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HUMAN AND PEOPLES' RIGHTS IN AFRICA

Myths, Realities and Prospects

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Introduction*

Human rights, whether viewed from the Left or Right perspective, from a progressive or reactionary stand-point, is essentially a major world-wide legal, philosophic, political, social and moral phenomenon of the 20th century. So broad is its scope and appeal today that historic concepts such as civil and political rights which have gained prominence in the era of capitalism and imperialism, and equalitarian rights which gained in prominence following socialist oriented revolutions of the 20th century, all are subsumed under the banner of human rights.

Indeed before 1945, less than 50 years ago, there was hardly any international conference involving heads of state and government or intellectuals, convened to discuss exclusively the subject of human rights, except those concerning narrow aspects of rights. Before the 1970s hardly any imperialist state had human rights as a major attribute of its foreign policy.

Few universities in the 1960s had human rights on their curriculum let alone having specialised scholars on the subject. All this has changed. Numerous international conferences are held yearly and attended by a good number of states persons, intellectuals, and activists on human rights. Hundreds or thousands of lawyers, sociologists, political scientists, and all manner of professions, including natural and physical scientists, today work or specialise on human rights.

Many capital-exporting industrial countries such as Sweden today claim, at least on paper if not in practice, that their development assistance policies are linked to human rights observance in the recipient countries (Sweden, 1989). The United States government started this in the 1970s during Jimmy Carter's rule and the practice still continues although in practice some of the countries that receive the highest US aid in Africa, Asia, the Middle East and Latin America have the worst human rights violation records. And in Africa some governments are beginning to educate the public on human rights (Mozambique, 1990). The 20th century is correctly regarded as the "Age of human rights" (Nagan, 1990).

Despite this reality of human rights in today's political and intellectual discourse and notwithstanding the fact that the African continent as part of the Third World is a theater for the violation of human rights (Gutto, 1983), human rights in Africa requires critical in-depth study and understanding if we are to understand better the numerous reports that are produced about human rights violations in Africa. As one African scholar put it recently:

The Human Rights Discourse on and in Africa is intellectually backward, even by the standards of the African social sciences...Yet from the point of view of the African people, human rights struggles constitute the stuff of their daily lives... (Shivji, 1989a)

How then does one approach the study and understanding of human rights in Africa given the controversial nature of the subject because it

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concerns human social power relations and norms? How should human rights be approached so as to make it possible to understand why the broad popular classes in Africa today are more and more demanding their defence and promotion in organised basis? Why are the demands for human rights linked to the demands for democratisation?

What is presented here cannot pretend to answer all these questions or to be a comprehensive and detailed analysis of human rights in Africa. It attempts however, to contribute to the study and understanding of the subject in a scientific and popular way. Human and peoples' rights are seen to be fundamental socio-historical norms and practices that have proved to be necessary for stable social organisation and governance in society. The integrated concept of human rights is seen to be a natural derivative from social practice. And other conceptions which advocate prioritising of rights are seen to legitimise rejection of some very fundamental rights purely on ideological grounds and not on the basis of practical difficulties that may make the realisation of some rights difficult under certain conditions. The Western chauvinistic claims that human rights are "inventions" of Europe and North America are shown to be hollow and based on ignorance of history or unscientific methods of inquiry. Similarly the African reactionary claims, whether from the Left or the Right, that human rights per se are mere "colonial or imperialist" machinations is rejected as unscientific and ahistorical.

The other level of contribution in this piece is the situating of the articulation of human rights in Africa's social and historical context thereby identifying major factors that shape the reality of human rights in Africa. Among these are social class structures and relations; the inherited colonial culture; the depth of cultural and linguistic heterogeneity in virtually all African countries; the local and external forces, including social and economic models; authoritarian political systems; gender relations; wars and environmental conditions. Throughout, the leading and decisive role and potential capacity of organised masses in defending and promoting integrated human rights is underlined.

The overall conclusion that I draw is that the demands for human rights and democracy in Africa today are firmly rooted in the concrete experiences of the broad popular masses and are not ephemeral "externally engineered" demands although, as in every other sphere of our life, some external influences cannot be ruled out. The practical implication of this is that either the political leaders accept human rights which means sharing social and political power with the broad masses or they invite intensified social instability and protracted struggles.

Conceptualising human and peoples' rights

Up to very recently it was fashionable, even "popular", among certain intellectual circles and public figures on the Left and Right to conceive of human rights in two seemingly opposed terms: the proletarian and the bourgeois conceptions—because of the self-assumed material and social power interests of the classes they purported to speak for. Couched in
these terms human rights is connected to some mythical "reality" where the working class and the poor peasantry are not interested in civil and political rights because these are "bourgeois rights", while the bourgeoisie and exploiting state managers deny the existence of social, economic and cultural rights.

Such simplistic approaches fail to recognise, for example, the tremendous love the bourgeoisie have for social, economic and cultural things and ideas. What they deny are not the rights themselves but entitlements to these rights by the exploited classes. And in the daily lives of the "common people" police raids and repression, denial of the right of access to fair judicial processes in the adjudication of private and public legal disputes (Gutto, 1985, 1988), the denial of the freedom of association and organisation, the curtailment of the right to free participation in the choice of leaders through secret ballot, high infant mortality rates due to lack of food and proper medical care and housing, injuries sustained from women-beaters, inadequate income from hard labour and many other denials and violations are confronted on a daily basis. These come not one at a time or in "priority" basis. They are daily problems embodying civil, political, social, economic and cultural rights.

