The globalization of human rights

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The argument of this article is that what I term generic globalization has created unprecedented opportunities for advances in human rights universally, but that the dominant actually existing historical form of globalization – capitalist globalization – undermines these opportunities. Substantively, I argue that taking the globalization of human rights seriously means eliminating the ideological distinction that exists between civil and political rights on the one hand, and economic and social rights on the other. Doing this systematically undermines the three central claims of capitalist globalization – namely, that globalizing corporations are the most efficient and equitable form of production, distribution and exchange; that the transnational capitalist class organizes communities and the global order in the best interests of everyone; and that the culture-ideology of consumerism will satisfy our real needs.

Keywords: globalizations; civil and political human rights; economic and social human rights; capitalism; human rights movement; socialism

Introduction

The argument of this article is that what I term generic globalization has created unprecedented opportunities for advances in human rights universally, but that the dominant actually existing historical form of globalization – capitalist globalization – undermines these opportunities. Substantively, I argue that taking the globalization of human rights seriously means eliminating the ideological distinction that exists between civil and political rights on the one hand, and economic and social rights on the other. Doing this systematically undermines the three central claims of capitalist globalization – namely, that globalizing corporations are the most efficient and equitable form of production, distribution and exchange; that the transnational capitalist class organizes communities and the global order in the best interests of everyone; and that the culture-ideology of consumerism will satisfy our real needs.

Generic globalization

Generic globalization may be defined in terms of four phenomena – moments both in the temporal sense and in terms of social forces – of increasing significance since the middle of the twentieth century:

(a) the electronic revolution, notably transformations in the technological base and global scope of the electronic mass media and to most of the material infrastructure of the world today (the electronic moment);
(b) post-colonialisms (the post-colonial moment);
(c) the subsequent creation of transnational social spaces (the spatial moment); and
(d) qualitatively new forms of cosmopolitanism (the cosmopolitan moment).

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These four phenomena are the defining characteristics of globalization in a generic sense. Each clearly offers tremendous potential for the expansion of human rights, both quantitatively, in terms of increasing the numbers of people whose lives can be improved by access to human rights, and qualitatively, in terms of the quality of human rights access. While the first two of these, the electronic and the post-colonial moments, have been the subject of an enormous amount of theory and research in recent decades, the third, the idea of transnational social spaces, is of relatively recent origin and opens up some new lines of theory and research. The last, new forms of cosmopolitanism, is in a different category.

The electronic revolution, obviously, has brought knowledge of human rights entitlements to the notice of millions, and probably billions, of people who have been denied them and also to those who are in a position to deny human rights to others. The rapid spread and relative cheapening of the mass media of communication, all the way from radio and television, to the Internet and mobile phones, makes it much more difficult to conceal human rights abuses than ever before in human history. While this does not necessarily result in the reduction of abuses, the more publicity and transparency there is, the more likely it is that organized pressure can be brought to bear on those who abuse human rights. Further, the electronic revolution has made mobilization against human rights abuses and denial of human rights much easier to organize, locally, nationally and globally.

The post-colonial revolution that started in Latin America in the nineteenth century and gathered unstoppable momentum in the second half of the twentieth century incorporates many different kinds of post-colonialisms. Their relationship to the idea of generic globalization pursued here is highly complex, encompassing processes such as multi-causal cross-border migration, the increasing ability of ‘others’ to find their own voices on the world stage and for these voices to be heard, and so-called multiculturalism (Krishnaswamy and Hawley 2008, esp. chapters 18 and 19). Thus, the paradigm shift that Edward Said began with his critique of Orientalism (Said 1978) continues to reverberate as post-colonialisms meet globalization in the terrain of human rights.

The creation of transnational social spaces can take place from above and from below. From above, the applications of international law and the work of United Nations (UN) agencies and human rights NGOs can create relatively safe transnational social spaces for vulnerable groups (as illustrated in the case studies contained in Risse, Ropp, and Sikkink 1999), but all too often this has been in response to human rights catastrophes rather than preventing them in the first place. Rajagopal (2003) argues persuasively that in general, state-centrist international law has failed and that the struggle to create what I am calling here transnational social spaces in which human rights are protected, especially in the Third World, is now the responsibility of transnational social movements working with communities, as well as of states. This more localist view is supported by the plethora of evidence that Rajagopal presents (see also the vast transnational social movements literature – for example, Bandy and Smith 2005).

The final aspect of generic globalization – new forms of cosmopolitanism – differs from the others in that the idea of cosmopolitanism is quite ancient. It had its most important modernist reincarnation in the proposal of Kant at the end of the eighteenth century for the achievement of perpetual peace through the construction of a cosmopolitan order. However, this left many questions unanswered about the relations between democracy, capitalism and human rights, and these have to be urgently asked in this transformed world of the twenty-first century. While there are many different forms of cosmopolitanism (see, for example, the essays in Vertovic and Cohen 2002), the thread that runs through all of them is the problem of a multitude of different cultural, ethnic, linguistic, religious groups jostling to live on this one planet, sharing its landscapes, cities, streets and diasporas. For some groups this thread is perceived as a life-threatening weapon. This is the challenge of new forms of cosmopolitanism for the globalization of human rights.
In the absence of global catastrophe, generic globalization is irreversible in the long run because the vast majority of the people in the world see that it could serve their own best interests, even if, in a system dominated by capitalist globalization, it is not necessarily serving their best interests at present. While there is a veritable torrent of theory and research on how capitalist globalization works, and who wins and who loses as it conquers the globe and transforms our lives, there is relatively little theory and research on globalization as a generic phenomenon, thought about and even on occasion practised outside its historical container of globalizing capitalism.

