Opinion Piece

Pandemic Powers: Why Human Rights Organizations Should Not Lose Focus on Civil and Political Rights

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Abstract

In response to the rise of ‘populism’ and the perceived threat to human rights that it represents, human rights advocates have argued that NGOs must speak to the economic anxieties of majority populations by increasing work on economic and social rights. In this essay, I present a counter-argument to this proposal, drawing on insights from the COVID-19 pandemic and my experiences working at Amnesty International and monitoring emergency powers during the pandemic for Covid State Watch. I argue that international human rights NGOs should retain a focus on civil and political rights for three reasons. The COVID-19 pandemic has (1) revealed and reinforced the vast repressive power of the state and consequent serious risks to civil and political rights in the global North and (2) demonstrated that human rights NGOs are often alone in challenging restrictions to civil and political rights, especially during crises. I further suggest that, in contrast to the civil and political rights sphere, (3) human rights NGOs offer little ‘value added’ in the field of economic and social rights in the global North. I conclude by proposing that human rights serve their most useful function when they protect those who few others are willing to defend, such as the vector of disease, the terrorist and the criminal.

Keywords: counter-terrorism; COVID-19; economic and social rights; human rights NGOs; populism; social movements

Introduction

The election of Donald Trump in the USA, the vote in the UK to leave the EU (‘Brexit’), and electoral advances by far-right politicians in Europe have prompted widespread soul-searching among human rights advocates. The implications of the rise of ‘populists’ for the future of human rights has been the subject of vigorous debate by scholars—including in

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this journal—and practitioners. During my time at Amnesty International, similar debates took place in working groups and planning meetings. How should human rights NGOs tackle what Amnesty International has called the rising ‘politics of demonization’ and the perceived existential threat that it poses to the international human rights system?

While differences of opinion naturally exist, there is one answer to this question that has galvanized human rights advocates more than any other. It was partly articulated by Alston (2017) and can be summarized crudely as follows: The human rights system faces an existential threat. Countries who once championed human rights are now openly questioning their legitimacy. Inequality and exclusion are at least partly to blame. People who feel ‘badly done by as a result of . . . globalization-driven economic change’ have a sense of ‘fear and resentment’ that is effectively capitalized by ‘populist’ leaders (ibid: 6). Most people feel they ‘have no stake in the human rights enterprise’ which exists to protect “asylum seekers”, “felons”, [and] “terrorists” (ibid.), in part because NGOs have focused on the rights of marginalized minorities and not widespread economic and social rights violations. Based on this narrative, many human rights advocates think that any future strategy must include significant work on economic and social rights and must attempt to win working class support.

Based on my experience working at Amnesty International and later monitoring state repression during the COVID-19 pandemic as Covid State Watch, I believe that international human rights organizations should maintain a focus on civil and political rights in their work on the global North rather than redirecting resources towards work on economic and social rights, for three main reasons, two of which have been highlighted by the pandemic. This short essay briefly introduces the work of Covid State Watch before outlining each of these reasons, presenting them as provocations rather than a fully-fledged strategy.

I argue that, firstly, the COVID-19 pandemic has revealed and reinforced the vast amount of power, and resulting threat to civil and political rights, that modern states have amassed. Secondly, the pandemic has demonstrated that very few actors with the resources and reach of human rights NGOs are willing to monitor and challenge executive power, especially during crises. Thirdly, human rights practice is far from the best tool to fight inequality and poverty—in fact, human rights NGOs have the potential to crowd out more radical demands for economic justice and thereby to serve reactionary rather than revolutionary ends.

My argument is based on recognition that international human rights NGOs exist (whether they should is the subject of a different debate), that they have power (a brand, access to decision-makers, staff, money, and so on), and that, having weathered many crises, they are unlikely to disappear soon. When referring to NGOs, I mean large international human rights organizations like Amnesty International and Human Rights Watch. My reflections in this essay are limited to the global North because I have mostly worked in and on Europe and have limited experience of human rights advocacy elsewhere. Finally, I use the distinction between economic and social rights and civil and political rights as shorthand for different areas of work by NGOs, acknowledging that there is an economic dimension to every right.

Covid State Watch

Before outlining the three elements of my argument, I introduce the work of Covid State Watch, as my experience of this project informs my overall view. On 30 January 2020, the
World Health Organization (WHO) declared the COVID-19 outbreak a ‘public health emergency of international concern’. Since then, at least 89 countries have declared states of emergency (Centre for Civil and Political Rights 2020). Using their newly acquired executive powers, states have imposed mandatory quarantines, lockdowns and curfews, expanded surveillance and shut borders. The right to liberty, the right to privacy, freedom of movement and freedoms of assembly, association and expression are among the many rights curtailed under the mantra of ‘stay at home, save lives’. The concern—as ever with exceptional regimes—is that states will cling onto emergency powers after the pandemic is over.