Furthermore, these rights problems that confront the people on a daily basis do not come neatly segregated into categories of individual, collective, peoples' or even Africans' rights as some have suggested (Hendrickson, 1989; Shivji, 1989a). This is not to deny that rights, even individual rights, are social and depending on the situation certain rights are collectively held while others are held by individuals and their enjoyment may also take collective or individual forms.

The reality I have attempted to sketch above forms the basis upon which the "Integrated Human Rights Programme" that we are working on at Lund University is partly conceived. The conceptualisation of human rights as integrated phenomenon with many component parts makes dealing with human rights a very complex and demanding task. At the same time it recognises the historical evolution in the formal recognition and definition of rights at the global level since 1945.

The United Nations Charter of 1945 recognised the political and social importance of human rights. The 1948 Universal Declaration of Human Rights recognised civil, political, economic, social and cultural rights within a single document with more elaborate description of civil and political than of all the others.

In 1966 the two international covenants on human rights—one on economic, social and cultural rights and another on civil and political rights—were adopted by the UN with substantial participation of African countries. These two became operational in the early 1970s. The separation of rights into two documents was the result of political and ideological struggles at the UN. Measures of dealing with violations of these two groups of rights were also set differently. It should be noted however that both documents described the rights in more detail than had been done before in such international instruments. They also include some rights that are today commonly regarded as third generation or collective or peoples' rights such as the right to self-determination. All these instruments
have been all along accompanied and supplemented by numerous other international and regional declarations, covenants and treaties. Below or above this, depending on how one views the relationship between the international and the national, are the various national legal and socio-political systems with varying degrees of recognition of human and peoples' rights.

Without falling into the legal positivism approach of merely citing legal documents as a substitute for serious social analysis of law it is imperative that reference be made here to the African Charter of Human and Peoples' Rights of 1981 which formally came into operation in October 1986. In the context of integrated human rights the Charter is on paper more inclusive than any other single international or regional instrument. In my view this is not because of the genius of the African but rather evidence of the drafting ability of those who framed it who were able to synthesise from most of the numerous human rights documents and existing knowledge in the field of that particular time. It does not really define what peoples' rights are but groups as peoples' rights those which are also regarded as collective or third generation rights such as the right of a people not to be dominated by another, right to self-determination i.e. the right to clean environment and environmental protection, right of a people to control and dispose of the national wealth equitably and as they may choose, right to peace and security, right to enjoy the the common heritage of human society and the culturally inspired duty to respect and care for parents (Articles 19 to 23, and 27 to 29 of the Charter). The preamble to the Charter also recognises the right and duty to liberation, struggle against colonialism and neocolonialism and dismantling of foreign military bases. It can be said that the Charter did not degenerate into some dangerous level of trying to exhum and transplant rights of the hunting and gathering economies of the past and clan or tribal democracies that one hears of a lot these days from some besieged tyrants like President Moi of my country Kenya.

In short, integrated human rights incorporates all recognised rights, including those in the “three-stages” of Cassesse (1986), those of the “three-generations” of Vasak (1977), those of the proletarians and the bourgeoisie, individual, collective, humanitarian, and peoples. But it goes beyond this. It recognises contending alternative rights of those social forces and groups that are progressive and which are denied recognition by undemocratic dominant forces in power. It has a revolutionary content and yet it could also be used by conservative interests to forestall positive change as they would with any other idea or concept. It all depends on which side one chooses to be on. At the same time the concept and theory of integrated human rights recognises that the real historical force that gives rise and meaning to rights is organised mass action and struggle consonant with real life experiences and aspirations of the day. Rights are not charitable gifts. This includes social and economic rights which can be guaranteed only when participatory political conditions exist that permit the people to engage in productive activities with equitable distributive relations.
Objective and subjective factors

I am quite aware that many intellectuals in Europe have developed some allergy to Marxian scientific theory and methodology following the on-going dismantling of the attempts in Eastern Europe to build socialism. This has not dissuaded me from making reference to one very important observation that Karl Marx made in *The Eighteenth Brumaire of Louis Bonaparte*. This is what he wrote:

> Men (read people) make their own history, but they do not make it just as they please; they do not make it under circumstances chosen by themselves, but under circumstances directly encountered, given and transmitted from the past. The tradition of the dead generations weighs like a nightmare on the brain of the living (Marx, 1982).

To understand human rights in Africa, it is important to appreciate objective historical conditions as well as historical subjective factors pertaining to Africa as a whole and each region and country in particular. For our present sketch we shall identify mainly those features which have wider relevance for most countries and regions in this wide continent with over 50 countries.

*The colonial heritage*

Colonial domination by imperialist forces in Africa marked fundamental transformations of the African society that have lasting historical significance. Colonialism preserved and transformed old social structures and institutions with all their contradictory realities. Colonialism also created new contradictory realities. In human rights terms colonialism was a negation of human rights and democratic organisation and governance of society. Not only did it deny and violate specific rights, it also created a culture of authoritarianism in political life and it created economies tied in unequal and subordinate relations within the global capitalist system. These are some of the realities that Africa is made up of today.

