it is for they themselves to be the protagonists in the promotion and defense of their rights.

The strategy of civil society organizations has been to appear in regional and international forums to denounce cases of systematic human rights violations. Angola, for example, has been a State-Party to the African Commission on Human and Peoples' Rights since its creation on June 12, 1989, but it only began sending reports on good practices in human rights in 2007, after Angolan human rights organizations became observer members of the Commission and started to submit their own reports on the human rights situation in the country. This served to put pressure on the government to also send its reports on good practices in human rights.

In Angola, we now have a State Secretariat for Human Rights, the Ministry of Justice is now called the Ministry of Justice and Human Rights and an Ombudsman Office has been established. Although these institutions have barely started their promotion and defense of the fundamental rights and guarantees of citizens, the truth is that they emerged thanks to the language of human rights, which was used by civil society as a tool to exact social change through their civic education, advocacy and lobbying work using the various internal and external human rights mechanisms, and by establishing partnerships with the government to respond to cases of rights violations and political intolerance that came to light in the country.

4 Conclusion

After the Luena Memorandum of Understanding was signed in 2002 between the government and the National Union for the Total Independence of Angola (UNITA), all Angolans wanted to leave the atrocities of war behind them. However there was some resistance on the part of the ruling party to concentrate on the consolidation of democracy and respect for the fundamental rights of citizens. Instead, it preferred to focus on the evils of the war and used this as

justification to not work towards the realization of economic, social and cultural rights nor the civil and political rights of citizens. At one point, the President of the Republic went so far as to say in one of his speeches that “human rights don’t put food in your belly.” But civil society felt it was indeed time to leave behind the traumas of war and move forward with the development and democratization of the country with everyone’s participation.

All the work conducted by civil society, churches and the international community has led the Angolan government to reconsider its positions. Breakthroughs have included its candidacy for non-permanent membership on the United Nations Security Council, the invitation for various UN rapporteurs to visit Angola to observe the country's human rights situation, and the periodic review to which Angola is subject within the UN Human Rights Council and the African Commission on Human and Peoples’ Rights, confirming an openness to comply with the responsibilities arising from regional and international human rights mechanisms. For this reason, there is no doubt that the language of human rights is indeed an effective language for generating social change. Material conditions are in place to further develop this valuable “instrument”; all we have to do is develop the subjective conditions or the insightfulness of the actors and social movements so that they truly become drivers of social change, influencing lawfully constituted politicians and rulers with a view to achieving the common good.

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