Capitalist globalization can be fruitfully analysed and researched in terms of transnational practices – practices that cross state borders but do not necessarily originate with state agents, agencies or institutions. Analytically, transnational practices operate in three spheres, the economic, the political, and culture-ideology. The whole is what I mean by the global system. The global system at the beginning of the twentieth-first century is not synonymous with global capitalism, but the dominant forces of global capitalism are the dominant forces in the global system. Individuals, groups, institutions and even whole communities, local, national or transnational, can exist, perhaps even thrive as they have always done outside the orbit of the system, but this is becoming increasingly more difficult as capitalist globalization penetrates ever more widely and deeply. The building blocks of global system theory are the transnational corporation, the characteristic institutional form of economic transnational practices, a still-evolving transnational capitalist class in the political sphere, and in the culture-ideology sphere, the culture-ideology of consumerism.

Two crises, both with dire consequences for human rights, beset capitalist globalization – class polarization and ecological unsustainability. The inability of the capitalist system to resolve these crises makes it imperative that we begin to think seriously about long-term alternatives to capitalist globalization. Here I shall explore one path out of capitalism through the disjunctures between capitalist globalization (where we are) and alternative forms of globalization (where many of us want to be). Such a transformation could be achieved by the gradual elimination of what I take to be the driving force of capitalist globalization – namely, the culture-ideology of consumerism – and its replacement with a culture-ideology of human rights. This means, briefly, that instead of our possessions being the main focus of our cultures and the basis of our values, our lives should be lived with regard to a universally agreed system of human rights and the responsibilities to others that these rights entail. This does not imply that we should stop consuming. What it implies is that we should evaluate our consumption in terms of our rights and responsibilities.¹

The main thrust of this argument is that by genuinely expanding the culture-ideology of human rights from the civil and political spheres, in which capitalist globalization has had a relatively positive influence, to the economic and social spheres, which represent a profound challenge to capitalist globalization, we can begin realistically to tackle the crises of class polarization and ecological unsustainability. But political realism dictates that this change cannot be accomplished directly; it must proceed via a series of transitional stages.

Most progressive, democratic alternatives to capitalist globalization sound very utopian. Many would agree with their desirability but most would question their practicality. In most societies, at varying levels of prosperity and poverty, there are constant reminders of the class polarization crisis, as the very rich seem to get ever richer, the very poor seem to be trapped in cycles of deprivation, and the groups in the middle experience unprecedented levels of insecurity. Likewise, the ecological crisis affects everyone, in various ways. How could such a society begin the movement from capitalist to alternative, non-capitalist forms of globalization, and why would its members want to move in these directions? The rise of anti-capitalist and anti-globalization movements and networks since the mid-1990s (see Bandy and Smith 2005)
suggests that there is a great deal of dissatisfaction about the way we live (revolving around the emotional and spiritual crises of the rich, and the material and social deprivations of the poor). While they propose alternatives to capitalist globalization, most of these movements tend to focus either on issues of class or regional polarization (First World against Third World) or on ecological unsustainability (the environmental justice movement), rarely connecting both crises. This is why many consider that there is no adequate focal point for these movements and networks. This is precisely the reason why it is necessary to engage with the discourse and organization of universal human rights.

The globalization of human rights is the logical and substantive link between genuine democracy and alternative post-capitalist globalization. If we can demonstrate that the achievement of a global system of human rights is not possible under the conditions of capitalist globalization (capitalism can only justify itself in the long run by its alleged superiority in providing better lives for all), then it follows that some other form of globalization will be required if human rights are to be realized for all peoples.

The inter-state system of human rights

The period immediately following 1945 was a watershed for the emerging human rights movement. Though the Nuremberg Trials were not the first occasion in history when the victors passed moral judgements on the vanquished, the enormity of Nazi crimes against humanity appeared to justify moral as well as legal penalties. It is not to deny other previous and subsequent holocausts to argue that the holocaust in Europe perpetrated by the Nazis made many people in all walks of life rethink the seductive appeal of cultural relativism (see Marrus 1987, esp. chapter 2). United Nations-sponsored tribunals on former Yugoslavia and Rwanda further reinforced the idea of crimes against humanity as crimes for which the international community would not excuse the perpetrators. The Pinochet case (Steiner and Alston 2000, 1198-1216) opened up spaces for bringing those with ultimate responsibility for gross violations of human rights to the bar of international justice. The first conviction for genocide was handed down by the War Crimes Tribunal in The Hague in the summer of 2001 – a 46-year prison sentence for the Bosnian Serb general Krstic. And while the death of Slobodan Milosevic in detention in 2007, six years after he had been indicted, spared him from a likely lengthy sentence, the international tribunal at The Hague sentenced another Bosnian Serb general, Dragomir Milosevic, to 33 years in prison for his war crimes during the siege of Sarajevo. Nevertheless, it is true to say that many of those directly responsible for war crimes and crimes against humanity continue to evade punishment or even being brought to court.

Truth commissions had been established in formerly authoritarian states in Latin America, Asia, Africa, and Europe (UNDP 2000, Table A3.1 lists fourteen). In particular, the Truth and Reconciliation Commission in South Africa started a long, incomplete, and painful process of bringing abusers and abused face to face to establish ‘truth’ and seek reconciliation (see Moon 2008). It also condemned some acts against the oppressors. These processes have both challenged and promoted the legal order surrounding human rights.