This colonial culture hostile to democracy and human rights did not, fortunately, produce just a society of serviles, tyrants and exploiters alone. It did also produce a culture of resistance. This resistance is today manifest very openly in the liberation and democratic struggles against *apartheid colonialism* in South Africa which have also given the basis for various international human rights instruments on racism and liberation. Where resistance manifested itself in armed struggle as it did in Kenya, Algeria, Mozambique, Angola, Namibia, South Africa, Guinea-Bissau and a few other countries the combatants contributed to the revisions made in the 1970s to the laws governing the conduct of war. Colonial regimes destroyed civil and political rights of the people but the organised resistance won back these fundamental rights, although not fully. Colonial regimes reinforced gender inequalities for example by transforming feudal private property relations and rights and replacing them with capitalist private property relations and rights which undermined even the minimal rights that the majority of women had before.
Colonialism divided Africa into distinct countries without consultation with those affected, thus planting the seeds of boundary conflicts, ethnic and nationality contradictions and conflicts even within single countries. But in curving areas arbitrarily and imposing dictatorial rule over them those finding themselves within these new creations forged themselves into common struggling units—thus the basis for more or less lasting multinational independent countries. The right to self-determination even before it was legally recognised internationally was fought for and won by Africans thanks to colonialism.

Colonialism also created new production relations and, with this, new social class structures and relations of capitalism, although of dependency and subordination. This forms the roots of political dictatorships and denials of integrated human rights.

**Gender relations**

One of the most glaring massive structural and incidental denials and violations of human rights in Africa is in the area of the lack of empowerment of women both in the fields of politics, economy and personal reproductive activities. My own development in understanding problems of human and peoples' rights and deciding to work in this field started with appreciating the relative subordination and abuse of women in Kenya (Gutto, 1976). The social subordination of women is a historical one. It is also universal. Its main characteristics include the unequal division of labour between men and women. Women are assigned to labour in socioeconomic activities sometimes more than men, they control less than men in sharing the social product (economic power), and they are denied equal participation and power-sharing in political organisation of society. Gender and class discrimination and oppression naturally combine in this process. And Africa is one of the continents where the least changes directed at combating these oppressive inequalities have taken place. Yet most African governments have signed and/or ratified the Convention on the Elimination of all Forms of Discrimination against Women, which entered into force in 1981.

The main ideological weapons used by those resisting to human rights, and democratic changes that could speed up correcting the historical problem, are “African culture” and “African traditions”. Perhaps this is one of the areas where “tradition of the dead generations weighs like a nightmare on the brain of the living”! Thus the human rights battle in this area must be focused on changing social and political relations and changing attitudes. And this has to be combined with immediate measures that tackle the day to day violence against women such as rape and defilement, forced marriages, clitoridectomy, forced fertility control measures, denial of equal access to educational opportunities and the like. Without dealing with these gender-class issues, understanding and working on human rights in Africa is somehow empty.
Social class structures and relations

Africa was dominated by class divided societies long before imperialist colonialism that started in the 16th century. Although human rights may not have been a term used in those days, a lot—not all—of what we regard as human rights today were either observed, denied or violated then. And a lot of such practices had a lot to do with social class structures and relations of the time. The sad reality, however, is that the myth is still very much alive about precolonial "classless Africa" where no social inequality, no exploiter and exploited, no slavery, no feudal or nascent feudal relations, no social discrimination of women, and no unrepresentative rulers and the ruled existed. Some have even earned their academic degrees, including doctorates of philosophies, peddling the myth. In independent Africa the myth assumed great proportions and has been used by political strategists to cover up all sorts of exploitative neocolonial socio-political policies and schemes. For example, in Kenya it was used in 1965, ironically with the guidance of advisers from the USA, in Sessional Paper No 10 bearing the catchy title "African Socialism and Its Application to Planning in Kenya". With a little bit more seriousness it became state ideology in Julius Nyerere's Tanzania. And the myth is far from dead. Conditions still prevail which make it appealing in the minds but not the reality of people's life.

In class-divided Africa of today other historical variables still confuse the picture of the existing social reality. Linguistic, ethnic, and national heterogeneity in Africa make many situations involving class contradictions and conflicts appear to be non-class. This imposes difficulties for those who might wish to have simple solutions to social and political problems, including those touching on human rights and democracy in Africa. It is important that people learn to look problems in the face rather than close their eyes and assume that the problems will disappear. Books such as the Angolan writer Pepetela's (Artur Carlos Mauricio Pestana dos Santos) Mayombe, researches such as those being carried out under the auspices of Codesria on ethnic politics (Nnoli, 1989) and similar inquiries and expositions on the complex issues related to class and class struggles in Africa should be taken seriously by those interested in understanding some of the objective conditions and subjective factors that shape the reality of human rights in Africa.

Questions of empowerment of various subordinate classes and groups in society are becoming topical today. This indicates that a recognition of class divisions in society exists. If wage employees (labour/workers) are empowered it necessarily means that their rights of association and organisation are recognised and legitimated so that they may use the power to effect changes that would enhance their say in the production and distribution of surpluses. Various human rights would then be promoted and defended. These may relate to equal pay for equal work, profit-sharing, the share of ownership, better working environment, reasonable parental leave with material benefits, improved pensions, transport, medical care, housing and the right to withdraw labour in case of inability to reach am-
cable agreement with the employer—whether state, cooperative or private. The empowerment of peasants would likewise involve access to suitable land for production both for subsistence and exchange, affordable inputs, reasonable marketing arrangements, roads, water and other factors that are necessarily shared, better pricing for their produce relative to the cost of living, etc.