In view of the expansion of police powers and emergency laws, myself and friend and former colleague Rym Khadhraoui set up a project to monitor the use and abuse of new emergency powers. The Covid State Watch project documents, analyses and visualizes police abuses and the misuse of emergency powers during the COVID-19 pandemic.¹ The project provides a global platform—the @CovidStateWatch Twitter account—for sharing information about the repressive impact of pandemic powers. To further communicate this issue, the project has teamed up with a film-maker in Paris to produce a short film.

Covid State Watch relies in part on information gathered by local police monitoring projects established in response to the pandemic, such as Policing the Pandemic in Canada (https://www.policingthepandemic.ca) and Covid Policing in Australia (https://covidpolicing.org.au). Restrictions enacted to prevent the spread of COVID-19 have made the task of monitoring police activity more difficult, with fewer witnesses present (and therefore less visual evidence) and, in some countries, the suspension of time limits on ‘freedom of information’ requests. Local monitoring projects have thus relied on submissions from victims and witnesses, media reports and information from partner organizations, lawyers and authorities. While there has been media interest in particularly egregious cases of police misconduct and brutality, we have noted a relative lack of public debate regarding the broader necessity and appropriateness of law enforcement measures and, in our interactions with media, have sought to raise these questions.

The Covid State Watch project has highlighted the vast scale of police abuse and violence unleashed under emergency regimes around the world and the impact of pandemic powers on already marginalized groups. While police brutality in Africa has received significant attention, cases of police overreach and violence while enforcing COVID-19 restrictions have been reported all over the world. Those who are routinely over-policed—among them, asylum-seekers in Greece, black and brown communities in France, indigenous groups in Bolivia and Australia, and township residents in South Africa—have been the primary victims of expanded police powers.

The argument for a focus on civil and political rights
Leviathan in our midst
Among the truths revealed by the COVID-19 pandemic is the vast power that states in the global North have developed over those they govern and the threat to civil and political rights that this represents. The power to confine us to our homes, to prevent families from seeing one another, to forbid protests, funerals, weddings, and more demonstrate that we are clearly ‘object[s] of a pure de facto rule’ (Agamben 2005: 3). Undoubtedly some, if not

¹ Covid State Watch is supported by a grant from the Centre for Applied Human Rights at the University of York funded by Open Society Foundations.
many, of these interventions were necessary and have saved lives. This is not an argument against lockdowns. But the exercise of state power during this pandemic, while exceptional, should not be viewed as unconnected and irrelevant to the normal workings of the state. There is the immediate and oft-repeated risk of executive powers being normalized once states of emergency have formally ended—as they were in France in 2017 and in Turkey after the failed coup of 2016.

But beyond the risk of normalization, pandemic powers must be viewed on a continuum with increasingly advanced attempts to address other types of social harm—like terrorism or criminal activity—through greater criminalization, surveillance, militarization, border controls and incarceration. There are clear parallels between interventions to manage the pandemic and those taken to counter terrorism; travel bans, preventive detention, surveillance and an expanded role for police and military feature heavily in both. Some parallels are even more stark—Guantánamo Bay is now synonymous with the ‘War on Terror’, but it once housed a detention camp for HIV-positive Haitian refugees (Parmet 2009: 28). Both pandemic and counter-terrorism powers rest on a simple principle: certain people deserve protection while others are perceived as risky and must be controlled. This principle of social control has a long history in administrative and executive powers enacted for public protection (at least, protection of those deemed worthy) from those deemed dangerous—from ‘vagrants’ and ‘habitual offenders’ in the Victorian era in Britain, to criminals, asylum-seekers and terrorists now (Parmet 2009).

These forms of social control, among them the response to COVID-19, represent a serious threat to civil and political rights that warrant a focus from human rights NGOs. After all, pandemics and similar crises, which serve to legitimize oppressive behaviour by states, are predicted to become more frequent. In the ‘normal’ times in between, repressive state powers are enacted at borders, airports, protests and other arenas where an ever-broader definition of ‘security’ is invoked and dangerous ‘others’ identified. There is, in other words, considerable work for international human rights NGOs in keeping a check on the ever-expanding state. This work, as it manifests in safeguarding civic space, supports more radical movements by ensuring they have the freedom to exist. In addition, work on these issues plays to the strengths and expertise of human rights organizations.