Scholars and activists generally distinguish between two categories of rights. The first is civil and political rights, like freedom from torture, equal protection before the law, and the right to free speech and political association. The second category is economic and social rights – for example, rights to decent jobs, food, health care, education, and shelter. The legal basis of all these rights is the United Nations Charter, and associated regional agreements. The Universal Declaration of Human Rights was proclaimed in 1948 and after decades of political wrangling, two treaties, the International Covenant on Civil and Political Rights (hereafter ICC) and the International Covenant on Economic, Social and Cultural Rights
(hereafter ICE), were passed into international law. Most states have signed these legal codes, though many have reserved their positions on one or more items. One further pillar in the UN system of human rights is the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

Parallel with the UN Charter, the Universal Declaration of Human Rights, the ICC, and the ICE, a series of specific human rights treaties has emerged, but their acceptance in full by member states is far from universal. The most important of these treaties are the 1951 Convention on Genocide (140 ratifications, accessions, and successions by 2007), the 1969 Convention on Racial Discrimination (85), the 1981 CEDAW (98), the 1987 Convention on Torture (74), and the 1990 Convention on Rights of the Child (140). However, it can be argued that there are in place growing numbers of legal instruments to protect human rights and that most states in the world have committed themselves to uphold them, at least in part. Nevertheless, many states, including some of the richest – for example, the USA and the UK – as well as some of the poorest – for example, China and Myanmar (Burma) - have at one time or another been investigated and/or named and shamed for human rights violations at the UN.

The UN Commission on Human Rights was the body responsible for carrying out such investigations and passing judgements. The Commission operated through two mechanisms. Items under the first, the 1503 procedure (examination of complaints), rose from 25,000 per annum in the mid-1980s to 300,000 in 1993 (much of this was organized letter-writing), and stabilized at around 50,000 in 2000. From 1972 to 2005, eighty-four states had been investigated. However, the process of investigation under 1503 was secret, leading Amnesty International and other human rights organizations to charge that it is as much an instrument for concealing as for exposing violations (Steiner and Alston 2000, 618). The 1235 procedure gave governments and/or non-governmental organizations (NGOs) a public opportunity to name and shame violators at Commission meetings, and eighty-five member states were investigated between 1989 and 2005. As of January 2007, thirteen countries were under investigation. Usually governments defend themselves vigorously (Iran, China, and others have done so). Why do they take the trouble? The answer suggests that for governments, even the most repressive, the human rights movement is significant all over the world, particularly when it draws in transnational economic practices like trade and investment. In March 2006 the UN Commission on Human Rights was replaced by a Human Rights Council, consisting of 47 members on staggered three-year terms, with the exception of the United States, whose government refused to join. The human rights records of all 192 members of the UN will be reviewed by the Council.

With few exceptions, all these UN conventions and treaties establish positive rights for individuals and positive duties for states to protect these rights. However, all these conventions and treaties have limitation clauses that qualify the rights of individuals and dilute the duties of states which declare themselves to be under exceptional circumstances, notably states of emergency. As a result, these conventions and treaties have rarely been allowed to challenge the autonomy of governments to do exactly as they please. State sovereignty remains the general principle on which the inter-state system rests. Connected with this issue is the debate contrasting indivisibility (all human rights are equal in importance) with hierarchy (some rights are more important than others). Though there is a good deal of controversy, most writers and practitioners do accept that there is a hierarchy of rights, with civil and political rights at the top and economic and social rights some way behind or, in some theories, not proper rights at all. For example, since CEDAW was created in 1981 there has been much debate over women’s rights. Some complain that women’s rights are being prioritized unfairly above all others, while others argue that women’s rights are ghettoized within CEDAW. More states have entered reservations to the ratification of CEDAW than to any other human rights treaty.
Economic and social rights (hereafter ESR) – usually defined as the duty of the state ‘primarily to provide material resources to the rights-bearer, like decent jobs, housing or food or health care’ (Steiner and Alston 2000, 183) – are at the centre of the argument between supporters and opponents of capitalist globalization. While capitalists, imbued with neoliberal values and the culture-ideology of consumerism, tend to accept that civil and political rights (or, more rhetorically, freedom from state interference) need to be protected to guarantee a minimum of social order, economic and social rights are more problematic for them. Neoliberals argue that the sanctity of private property, paradoxically the core economic right, is the only basic human right essential to a market-driven society, while goods such as jobs, housing, food, education, and health care are not human rights at all, but commodities allocated like all other commodities by the market. This view is enshrined in the rhetoric of neoliberalism in homilies of the type: ‘no one owes you a living’ (interestingly close to the old Soviet principle of ‘s/he who does not work does not eat’), and ‘there is no such thing as society’ (individuals have to take responsibility for themselves and their families). Opponents (socialist or not) of capitalist globalization argue that everyone, irrespective of circumstances, has the right to a basic level of economic and social well-being (as enshrined in Articles 23 and 25 of the Universal Declaration of Human Rights).