These are very concrete illustrations of the relationship between class structures and relations and human rights. No wonder then that dictatorial states and employers conspire directly or by class instinct to destroy or weaken workers' and peasants' organisations.

The relationship between class and human rights runs deeper than what I have attempted to sketch above. It reflects itself very clearly at the level of state organisation and functioning, which has an almost obvious bearing on human rights. The character of the state also determines to a large extent the forms and character of external factors that have a bearing on human rights. This is why the pursuit of human rights has to be linked to contestation for power distribution among classes within the state. This point should be stressed.

Wars and environmental conditions

Armed conflicts or wars are either civil, interstate or international. They are also either just or unjust, declared or undeclared. They call for humanitarian assistance and fidelity to “laws of war”. These are some of the key terms used by lawyers, politicians and volunteers who have to deal with consequences of war. Indeed, war is a form of political expression or struggle that seeks to deny or win certain claimed rights. It is or should be obvious then that human rights claims could cause war. But this is not all. Once in progress war necessarily leads to the undermining of a broad array of fundamental rights, civil, political, economic, social and cultural. We all know or ought to know this. The reality in Africa today is that armed conflicts of all types are going on in Saharawi, Ethiopia, Somalia, Chad, Liberia, Rwanda, Uganda, Angola, Mozambique, South Africa—just to mention the high spots. And perhaps many more war spots will emerge in this continent if the social and political contradictions that are maturing daily are not resolved democratically and justly by peaceful means (Gutto, 1988a).

Already there is reasonable attention being paid to some human rights consequences of armed conflicts in Africa, but much more should be done, including in the area of denials of human rights consequences of armed conflicts in Africa: Mozambique (Lina Magaia, 1989; Egerö, 1987), Angola (Human Rights Watch, 1989a), Liberia (Africa Watch, 1990a and 1990b), Sudan (Africa Watch, 1990c), Ethiopia (Africa Watch, 1990d), Somalia (Africa Watch, 1990e), Kenya (Gutto, 1986), South Africa (Lawyers Committee for Human Rights, 1988), and Zimbabwe (Africa Watch, 1989f).

Africa's refugee problems causing or caused by wars have also been researched and should continue to be researched and acted on. Indeed some of the reports and analyses have not looked at both sides in the conflicts
which is a weakness of such reports and analyses but this does not fault
the fact of the human rights consequences of the conflicts.

Many, particularly the reports, have also not given the necessary back­
ground to the relevant conflicts which could help in thinking about possible
ways to having long term resolution of the conflicts. For example, the
Liberian conflict which has almost obliterated the people of Liberia has a
real history of mixtures of external and internal undemocratic forces that
led to the current genocidal war (Hinzen and Kappel, 1980; Lawyers
Committee for Human Rights 1986; Sawyer, 1988).

The human rights implications of the current armed conflicts in Africa
and those that may occur in the future should be of great concern to hu­
man rights scholars and activists in Africa well beyond the concerns of or­
ganisations such as Amnesty International who emphasises that it encour­
geages observance of human rights to those who do not advocate violence
and the concerns of the International Committee of the Red Cross and af­
filiates who concentrate on humanitarian assistance. This is not meant to
diminish the generally very useful work of these two organisations.

Closely related to wars are environmental conditions in Africa which
affect production and distribution of material necessities of life. These are
sometimes made worse by wars and bad politics. The underdevelopment
of productive capacity in Africa makes the continent very vulnerable to
the harsh vagaries of nature which directly or indirectly impact on human
rights. Worse still are our own destructive social policies that create envi­
ronmental chaos which in turn cause havoc to our lives and undermine
our very existence! We cannot exist as human beings without nature (the
environment) but the reverse is very possible! Even if we refer to the
mythology of Creation in the Bible it is said that all the material things
which constitute nature (the environment) were created first before hu­
man beings. We have no possibility of life without nature which our
labour can transform into consumables. Here then lies the connection be­
tween the environment and human life which in turn is the precondition
of human rights.

We suffer from drought, floods, locust invasions, lightnings, soil ero­
sion, desertification, dangerous pesticide infections, poverty and poor
sanitation related diseases in the ever-expanding slums, lack of clean wa­
ter, polluted industrial and agricultural working conditions, unhealthy
and overcrowded housing in urban centers and very poor housing in the
rural areas, inadequate land for those who must live by working the land,
dumping of dangerous industrial waste from within the continent and
from industrial Europe and North America, disappearing wildlife. The list
is endless. The reality is that these are essentially people-made problems,
either through ignorance on what can be done or through the logic of
primitive exploitative production activities and relations. How then is the
thinly worded Article 23 of the African Charter on Human and Peoples’
Rights, which simply states that “All peoples shall have the right to a gen­
eral satisfactory environment favourable to their development”, to be any
useful guide in dealing with these manifestations of essentially the very
outcome of development policies and strategies those in political leader­
ship since independence have been and are still protecting with well-
armed military, police, courts and prisons?