Arguing that international human rights NGOs should focus on threats to civil and political rights is not an argument for ignoring class, race, gender and other systems of oppression. Indeed, there is a strong link between repressive social control measures and neoliberal economic policies (Blower et al. 2012: 193). Advocacy on civil and political rights must incorporate class, race and gender analysis. National security, criminal justice, immigration and other forms of social control are all ways of creating suspect ‘others’ who are undeserving of rights and protection, thereby constructing and reinforcing class, race and gender distinctions. Pandemic powers fit this pattern, with minority groups unfairly blamed for spreading the virus and, in some countries, subject to greater restrictions on their rights as a result.

The case for unpopular causes

Not only is the repressive power of the state growing, it also has few opponents with the resources and influence that human rights NGOs currently enjoy. Through engagement with monitoring projects at the national level, Covid State Watch has given us an insight into the types of organizations and activists involved in this work. In the global North, the work of documenting and challenging police abuses and the exercise of pandemic powers
has been taken up by human rights NGOs and police monitoring groups. The latter are generally small groups who approach this work from a radical perspective, rooted in demands for police and prison abolition. There have also been calls to end lockdowns from the libertarian and far-right end of the political spectrum. Apart from these groups, there has been remarkably little pushback against restrictions on civil and political rights during the pandemic, even though these are the most severe restrictions that most people have experienced. In a recent survey in the UK, most people saw the lockdown as violating various rights but felt that the violation was acceptable (Halliday et al. 2020).

Parmet’s account of ‘public health panics’ is helpful in understanding the lack of widespread pushback against such interventions:

> During a public health panic, when societies perceive catastrophe as imminent, and view particular individuals or populations as deviant and responsible for increasing social risk, strong social controls will almost always appear to be absolutely necessary. (Parmet 2009: 53–4)

The speed and novelty of emerging diseases and visceral fear of contagion contribute to a climate where few seek to challenge or question highly coercive public health measures. Parmet notes, for example, that there ‘are relatively few examples of courts striking down public health interventions during a public health panic’ (2009: 54). Human rights NGOs play an important, and sometimes unique, role in monitoring and challenging the expansion of executive powers, particularly during periods of crisis and panic.

Again, parallels can be drawn with counter-terrorism policies, which also serve a seemingly incontrovertible goal (‘saving lives’) that one cannot question without being seen as ‘defending terrorism’ (equivalent to being ‘on the side of the virus’). Human rights NGOs, along with some anti-racist organizations, are thus often lone voices of critique when states expand their counter-terrorism powers. People are generally supportive of the idea that national security should be an organizing principle of government. Governments on the left and right both agree that security must be balanced against liberty, with minor differences in how the scale tilts. The absence of progressive voices in political debate is mirrored by the lack of avenues for individual support—in providing help to individuals falsely vilified as terrorists, Amnesty International is often fulfilling the traditional mission of ‘shining a light in the darkness where no other lights were shone’ (Hopgood 2010: 163). This is deeply valuable work that plays to the strengths of human rights organizations and that few others are willing to do, yet risks being deprioritized.

The wrong tool, at the wrong time

In contrast to the civil liberties sphere, human rights NGOs are far from lone actors in the struggle for economic and social rights in the global North. International human rights NGOs began engaging in this field in the 1990s; a process which led Amnesty International to officially expand its mandate in 2001 and begin campaigns targeting economic and social rights violations. The rise of ‘populism’ has provided additional fuel to the argument for shifting towards the economic and social rights field. Alston and other human rights practitioners want to increase work in the economic sphere to build wider support for human rights: ‘If the concept of human rights is to have strong universal appeal, the other side of the balance sheet also needs to be promoted’ (Alston 2017: 10, emphasis added). In other words, economic concerns should be taken up by human rights NGOs—not because they are best equipped to tackle those concerns at this time, but to make human rights popular again. Human rights practice is the goal, rather than the means.
‘What is the “value added” of couching claims of injustice and inequality in human rights language and of working on them through a global NGO?’ (Hopgood 2010: 158). Human rights NGOs may get growth and visibility, but will they do better than existing movements in reducing inequality and poverty? A full engagement with this question, and the existing literature on it, is beyond the scope of this short piece. But drawing on my experience in activism and NGOs, I suggest that engagement by human rights NGOs in economic and social rights work will add little value to existing struggles against inequality and poverty, and, by detracting resources away from ‘unpopular’ civil and political rights claims, may do more harm than good.