The origins of the ESR system are to be found in the International Labour Organization (ILO), created in 1919 as an associate agency of the League of Nations to serve as a bulwark against the appeal of bolshevism to workers all over the world. The ILO articulated the principles that people everywhere were entitled to a decent standard of living and that workers were entitled to some basic rights. From the 1940s on these principles gradually evolved into a vague and general right to development as decolonization loomed (see Ishay 2004, chapter 4). The paternalistic impulse of this movement can be gleaned from the fact that what we now know as ‘development’ appears in chapter IX (‘International Economic and Social Cooperation’), Article 55(a) of the UN Charter, where the UN committed itself to promote higher standards of living, full employment, and conditions of economic and social progress and development for all the peoples of the world. Struggles over the establishment of a single human rights covenant foundered on cultural differences of various types (related to gender, religion, ethnicity, and so on), so two separate conventions, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights (as noted above), resulted. This outcome sent the message to the international community that entitlement to economic and social rights generally was seen as subject to available resources, and the obligations of states to achieve them was, thus, not absolute but something that might be accomplished sometime in the future. 6

The issue of who exactly was responsible for ensuring that rights were established and protected remains unresolved. Dominant groups in some states, for example the USA, have tended to pay less attention to providing for economic and social rights, while those in others, for example China, have tended to pay less attention to civil and political rights. A central principle of socialist globalization is that neither of these sets of rights can be fully realized without the other. Having the right to vote in freely contested elections has a very different meaning for well-fed people compared with starving people, just as having a satisfying job that supports a decent standard of living has a very different meaning for someone under threat of arbitrary arrest all the time compared with someone who can generally rely on the rule of equitable law. The role of the state should be central to this analysis in the sense that states that actually do guarantee civil and political rights might be also expected to guarantee economic and social rights. Under the neoliberal discipline of capitalist globalization, civil and political rights have gradually been disconnected from economic and social rights. This is the socio-legal aspect of class polarization under capitalist globalization. Steiner and Alston (2000, 300) express this rather diplomatically:
Pressures to reduce the size of the public sector, to privatize various functions previously performed by governments, and to stimulate growth by reducing taxes, all render governments less able to accept responsibility for economic and social rights. Governments, of course, normally do have choices in these matters, but those under the disciplines of the World Bank, the World Trade Organization (WTO), and the transnational corporations (TNCs) for the most part choose not to prioritize economic and social rights.

What the Indian Constitution of 1950 called ‘directive principles of state policies’ illustrates this clearly. Baxi (in Steiner and Alston 2000, 283-4) shows how these principles have been put into practice in terms of social action litigation, when ordinary people write to the courts about violations of the human rights of impoverished groups of Indian society. This means, in Baxi’s view, that: ‘The law of standing, that is persons who can bring complaints of rights-violation, has been thus revolutionised; and access to constitutional justice has been fully democratised.’ The courts commission and fund researchers to establish the facts, in Baxi’s striking phrase, to ‘provide the material for doing justice’, and compensation and detailed measures of rehabilitation for victims are accorded the status of a constitutional right (Steiner and Alston 2000, 285).

Examples abound. The Supreme Court of India monitors the treatment of the blinded of Bhagalpur, relief and medical treatment for the victims of Bhopal, the administration of the Agra Protective Home for Women, and prison administration in the State of Bihar. No doubt there are very many more examples of violations of rights that go unresolved and remain invisible in India (the unsatisfactory treatment of complainants in the cases of Enron and the Narmada dam, for example), but social action litigation shows what is possible. So, while quite realistic about the limited impact of social action litigation in India and the ongoing struggle between the judiciary and the executive, and about specific courts and specific institutions in violation of people’s rights, Baxi does show how a large and relatively poor state could nurture a legal system that turns abstract rights into economic and social realities. This puts to shame the feeble protestations of capitalist globalizers that the rich states of the First World cannot afford to protect economic and social rights for all.

Despite the onward march of capitalist globalization, states (or, more to the point, governments) could restructure their priorities in the direction of satisfying the economic and social rights of the large majority of the people while at the same time enhancing their civil and political rights. At the beginning of the twenty-first century, in the richest countries the resources were already available to provide adequate diet, housing, education, health care, and environmental security for everyone. This, however, would necessitate higher taxes and reduced consumption of luxury goods and services by the relatively rich. There is no reason in principle why a political party could not campaign on such a programme and win. However, under the conditions of capitalist globalization, driven by the culture-ideology of consumerism, this seems unlikely to occur in the short term. Realistically, such a programme is more likely to be forced on rich countries by a combination of the effects of the twin crises of ecological unsustainability and class polarization. This could happen gradually or catastrophically, depending on various factors, including mass mobilization and political leadership. In poor countries the issues are similar in principle, but differ in practice. Democratic political systems, even in poor countries with weak states, do not exclude the election of governments that genuinely set out to redistribute societal resources to benefit their poorer citizens and give them the tools to improve their own conditions.

It is important here to distinguish clearly between what I am conceptualizing as the culture-ideology of consumerism and rights to adequate consumption. The human right to adequate consumption (we can define this as the basic minimum level that even averagely well-off people would settle for), properly conceived, entails the social responsibility of those who are democratically elected to make such decisions to ensure that this is available to all. The crisis
of ecological unsustainability dictates that this will entail reductions in consumption for those who consume the most all over the world. These are the responsibilities involved in the globalization of human rights, responsibilities that people in a society based on the principles of socialist globalization will gladly teach their children and perhaps in the short term, more reluctantly, practise themselves.

**Human rights and social responsibilities**

The discourse and organization of human rights provokes a series of fundamental questions on how we think about justice in the global system. Why does the language of rights rather than responsibilities (or duties) dominate treaties, constitutions, and political debate? In what ways, if any, is it superior to the language of responsibilities? Would the values and goals of a human responsibilities movement be different to those of the human rights movement? The question that is most often posed, particularly by those who wish to highlight the importance of cultural difference rather than universality, is whether, and to what extent, the language of rights entails what are considered to be rights. This is an indirect expression of the thesis that the language and the substance of the western liberal tradition appear to dominate both the discourse and the organization of the human rights movement.10