Perhaps it can be said that more in the way of environmentally sound measures applied in African countries are to be found in the national legislations and case laws, in general policies and strategies, for example in Zimbabwe’s 1985 *Implementation of a National Conservation strategy in Zimbabwe* (Zimbabwe, 1985), in regional arrangements and in international instruments such as the UN Convention on the Law of the Sea of 1982. There is some truth in this but the list already presented here of real human rights problems connected to the unsound social policies in the management, use and distribution of resources clearly indicate that the environment in Africa is threatened, and with it very basic human rights. Some of the studies that have recently been published on the ecology and social conflicts (e.g. Hjort and Salih eds., 1989) and others on the general worsening situation (e.g. ROAPE, 1988) should be given attention and more should be done.

Linking human rights to the environment is not just a simple academic trick of juxtaposing distinct and unrelated phenomena with one another so as to give the impression of “multidisciplinarity” or “interdisciplinarity”. The relationship is a dialectical one.

*External factors: positive and negative*

A strong and explosive debate and political struggle has recently emerged in Africa and between Africa and the industrialised capitalist West over the question of linking financial and other forms of capital investments, particularly those traditionally labelled “development aid” or “development assistance” to demands that the recipient countries observe ‘democracy’ and human rights. A recent *Codesria Bulletin* (No 2/1990) called it ‘a new form of conditionality’—alluding obviously to the earlier conditionalities packaged as Structural Adjustment Programmes (SAPs).

While visiting Kenya recently Nelson Mandela denounced this supposed ‘Western’ conditionality by asking, “What right have the whites anywhere to teach us about democracy when they executed those who asked for democracy during the time of colonial rule?” Is democracy and human rights which go together negative external factors? The position which has been made explicit in this presentation is that the demands and struggles for democracy and human rights in Africa have germinated from the soil of the repressive dictatorships in Africa itself and that these dictatorships including the *apartheid* colonial one in South Africa have ruled in the interest of the local ruling class and Western interests. During the colonial period most of the violations of human rights and denial of democratic governance in Africa were carried out by the colonists in the interest of the West. Human rights and democracy conceived from outside the local conditions and struggles in each country in Africa will not work and should be distinguished from real human rights and democracy that is built by the people and for the people. Mandela should have made this essential distinction. *Codesria Bulletin’s* position although qualified by reference to the calls for multi-partyism gives the impression that left alone
Africans do not want, or are not suited for multi-party political systems. The current demands for multiparty politics in Africa is the only sure way of providing conditions for the people to make choices in all areas of democracy and human rights—political and economic.

The West, meaning the dominant economic and political institutions in the West, have been careful to link their call for political pluralism with strengthening “market mechanisms”. In other words, they want to impose predetermined models. This is what should be resisted as it would mean mere cosmetic reforms of the models they have helped to maintain against the people’s interests and demands. Democracy and human rights in themselves should not be rejected merely because the West also talks about them. They are not private or collective property of the West.

The question of human rights and democracy as “conditionalities” is complex. But looked at historically there has always been conditionalities to investments, including the so-called “aid”. Western profits in Africa were, and still are, made under authoritarian political regimes that deal firmly and ruthlessly with those seeking to lower profits by demanding better share for the working masses and proper political participation. This has long been demonstrated in human rights studies (see for example Chomsky and Herman, 1979; Gutto, 1983). There is some hypocrisy in both those in the West who call for human rights in Africa while continuing to provide support to the regimes that undermine human rights and democracy, and those, whose interests lie in imposing new or reconditioned old solutions designed from outside and without popular participation of the popular classes. There is also hypocrisy in those in Africa who send the police and the military to shoot and kill, sometimes massacre, their citizens who protest against SAP policies (an external conditionality) while shouting out loud against conditionalities if these happen to be human rights and democracy, even if we were to assume for purposes of the argument that these are demanded by the West and are not coming from the people’s own experiences. What about the permanent damage that Structural Adjustment Programmes are causing to Africa?

The above discussion has put into sharp focus the whole problematic of understanding what really are external and what are internal factors. Even when we have made the distinction there is yet the next stage of clearly establishing which of the external factors are positive and which ones have, or could have, negative impact on the building of popular democratic societies based on integrated human rights. Economic models, expert advisory opinions, concessionary trade terms, capital investments, tourism, training of personnel in the private or public service or trade unions, fixing high or low prices for commodities, and similar activities and relationships do have an impact on human rights. Even “grass-roots” projects of the poorly understood “development type” have contradictory roles: they redress some of the immediate material needs of the people, and at the same time they strengthen the state apparatuses. The question of what state and whose state cannot be avoided.

The external, mainly Western, dominance in the area of information gathering and processing on matters relating to human rights in Africa is another relevant factor in the understanding of the politics of human
rights in Africa. The ideas, the knowledge, the images and even the agenda on strategies of promoting people's involvement in human rights are dependent to a large extent on the West or Western sources. This is the logic of the current world order built and shaped by imperialism. The force lies with the masses on the ground but the resources are concentrated elsewhere. Any tourist from the West can make herself or himself an "expert" on various subjects in Africa. Western intellectuals pick manuscripts during their consultancies or visits and publish them without regard to the Africans who researched and drafted them. At the end it is the Westerner who is the "expert". A lot of Africa is seen from the point of view of the Westerner. Not only is this intellectual theft, it conveys, in the area of human rights, to the image that human rights is a "Western" thing. This pervasive "Eurocentricism", as one African scholar recently labeled it (Amin, 1989) must concern those interested in promoting human rights in Africa and by Africans. I have before written a small piece on this problem (Gutto, 1983a).