In my view, human rights NGOs are far from the best vehicles for delivering economic justice, in part due to ideological constraints and practical realities. There are the conceptual limitations of the human rights framework, with its minimal demands and lack of egalitarian norms to address inequality (Moyn 2018). The absence of any particular conception of the good society has allowed human rights to claim impartiality, but also prevents it from articulating a clear vision of how resources should be allocated. Dudai suggests that perhaps the time has come for human rights organizations to go ‘further: to argue against inequality as such, to develop a principled position against “free market” as such, to call for redistribution from rich to poor’ and rethink ‘social and economic rights in class terms’ (Dudai 2017: 19). But, at least in the case of large international human rights NGOs, achieving even limited policy change is a long and fraught process. Turning Amnesty International into a weapon of class war? In my view, practically and ideologically impossible.

Apart from conceptual and practical hurdles, is it realistic to think human rights NGOs can mobilize enough people to both increase the popularity of human rights and effect change in economic inequality? I left Amnesty International in 2019 just before an election was called in the UK. I threw myself into campaigning for a Corbyn-led Labour government, travelling north to the town of Crewe, which had in 2016 voted for Brexit, to knock on doors with a diverse array of canvassers. That campaign was everything that Amnesty International aims for in its activism—participatory, multiracial, multi-class, youthful, creative and hopeful. The campaign failed on election day, when the Labour party was defeated by a wide margin. But it did succeed in mobilizing and inspiring record numbers of activists and is, in this respect, instructive for human rights NGOs whose theories of change include mass mobilization. More specifically, human rights advocates see mobilizing young, working class and ethnic minority constituencies as key to their strategy for winning wider appeal. But past attempts to engage these constituencies have had poor results and stand in stark contrast to the Labour party 2019 election campaign. Perhaps decades of unsuccessful efforts indicate that human rights as a language and NGOs as a vehicle are simply unattractive to these constituencies who, unlike the mostly well-off and white base of human rights NGOs, have nothing to lose from the redistributive changes promised by more participatory and transformative movements?

Social change methods evolve over time—what worked in the 1970s may be simply unsuited to our current moment. Moyn describes how ‘the unviability of political alternatives provided the main rationale for the turn to human rights’ in that era (2010: 143). Amnesty International founder Peter Benenson said that the organization was designed ‘to absorb the latent enthusiasm of a great number of . . . idealists who have, since the eclipse of Socialism, become increasingly frustrated; similarly it is geared to appeal to the young searching for an ideal’ (Moyn 2010: 130). Far from an ‘eclipse of Socialism’, we can now
speak of its resurgence. Young people searching for ideals flocked to the Bernie Sanders campaign in the United States and the Corbyn campaign in the UK. To many of them, Stalin is an internet meme rather than a source of disillusionment with the Left. The absence of revolutionary aspirations and overt ideology in the human rights movement allowed it to thrive in the era of ‘capitalist realism’ when it was ‘easier to imagine an end to the world than an end to capitalism’ (Fisher 2009: 2). That era appears to be over—neoliberal capitalism is no longer the only game in town.

**Conclusion**

I was once told by a senior colleague that proposing a narrow and modest role for international human rights NGOs, as I have done in this essay (and Dudai (2017: 17) has done elsewhere), was overly defeatist. I do not see it as admitting defeat to recognize that human rights is not the only answer to repression and suffering, and that sometimes the best way to achieve justice is to make space for and support other movements in ways that play to their relative strengths.

A pandemic may, nevertheless, seem like a strange time to assert the importance of civil and political rights, with so many people fighting for their lives and their livelihoods. Some may argue that this is precisely the time when international human rights NGOs should focus on issues like the right to health and the right to an adequate standard of living. But, in identifying a strategic course of action for such NGOs, the significance and prevalence of human rights violations is only one factor in the calculation. I do not underestimate the importance and urgency of economic and social rights, especially during a pandemic. My concern, and the focus of this essay, is the other factor in the calculation—the ‘value added’ by international human rights NGOs.

In contrast to the arena of economic and social rights, where progressive movements are successfully mobilizing people around a vision far more transformative and radical than that offered by human rights, human rights NGOs are often lone voices of dissent when civil and political freedoms are threatened, especially during crises like the COVID-19 pandemic. Human rights serve their most useful function when protecting and helping the most abject of objects of state power. The terrorist, the vector of disease, the criminal or the asylum-seeker—for those who are most dehumanized, reviled and excluded from society, human rights arguments and mechanisms may be their only lifeline. Yet this is precisely the work most at risk of being sidelined in an effort to gain popularity.

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