In the western liberal tradition rights tend to be conceptualized individualistically, but the duties and responsibilities of individuals tend to be marginalized or excluded entirely from consideration. As discussed above, the fact that the international human rights movement originated within and through the inter-state system and the efforts of those who were representatives of it means that the discourse and the movement have always carried the tensions inherent in trying to reconcile individual rights and state sovereignty. Despite what is written down in treaties and conventions and the laws of individual countries, even when they are generally upheld, rights are never absolute even in the most democratic societies. This is partly because parliamentary democracies are so imperfect, and partly because the agencies of the state, even in parliamentary democracies, always place their own security above all rights. Under the conditions of capitalist globalization, what state functionaries consider vital to the national interest is much more likely to be driven by the interests of those who own and control big business (as interpreted and implemented by their allies in the bureaucracy and government at all levels) than by those of ordinary people or the principles of ecological sustainability. Thus, capitalist globalization encourages states to reduce their duties and responsibilities to their citizens, and to restrict them to the protection of those rights compatible with or not hostile to the interests of big business. A good example of this process is the way in which many states have restricted the right to protest against capitalist globalization (in Davos when the World Economic Forum is meeting there, and around Parliament in London and elsewhere, at WTO, G8 and other ‘official’ events).

Different cultures predispose their members to see the world differently and the idea that individuals have duties and responsibilities to each other is far more common in some cultures than in others. For example, according to Jomo Kenyatta, the Gikuyu people in Kenya live on the basis that ‘collective activities make heavy tasks easier’ (quoted in Steiner and Alston 2000, 346). Principles such as this logically and emotionally lead to a greater belief in the virtues of communities based on the duties and responsibilities of people to each other as well as their rights.11 Significantly, the first human rights treaty to highlight duties as well as rights was the African Charter on Human and People’s Rights of 1986, though in practice human rights are no better (in most cases much less) protected for the poor and under-privileged in Africa than elsewhere. By 2000, fifty-three states in Africa had signed up to the Charter but, as with all other human rights treaties, the signatories included many parties that appeared to routinely
violate the very rights they were obliged to protect. Nevertheless, it is important to seek a balance between utter cynicism and utter naivety in this as in other fields. The world would not necessarily be a better place if there were no international human rights legislation and is not necessarily a worse place because of it.

One of the reasons why politicians who adopt the main tenets of neoliberal capitalist globalization have been so successful in parliamentary democracies all over the world is precisely because of the appeal of responsibility over rights rhetoric for so many of those who bother to vote. In relatively rich societies poor people whose rights are violated often lack public sympathy or face real, often racist, hostility, typically orchestrated by the right-wing mass media, because they are perceived as making little positive contribution to society (the unemployed) at best, or as being a drain on society (so-called welfare scroungers and bogus asylum seekers) at worst. These popular idioms are consistently used to justify reductions in welfare services or to exclude some services as rights altogether. The right to suitable employment, enshrined in many international treaties and national constitutions, is a good case in point. Work-share programmes that have been introduced in the USA, Canada, and the UK appear to recognize that the state has some obligation to ensure adequate employment or provide unemployment benefits for adults, but while these programmes rarely produce many good jobs they do depress welfare claims. Usually the unemployed must accept the responsibility of taking any job deemed appropriate by the authorities that is offered to them. There is no easy solution to this problem. It appears intuitively obvious that small communities organized through something like producer-consumer co-operatives are better suited to solving it than very large societies centrally organized on the basis of individuals and their households and the ‘global marketplace’.

Responsibilities and rights are two sides of the same coin: each right implies a responsibility, each responsibility implies a right. It would be entirely illogical to assert the right for everyone to have a satisfying job without asserting the responsibility for someone or some institution to ensure that such jobs exist in sufficient numbers. But this is exactly what most international human rights treaties and conventions, and national laws, do. Generally, they assert these rights without specifying who or what has the responsibility for delivering them. The state, of course, is usually intended to be the institution responsible for enforcing rights, but even where the state has the resources to do this there is always a let out (exceptional circumstances, usually defined by the state). This line of argument leads radical critics of the discourse and organization of human rights to argue that the human rights system acts as much to protect the violators as to protect the violated. Certainly, the UN Commission on Human Rights has been criticized on the grounds that states vie to place their representatives on the Commission not to pursue abuses but to ensure that their own abuses and those of friendly states are spared embarrassing exposure. It remains to be seen whether or not the new UN Human Rights Council does any better.

The official human rights establishment, further, is increasingly under challenge from those who seek compensation for historical breaches of human rights, the reparations movement. Biondi (2003, 9) argues in the context of African American history: ‘Reparations changes the discursive image of African Americans from victims to creditors and revises the dominant narrative of American social, political, and economic history.’ This analysis can be convincingly extended to most other cases of human rights abuse (see, for example, Moon 2008). As more and more evidence of direct corporate involvement in such abuses is uncovered – Biondi (2003) highlights the importance of the discovery of documents demonstrating the complicity of, for example, Aetna Insurance and railroad and other companies in US slavery – it is clear that the reparations movement could have major consequences for some of the leading corporations sustaining capitalist globalization. This would create major problems for the state-based official human rights establishment. And this is not exclusively a historical issue. As Holzer (2007), for
example, shows in his analysis of Shell oil company in Nigeria, framing TNCs as moral as well as economic actors has critical implications for the evaluation of the human rights records of corporations today, in terms of political and civil rights as well as economic and social rights.