The West, on the contrary, is seen essentially from the point of view of the West as portrayed by Westerners. Human rights in the West are hardly ever investigated by Africans because of lack of resources and ideological constraints.

The well established human rights organisations which concentrate their reporting on human rights violations in the Third World, particularly Africa, are based in the West although quite a lot of them hire their workers from diaspora third world people. This applies to the institutions which focus their work on education and research on various particularised areas of human rights: Amnesty International (London), Africa Watch, and Middle East Watch. (New York, Washington DC, London), Lawyers' Committee for Human Rights (New York), International Commission of Jurists (Geneva), International Committee of the Red Cross (Geneva), International Human Rights Organisation for the Right to Feed Oneself (Heidelberg) and many others. A few have branches and members spread all over Africa but this does not change the dominant image and profile of them being "Western".

Pointing out the Westernness of these organisations is not meant to belittle the valuable work they are doing, but is meant to help us focus on some of their limitations. To take every word that come from them as absolute truth is wrong, and to dismiss most things they report about as untruthful Western propaganda is dangerous and foolish. I have already made reference to several publications of Africa Watch and Lawyers Committee for Human Rights. Recently an informative report on Malawi was released by Africa Watch (Africa Watch, October 10, 1990). Some of the organisation's work produced as News or Reports have touched on many aspects of integrated human rights. The Lawyers' Committee has also released good reports on Zimbabwe, Liberia, Zaire, Sudan, Uganda and South Africa as well as critique of the policies of the US which affect workers' rights in the Third World (Lawyers Comm., 1989) and refugee policies of the US government. Again we are dealing here with negative and the positive aspects, whether these are intended or not. These organisations have to seek and strengthen people-based constituencies in to
countries they are involved with as well as providing equal opportunities for the people to express themselves.

The West does not only have "independent" organisations who dominate in producing information on human rights on the Third World, including Africa. Its universities abound with courses and research programmes on human rights which attract a large number of students and scholars from Africa and which have contradictory commitment to human rights. In the US, for example, Columbia University in New York and the American University in Washington DC have strong programmes while those at Harvard University were reasonably fair at least up to this year when Human Rights Internet* was linked to it. As in the "independent" organisations the Western perspective is naturally dominant in these academic programmes. Knowledge cannot be divorced from its cultural context.

To add to the institutions already identified, the Western research and "development" funding agencies are into human rights business in Africa: SIDA, SAREC, DANIDA, NORAD, FINNIDA, Ford Foundation, USAID, IDRC are all in it. So are various religious funded activities. One of the most evident results of this Western dominance in controlling human rights discourse on and about Africa is that little is understood of the external, mainly Western, contributions to human rights violations and denials in Africa. Some very preliminary examination of the links between different forms of capital and human rights have just started to be published (Tomasevski, 1989a and b) and some studies are in progress (eg Skogly, 1990). These again are efforts still possible only in the West. There are vast unexplored areas still to be investigated and properly understood about the effects of various external forces in the past and present on the present and future status of human rights in Africa. This has to go well beyond the various pious declarations contained in documents that are not meant to be implemented, or if meant to be implemented, are not really implemented or are poorly put into effect. Western as well as African governments are good at making empty statements on human rights issues.

What is Africa doing and what can it do?

The African masses have participated in major historic struggles for human rights and democracy before, during and after direct colonial rule. They continue to struggle. The present distribution of power in the world put the people of Africa in a subordinate and oppressed position. Macro level collective struggles involving the whole continent are reflected in common declarations such as the recent 1989 position paper on the African Alternative Framework to Structural Adjustment Programmes for Socio-economic Recovery and Transformation (OAU, 1989), and the 1990 Declaration of the Assembly of Heads of State and Government of the Organization of African Unity on the Political and Socio-economic Situation in Africa and the

* Human Rights Internet is a data gathering organisation, which has now moved to Ottawa, Canada. It publishes directories of human rights organisations and activities.
Fundamental Changes Taking Place in the World (OAU, 1990). Various African intellectuals and non-governmental organisations as well as a few governmental agencies also combined efforts with the UN early 1990 to identify some missing links in development strategies in Africa and came out with the African Charter for Popular Participation in Development and Transformation (ECA, 1990). On paper the ideas in these documents are impressive and provide indications of fundamental structural and historical conditions that must be dealt with in order to create conditions for the people to construct democracy/promote human rights. Unless there is popular national democratic revolutions with significant power won by the popular masses, however, these good intentions will not be put into practice. The class alliances that have brought stagnation and ruin to Africa cannot be the same ones which can effect progressive changes.

At the micro levels there are already a good number of institutions that work with different aspects of human rights in Africa. The Internet Directory lists most of these (Human Rights Internet, 1989). Having recently familiarised myself with the operations of various grass-roots organisations involved in the defence and promotion of popular rights in South America, in particular those in Argentina, Uruguay and Chile, it is clear to me that most of the efforts in most African countries are isolated limited-issues types of organisations. They lack broad national and regional networking, they have very limited popular publications of their activities in the community and most of the intellectuals involved in these organisations have little practical experience in mass struggles, and hence cannot initiate radical strategies that link these organisations' work with the overall political struggles in society as a whole.

The practice seems to be different in South Africa, perhaps due to the challenges of apartheid colonialism and the higher level of mass involvement in politics. In east and southern Africa there are great potentials in Tanzania, Kenya, Zimbabwe and Botswana, among others.

The Legal Aid Committee based at the Faculty of Law, University of Dar es Salaam has experience in litigating collective rights of workers and other poor social groups. They have also published some of their experiences, though mostly for intellectual consumption.

In Kenya the pioneering work of the Kituo Cha Sheria (Legal Advice Centre) whose initial establishment in 1973 I had the privilege to be involved in, the Public Law Institute, the Green Belt Movement and a few other voluntary or non-governmental organisations working with the poor masses have proved their ability to continue doing some good work despite the growing political repression against the people and sometimes against the organisations themselves. But all remain fairly removed from the mainstream mass political struggles that are beginning to become open. The ideal should not be to swallow the mass organisations into political structures but rather to create space that would enable the masses to constitute themselves to struggle for daily bread and dignity as well as meaningful changes in society as a whole. Otherwise mass-based human rights organisations would only be stabilising social structures of inequality and exploitation.

Of the Kenyan organisations mentioned above, the Green Belt Move-
ment is different from mainstream human rights organisations in that it concerns itself with environmental protection and has a broad agenda and profile in rural and urban areas although it has yet to become a really popular mass project.

In Botswana a human rights education project which was organised from 1986 has made some interesting public oriented discussions approach involving existing institutions—both traditional and new (Rubadiri ed., 1989). The content of some of the presentations in their write-up are however very "Eurocentric" and demonstrate lack of scientific understanding of human rights.

The Catholic Commission for Justice and Peace in Zimbabwe has made an impressive transition from being an anti-colonial human rights watchdog to being an important voice for defence of human rights under the independent regime with its strong undemocratic tendencies. It remains however more of a defensive than a mobilising force for the promotion of broad human rights. The Harare and Bulawayo Legal Resources Centres are also active in the promotion of public legal knowledge and assistance at more general level. The Zimbabwe Congress of Trade Unions is another mass-class based institution which is rather more active than most trade unions in Africa (except South Africa and to an extent Nigeria) in promoting workers, and trade union rights with clear linkage to the political needs of the broad masses (ZCTU, 1990; Nzombe and Gutto, 1988). The Organisation of Collective Cooperatives in Zimbabwe and the whole cooperative movement in Zimbabwe has also organised a lot of peasants, workers and unemployed to struggle for more and better land, and for the transformation in the present economic structures that undermine human rights and democracy (see for example the story of Simukai in Nyathi and Hoffman, 1990).

Practically in every African country there are active organisations dealing with rights but they all play within the rules and structures that cannot allow effective change in economic and political power relations. We cannot review all in this presentation.

Another important force in the promotion and defence of human rights in Africa is the democratic resistance movements. The neocolonial dictatorships have produced numerous cases of organised resistance with all types and shades of political orientations. The devastating chaos in the living standards and conditions of the lower and a large section of the intermediate classes, which the Structural Adjustment Programmes (SAP) have made worse, has greatly expanded the opposition forces that had emerged earlier to struggle for change (Gibbon, 1990; Beckman, 1990). Naturally the crisis does not automatically lead to organised political action for change (Aina, 1989). What is a fact is that many organised political movements in Africa and elsewhere expose a lot of human rights violations by the regimes in power. To a degree they are connected to groups that supply some of the information that are publicised by international human rights organisations.

Since I was forced into political exile in 1982 I have worked with, among others, the Committee for the Release of Political Prisoners in Kenya which was based in London and currently I am working with the
Kenya-Scandinavia Human Rights Organisation (Keshro). We have a counterpart in Canada which is older and better organised which publishes a newsletter called HAKI (Justice). Besides, most of the Kenyan resistance movements, particularly the one I work with, have human rights as a central and integral part of their struggle and future goals.

What is not easy to predict theoretically is how far such political movements will actually behave in relation to human rights when they eventually have some share of state power. Already it can be seen that quite a number violate certain rights of the popular masses, particularly in armed struggles. And here I have in mind genuine democratic resistance movements and not the terrorist types like RENAMO in Mozambique and UNITA in Angola. What is apparent is that the democratic resistance movements in independent Africa today are mobilising around human rights and popular democracy unlike the old-type national liberation movements who because of direct colonial rule did mobilise mainly around the question of independence and democracy in general. The current coalition government led by the National Resistance Movement and Army in Uganda which had mobilised around rights and democracy against the previous neocolonial dictators has also shown a reasonable concern for promoting human rights than the previous regimes. It does not have an entirely blameless record, however. The FRELIMO government in Mozambique has also demonstrated a high level of respect for rights of the popular classes even in war conditions. Where deviations have been noticed in large scale open attempts have been made to correct them (Machel; 1982). It is then clear that not all the governments are the same when it comes to human rights.

An area of human rights where African governments appear to be doing a good job is in the area of refugees problems. Articles 12 and 23 of the African Charter on Human and Peoples’ Rights as well as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa provides the regional legal basis in addition to international instruments on the subject. I have noted elsewhere that the African regional instruments have certain provisions which are normally used to restrict political activity of political exiles and refugees (Gutto, 1989) but this does not diminish the fact that Africa is dealing with its refugee problems fairly well (Zetterqvist, 1990; Rwelamira, 1990; Nobel ed., 1987). The point is not to celebrate good refugee policies but to redirect political orientations and forms of governance so that people are not forced to flee from their countries in the first place or to live as refugees in their own countries.