At the official level, globally, UN agencies have to balance universal human rights with the principle of non-interference in the internal affairs of member states. Kofi Annan has stressed that the UN Charter was issued in the name of the peoples not the governments of the United Nations, but this obviously conflicts with Article 2(7) of the UN Charter: ‘Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State . . ., but this principle shall not prejudice the application of enforcement measures under Chapter VII [threats and aggression]’ (Steiner and Alston 2000, 588). The problem is that it is never those people whose rights are being violated who get to decide which matters are ‘essentially within the domestic jurisdiction of any State’. The fundamental flaw in the UN-oriented human rights approach is that most individuals are not in a position to dictate what their rights should be. Responsibilities and rights have a different logical and practical status. Logically, most people are in a position to decide what their own responsibilities to specified others are and should be and to act on these decisions. Practically, only in very extreme cases (for example, relating to, in some countries, the responsibilities of parents to look after their children) is the full weight of the law used to punish people for evading their responsibilities. The responsibility of corporate executives, politicians, and officials for ensuring that private and public goods and services are safe is rarely enforced in court. In a just society, I would argue, employers should be responsible for ensuring that their workers and their families have a decent standard of living, and that no one goes hungry, unsheltered, uneducated, or sick for want of resources. Increasingly, under the conditions of capitalist globalization, it is NGOs rather than governments or businesses that are most active in pursuing and extending economic and social rights.

**NGOs and civil society**

Human rights NGOs are part of a broad range of organizations and movements, variously referred to as transnational advocacy networks, transnational social movements and even a nascent transnational civil society. These umbrella terms generally exclude official governmental bodies (including the UN and other inter-state networks) and those attached to the private economic sector. At the UN Beijing World Conference on Women in 1995, for example, 40,000 people representing thousands of these groups attended the NGO forum.

The mainstream view of global civil society is that it is what is left over when we subtract all the organizations of the state and private business. As there has been phenomenal growth in NGOs all over the world it is said that global civil society has grown with them. Global civil society defined in this way is a flawed concept. The power and influence of the TNCs and their local affiliates in economic life, of the transnational capitalist class in political life, and of consumerism in culture-ideology ensure that the spaces for global civil society to exist free from the influences of capitalist globalization (including globalizers in the state) are strictly limited. Thus, excluding groups attached to private economic interests from civil society seems to me a serious error as there is a mass of evidence to suggest that private economic interests wield increasing influence in what are often misleadingly termed public interest groups (Sklair 2001; Dinan and Miller 2007). This does imply the strong thesis that for there to be a genuine global civil society, its institutions and actors must oppose capitalist globalization, and for them to be effective, they have to have something convincing to put in its place. As argued above, it is time to start to think the unthinkable and to work out how the capitalist inter-state system can be replaced while we are monitoring it to prevent and/or make restitution.
for abuses. No doubt there are many theoretical possibilities, and a society based on the globalization of human rights I propose here is one of them.

The polarization effect of capitalist globalization expresses itself to some extent in the way that the global human rights establishment operates. Wichterich (2000) probes the fact that it is acceptable for experts to jet around the world networking but it is usually considered a waste of time and resources for slum dwellers to do the same. What she labels the New International Women’s Politics is largely based on global networks of women’s groups dominated by organizations based in First World countries, often pursuing a single issue and missing the bigger picture. She identifies the US-based WEDO (Women’s Environment and Development Organization) as a paradigm case of the conference-centred political process, modelled on the structures of male-dominated international politics and NGO practice. Early formal successes in establishing organizations and gaining entry to the corridors of power proved to be an illusion, as evidence mounted that nothing much has changed in the lives of many of the women on whose behalf the organizations were set up in the first place.\textsuperscript{13} This casts doubts on the effectiveness of the monitoring method, as women’s NGOs followed structures and procedures that the World Bank, UN, and other powerful organizations laid down for them. ‘This professionalization has brought to the fore a new transnational and transcultural class of lobbyists, who appear really on top of their subject and tools, competent and eloquent, who tour the world with a high salary, a high expense account, and an equally high appraisal of themselves’ (Wichterich 2000, 157). This has led to a hierarchical differentiation among the women’s NGOs.

Such phenomena are not restricted to the women’s movement. In his quite positive discussion of the role of international NGOs (INGOs) in the successful campaign to ban the use of landmines (the Ottawa Convention), Anderson comments that most of the organizations involved were fundamentally elite organizations. While they obviously did essential work, they talked mainly to each other and did little to reduce the democratic deficit. His conclusion is that this form of civil society is not really part of democracy; rather, it is a substitute for democracy. The ability to be a pressure group, not democratic legitimacy, is the hallmark of INGOs (in Steiner and Alston 2000, 950–3). Similar organizations working with similar agendas on other issues have also had some real successes. For example, the equally elitist campaign that led to the creation of the 1998 Rome Statute on the International Criminal Court resulted in some important war crimes trials. Some argue that the coalition of NGOs that disrupted the 1999 Seattle WTO meeting and subsequent events in the capitalist globalization calendar would have had an even more dramatic effect in raising consciousness if they had been more elitist and less libertarian. Steiner and Alston, as insiders, are more optimistic about the benefits that NGOs can deliver than Wichterich, a radical journalist.

Mutua locates the problem in what he terms the conventional doctrinalist nature of western human rights groups that tend to focus on human rights abuses in repressive foreign countries, leaving civil rights groups to focus on domestic issues. ‘Until recently, and to a large extent even today, none of these American INGOs focused on human rights issues in the United States, except to seek the reform of U.S. foreign policy and American compliance with aspects of refugee law’ (in Welch 2001, 152). The careers of the founders and current luminaries (even the non-white non-westerners) of all the major western INGOs illustrate the dominance of the conventional doctrinalists. Apart from Amnesty International, they all take funds from foundations and corporations; and their fund-raising ‘gimmicks’ (annual awards dinners where rich supporters buy a table for their associates) reinforce their image with the great and the good. Conventional doctrinalists stress a narrow range of civil and political rights, and Mutua shows that ‘[i]n a reflection of this ideological bias, INGOs mirrored the position of the industrial democracies and generally assumed an unsympathetic and, at times, hostile posture towards calls for the expansion of their mandates to include economic and social rights’ (in Welch 2001, 155).
Recent rhetoric on the indivisibility of rights, he claims, has not been matched by action, though this may be changing. Under the conditions of capitalist globalization, the ever-closer connections with officialdom are a mixed blessing for NGOs, and the evidence on such collaborations suggests that it is the agenda of globalizing business and governments, often mutually reinforcing, that drives the process (see Sklair 2001).