Before I conclude this brief review of what Africa is doing in defending and promoting human rights, it is necessary to mention that Africans form a small part of those working on human rights in international organisations, both intergovernmental and non-governmental. Of the high profile non-governmental human rights organisations based in the West, for example, Adama Dieng is the Secretary General of the International Commission of Jurists, Makau wa Mutua is head of the Africa Project at the Lawyers’ Committee for Human rights and Rakiya Omaar is Executive director of Africa Watch. They do not, however, control a lot of the policies and overall direction of these organisations. They have made some
positive inputs to the work of these institutions on Africa. It is the efforts
and contacts of Adama Dieng even before he became Secretary general of
the International Commission of Jurists which enabled the meetings in
Africa whose proceedings were published under the title: The Independence
of the Judiciary and the Legal Profession in English Speaking Africa (ICJ, 1988).
We have already referred to publications of the other two organisations. In
association with the Canadian Bar Association the Cameroon Bar Council
was also able recently to publish the Model Human Rights Charter for
Developing Countries (CBA and CBC, 1989). What needs to be stressed here
is that these should be supplementary efforts to mass based activities and
intellectual production and not be seen as the central focus of serious
movements to revolutionize societies and make them human rights and
popular democracy based.

Looking at the intellectual contributions in the last two years one is
forced to endorse Issa Shivji's comment referred to earlier that "The hu­
man rights discourse on and in Africa is intellectually backward, even by
the standards of the African social sciences...". Of mainstream human
rights work within the continent published in English in the last two years
one can count them on the fingers of one hand! The main ones are really
just Shivji’s, that by Aguda (Aguda, 1989), LAMCO (1989), the few mate­
rials already cited and the appearance of the liberal African Journal of
International Law, vol 1, no. 1, 1988. One could add in the area of democ­
racy the Botswana Society's Democracy in Botswana (Holm and Molutsi,
1989). There are scattered pieces here and there in journals of the academic
world, securely hidden from the masses they are expected to arouse into
action. The heavy weight of authoritarian terror-states and the economic
ruin they preside over seems to have driven the African intellectuals into
intellectual silence and dormancy, or the pursuit of consultancies in order
to save their precarious class positions but which require them to
"moderate" the search and agitation for fundamental change. What a
tragedy!

Some concluding remarks

I have called for the rejection of popular but simplistic approaches to hu­
man rights problems in Africa. The problems are not there simply because
the Africans do not know or care about rights or that human rights are
foreign, the private invention of the West. On the other hand, Africa's
human rights problems are not just there because of imperialism, because
of external interferences of which we have no control. The reality is that
we are responsible and imperialism is equally responsible. The challenge
is to broaden our perspectives and to understand precisely how we and
imperialism are both to blame for the terrible state of human rights in
Africa.

By detailing the integrated approach the objective was to demonstrate
the internal dialectical relations among various aspects of human rights,
particularly the traditional artificial divisions between civil and political
rights on the one hand, and economic, social and cultural rights on the
other hand. I have also wanted to demonstrate the mutual interdepen-
dence between these integrated human rights and the environment, as well as other areas of social and natural existence. In theory it may be easy to say, for example, that the poor need economic rights more than political rights. But the reality of Africa in the last decade has shown us how important it is for the poor to have political power in their hands and in the hands of the other popular classes in order to guarantee that production and distribution of material needs like food, housing and medical care will be effected. To do this the broad masses must struggle to win the rights to freely associate with one another, to organise themselves, to discuss and to exchange information about problems and solutions, including participating in making decisions on the overall distribution of societal wealth. In short, the people need political rights as much as they need economic rights. The people's daily struggles for rights vindicate this integrated approach. Our theories should derive their validity from social practice and not from what we may conjure up in our brains to be ideal and therefore good for all times. Contestation for state power is therefore central in human rights discourse and social action. This is also the natural link between struggles for democracy and those for human rights.

We need more action and more theory in human rights work and studies. We must search more deeply and carefully for ways which enable the people to participate in perceiving the rights that would release their energies in making life better for themselves. All human experiences are relevant for our search, including the achievements and failures of countries in Eastern Europe. We must not become prisoners of models developed outside of our own realities and history. But we cannot ignore the experience of others entirely.

How, for example, can we agitate for a better functioning African Commission for Human Rights which is not paralysed by procedural rules that makes it unhelpful to individual petitions? Are there regional institutions that will work with mass organisations to help the people learn how to process human rights claims before various fora? How are the people prepared to identify and make contacts with those who can help to publicise violations of rights in their communities in situations where state and other organised repressive structures make such reporting dangerous to those who report? How can we build human rights consciousness in the society as a whole? These and similar practical issues should occupy our energies as much as those effecting real social changes in Africa. All these are what the whole human rights business is about.

No pretence has been made in this presentation that all or most of the important areas of concern in human rights have been covered. For example, problems of human rights relating to children and the youth have not been dealt with and should always be covered in serious human rights work in Africa. I have attempted this in the past in my own work (Okoth-Ogendo and Gutto, 1983; Gutto, 1979). This presentation has only attempted to provide a framework for critical re-evaluation and fresh approaches to human rights work in or on Africa.
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