Most prominent human rights organizations face the problem of representation, a central issue of democratic politics. Who, speaks for whom, and with what right? Among the thousands of campaigns and movements working for human rights locally and/or globally, two stand out. The biggest is Amnesty International (AI), founded in 1961. By the beginning of the twenty-first century, AI had around one million members in more than 160 countries, and national sections in around 50 countries. Its budget of $25 million was raised from individual subscriptions and funding from private foundations. It does not accept money from governments. The other is Human Rights Watch, founded in 1988. It began its existence as Helsinki Watch, established to monitor the human rights commitments of the superpower agreement of 1975 (the Helsinki Accords). In contrast to AI, Human Rights Watch is a non-membership organization with regional divisions and a budget of around $16 million. It has prime access to the mass media, particularly in the USA, and its regular reports of abuses of human rights all over the world are highly visible and, like AI, often controversial. Both AI and Human Rights Watch have influential websites that are heavily used, and both have been subject to a good deal of academic research (see Welch 2001, Part I). Despite the powerful work they do, in some respects these are both elitist organizations that have ambiguous positions with respect to capitalist globalization. Perhaps the point is that in order to achieve much within the confines of capitalist societies, in the short term it is easier to be an elitist movement.

Protecting human rights

Despite the enormous amount of international, regional, national and local legislation and political agitation on their behalf, most people in the world suffer violations of one or more of their economic, social, civil, or political rights on a daily basis. Therefore, we must pose the question: how far have states, individually or as part of the UN system, acted as effective protectors and enforcers of human rights over the last few decades? There are two dimensions to this question. First, radical political change can transform a society from one in which most human rights are routinely violated to one in which most human rights are generally protected, or vice versa. South Africa in the 1990s was widely regarded as a notable success story of radical political change for human rights. State policy deliberately sought to bring about a transition from a society based on racist denial of human rights for the majority of the people to one in which the protection of human rights for all was forced onto the political agenda. A good example of the opposite process was the military coup against the democratically elected government of the Chilean President Allende in 1973, followed by the military dictatorship of General Pinochet characterized by gross violations of human rights. However, the subsequent arrest and detention of Pinochet on a visit to the UK and his indictment in Chile (he died during the legal process) may one day be seen as a watershed in the struggle between state-sanctioned human rights violators and enforcers.

Second, states can for a variety of reasons change their attitudes towards human rights violations in other states and begin to exert pressure for change in these other states. Again, this can work both ways. Governments can decide to stop tolerating or to start tolerating human rights abuses in other countries. The US government and the European Union are the most visible, simply because they usually have the most clout internationally. The Carter presidency (1976–1980), when US foreign policy was used aggressively to target states that abused
human rights, stands out in this respect. Even here, while eight abusing states (all in Latin America) had their security assistance (arms supplies) terminated, many other gross violators – for example, Indonesia, Iran, South Korea, the Philippines, and Zaire – did not suffer this penalty (see Cohen, in Steiner and Alston 2000, 1096-9). Indeed, it may be nearer the mark to argue that despite the high level of rhetoric from successive US and other First World governments on the sanctity of international human rights, they have more often found excuses for gross violators (like national interest, employment in the domestic armaments industry, constructive engagement) than actually punished them in any way.\textsuperscript{15} It is difficult to escape the conclusion that this is inherent in the structure of the inter-state system with its inbuilt rhetoric of international competitiveness. This manifests itself in relatively harmless ways (in sport, for example), through its more serious forms (trade), to its most destructive (wars and proxy-wars). Given the infrequency with which states in the capitalist global system act decisively against even the most blatant violations of human rights (for example, freedom from torture), let alone what are usually seen as more contentious rights (for example, the right to a decent standard of living and a healthy environment), it is likely that there are forms of post-capitalist democratic globalization that will do better. Not for the first time, it is the nature of the state itself in capitalist globalization that comes under scrutiny.

To repeat, this is an invitation to think the unthinkable – namely, to think of a world that has gone beyond the separate states of the inter-state system in which most of us live. It is necessary to phrase the issue in this way to highlight two important facts. First, there are many millions of stateless people today (for example, refugees and asylum seekers); and second, there are many more millions who live within the borders of so-called nation-states but find this problematic (for example, indigenous peoples, progressive minded people who are repelled by nationalism, and people with transnational loyalties and identities). The existing state system encouraged by capitalist globalization has proved itself incapable of dealing with the rights of minorities on too many occasions to inspire much confidence that it is a satisfactory political form. A more radical solution is to question the assumption that the state and the current inter-state system, based on more or less exclusive nationalisms, are the best available forms of political life, and to think through alternatives to them. This is the political project of the democratic socialist globalization that I espouse and it is a long-term project. We still have to work out how to get from here (and here is many places) to there (and that might be many places too).

An admirably clear expression of the connections between human rights and human development on record served as the introduction to the Human Development Report for the year 2000:

Human rights and human development share a common vision and a common purpose – to secure the freedom, well-being and dignity of all people everywhere. To secure:

- Freedom from discrimination – by gender, race, ethnicity, national origin or religion.
- Freedom from want – to enjoy a decent standard of living.
- Freedom to develop and realize one’s human potential.
- Freedom from fear – of threats to personal security, from torture, arbitrary arrest and other violent acts.
- Freedom from injustice and violations of the rule of law.
- Freedom of thought and speech and to participate in decision-making and form associations.
- Freedom for decent work – without exploitation. (UNDP 2000, 1)

There is widespread agreement on what changes are desirable to improve the lives of the majority of the people around the world. In this age of apparently relentless capitalist globalization, change is clearly in the air. Despite rising aspirations, development and freedoms are not happening quickly enough for most people.
Global systems like capitalism are not born and do not die in the course of a few generations, but they do change. New generations face new challenges and meet them or fail to meet them and this changes the conditions for how the next set of challenges will be met by subsequent generations. Of course, how the future will turn out is a matter of conviction and cannot be predicted with any scientific precision. Political will, while not the only factor, cannot be discounted in the creation of a better future, just as lack of political will or political will of an evil sort can be a factor in the creation of a worse future. Socialist globalization or any other alternative to capitalist globalization will have to be created by people working together. What I have been arguing here is: (i) that capitalist globalization cannot resolve the crises of class polarization and ecological unsustainability; (ii) that the gradual elimination of privately owned big business and its replacement by some form of democratic socialist globalization is more likely to resolve these crises than muddling through with capitalist globalization; and (iii) that the globalization of human rights can play a powerful part in this transformation.

There are many radical initiatives, more or less well organized, more or less transnational, that are continuously feeding into an emerging anti-capitalist globalization movement. As this movement inspires ever larger numbers of people to become active in the pursuit of human rights and the social responsibilities that are an integral part of them, we can begin to work out alternatives to capitalist globalization. Socialist globalization is one of many alternative paths.

Notes

1. These are the bares bones of a framework elaborated in Sklair 2001, 2002. For a detailed discussion of the emancipatory potential of generic globalization and how capitalist globalization has undermined it, see Sklair 2009.

2. This article borrows and updates material from Sklair 2002, chapter 11, for which the main source is Steiner and Alston 2000, updated in a third edition (Steiner, Alston, and Goodman 2008) – a collection of around 1500 pages that blends commentaries and scholarly and official sources into an encyclopaedic narrative of human rights with great skill and balance. The wide-ranging historical survey in Ishay (2004) complements this very well.

3. These are the European Convention on Human Rights, the American Convention on Human Rights, and the African Charter on Human and People’s Rights.

4. I am very much indebted to Ken Gibbons of the British Library of Political and Economic Science at the London School of Economics for his help in updating the information contained in this paragraph, originally sourced from Steiner and Alston 2000.

5. See Steiner and Alston 2000, chapter 6, A, especially on the apparently unambiguous question of female circumcision.

6. My argument is that capitalist globalization (locked into crises of class polarization and ecological unsustainability) will never achieve the various social and economic targets set by the World Bank, UN agencies, and similar organizations.

7. For the ideological basis of attacks on systems of social security in the context of capitalist globalization, see Deacon, Hulse, and Stubbs 1997.

8. McCrudden and Davies (2000) contrast ILO and WTO approaches to trade and labour rights.

9. To put this in context, justice is generally slow in India, where there were 23 cases pending per 1000 persons, over 2000 per judge (and Bangladesh has more than twice as many), according to a report cited by UNDP (2000, 101). And the victims of Bhopal continue to suffer and die as their cases drag through the courts, as the Bhopal Medical Appeal charity makes clear.

10. This is one part of the general problem of Orientalism and post-colonialism (how First and Third World elites structure ideas of and in the Third World). The thorough analysis of the Israel/Palestine struggle by Cypel (2006) throws much light on these issues.

11. The Confucian value system in China and elsewhere is also frequently cited in this context. For a penetrating analysis of the increasingly important issues of bioethics, see Widdows 2006.

12. Product liability suits brought against tobacco (and other) companies in the USA are an exception but, as I have argued (Sklair 2002, 187–203), individuals are rarely held responsible and the companies
usually survive and prosper. Corporate executives are much more likely to go to jail for financial crimes than for causing death and disease.

13. Compare Wichterich (2000) with the mainstream but less convincing view that the position of women (and everyone else) has dramatically improved under capitalist globalization. For a balanced view on this and other aspects of class polarization, see UNDP 2000. To reiterate: the class polarization thesis maintains that the rich are getting richer, the poor are getting poorer and the middle groups are becoming increasingly insecure.

14. This argument is highly contentious. For example, C.A. Odinkalu argues: ‘The current human rights movement in Africa – with the possible exception of the women’s rights movement and faith-based social justice initiatives – appears almost by design to exclude the participation of those people whose welfare it purports to advance. ... Instead of being the currency of a social justice or conscience-driven movement, “human rights” has increasingly become the specialized language of a select professional cadre with its own rites of passage and methods of certification’ (in Steiner and Alston 2000, 946–7).

15. Post-9/11, amid genuine and bogus attempts to fight ‘the war on terror’, the argument continues between those who believe in constructive engagement and those who believe in positive sanctions as the best way to change regimes that grossly violate human rights. The defeat of apartheid in South Africa suggests that selective sanctions that damage those in power and those who most benefit from the regime (often difficult to target accurately) rather than blanket sanctions that emiserate the masses (as in successive US government policies towards Cuba and Iraq) are most effective in the long run. The value of encouraging and materially supporting human rights organizations within all countries cannot be overstated.

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