

ISSN 1806-6445

v. 11 • n. 20 • Jun./Dec. 2014

sur

20

COMMEMORATIVE ISSUE
HUMAN RIGHTS IN MOTION



CONECTAS
HUMAN RIGHTS

EDITORIAL BOARD

Christof Heyns University of Pretoria (South Africa)
Emilio García Méndez University of Buenos Aires (Argentina)
Fifi Benaboud North-South Centre of the Council of Europe (Portugal)
Fiona Macaulay Bradford University (United Kingdom)
Flavia Piovesan Pontifical Catholic University of São Paulo (Brazil)
J. Paul Martin Columbia University (United States)
Kwame Karikari University of Ghana (Ghana)
Mustapha Kamel Al-Sayyid Cairo University (Egypt)
Roberto Garretón Former-UN Officer of the High Commissioner for Human Rights (Chile)
Upendra Baxi University of Warwick (United Kingdom)

EDITORS

Pedro Paulo Poppovic
 Oscar Vilhena Vieira

EXECUTIVE EDITORS

Maria Brant – Executive editor
 Thiago Amparo – Guest editor
 Luz González – Assistant executive editor

EXECUTIVE BOARD

Albertina de Oliveira Costa
 Ana Cernov
 Conrado Hubner Mendes
 Glenda Mezarobba
 Juana Kweitel
 Laura Waisbich
 Lucia Nader
 Luz González
 Manoela Miklos
 Maria Brant
 Thiago Amparo

REFERENCES

Luz González
 Thiago Amparo
 Tânia Rodrigues

LANGUAGE REVISION**SPANISH**

Carolina Fairstein
 Celina Lagrutta
 Erika Sanchez Saez
 Laia Fargas Fursa

PORTUGUESE

Erika Sanchez Saez
 Renato Barreto
 Marcela Vieira

ENGLISH

Murphy McMahon
 Oliver Hudson
 The Bernard and Audre Rapoport
 Center for Human Rights and Justice,
 University of Texas, Austin.
 Tina Amado

GRAPHIC DESIGN

Oz Design

LAYOUT

Alex Furini

COVER DESIGN

Mariana Brend

COVER PHOTO

Renato Stockler

CIRCULATION

Beatriz Kux

PRINTING

Yangraf Gráfica e Editora Ltda/Alphagraphics

ADVISORY BOARD

Alejandro M. Garro Columbia University (United States)
Bernardo Sorj Federal University of Rio de Janeiro / Edelstein Center (Brazil)
Bertrand Badie Sciences-Po (France)
Cosmas Gitta UNDP (United States)
Daniel Mato CONICET / National University of Tres de Febrero (Argentina)
Daniela Ikawa International Network on Economic, Social and Cultural Rights / Columbia University (United States)
Ellen Chapnick Columbia University (United States)
Ernesto Garzon Valdes University of Mainz (Germany)
Fateh Azzam Arab Human Rights fund (Lebanon)
Guy Haarscher Université Libre de Bruxelles (Belgium)
Jeremy Sarkin University of the Western Cape (South Africa)
João Batista Costa Saraiva Regional Jurisdiction for Children and Adolescents of Santo Angelo/RS (Brazil)
José Reinaldo de Lima Lopes University of São Paulo (Brazil)
Juan Amaya Castro VU University Amsterdam/ University for Peace (Costa Rica)
Lucia Dammert Global Consortium on Security Transformation (Chile)
Luigi Ferrajoli University of Rome (Italy)
Luiz Eduardo Wanderley Pontifical Catholic University of São Paulo (Brazil)
Malak El-Chichini Poppovic Conectas Human Rights (Brazil)
Maria Filomena Gregori University of Campinas (Brazil)
Maria Hermínia Tavares Almeida University of São Paulo (Brazil)
Miguel Cillero University Diego Portales (Chile)
Mudar Kassis Birzeit University (Palestine)
Paul Chevigny New York University (United States)
Philip Alston New York University (United States)
Roberto Cuéllar M. Inter-American Institute of Human Rights (Costa Rica)
Roger Raupp Rios Federal University of Rio Grande do Sul (Brazil)
Shepard Forman New York University (United States)
Victor Abramovich University of Buenos Aires (UBA)
Victor Topanou National University of Benin (Benin)
Vinodh Jaichand Irish Centre for Human Rights, National University of Ireland (Ireland)

SUR - International Journal On Human Rights is a biannual journal published in English, Portuguese and Spanish by Conectas Human Rights. It is available on the Internet at <<http://www.surjournal.org>>

SUR is covered by the following abstracting and indexing services: IBSS (International Bibliography of the Social Sciences); ISN Zurich (International Relations and Security Network); DOAJ (Directory of Open Access Journals) and SSRN (Social Science Research Network). In addition, SUR is also available at the following commercial databases: EBSCO, HEINonline, ProQuest and Scopus. SUR has been rated A1 and B1, in Colombia and in Brazil (Qualis), respectively.

SUR. Revista Internacional de Direitos Humanos / Sur – Rede Universitária de Direitos Humanos – v.1, n.1, jan.2004 – São Paulo, 2004 - .

Semestral

ISSN 1806-6445

Edições em Inglês, Português e Espanhol.

1. Direitos Humanos 2. ONU I. Rede Universitária de Direitos Humanos

Human Rights in Motion

CONTENTS

LUCIA NADER, JUANA KWEITEL, & MARCOS FUCHS	7	Introduction
PROFILE OF PEDRO PAULO POPPOVIC	11	“We Did not Create Sur Journal Because We Had Certainties, But Because We Were Full of Doubts”
MALAK EL-CHICHINI POPPOVIC OSCAR VILHENA VIEIRA	17	Reflections On the International Human Rights Movement in the 21 st Century: Only the Answers Change
LANGUAGE		
SARA BURKE	27	What an Era of Global Protests Says about the Effectiveness of Human Rights as a Language to Achieve Social Change
VINODH JAICHAND	35	After Human Rights Standard Setting, What’s Next?
DAVID PETRASEK	45	Global Trends and the Future of Human Rights Advocacy
SAMUEL MOYN	57	The Future of Human Rights
STEPHEN HOPGOOD	67	Challenges to the Global Human Rights Regime: Are Human Rights Still an Effective Language for Social Change?
EMÍLIO ÁLVAREZ ICAZA	77	Human Rights as an Effective Way to Produce Social Change
INTERVIEW WITH RAQUEL ROLNIK	81	UN Special Procedures System is “Designed to Be Ineffective”
INTERVIEW WITH PAULO SÉRGIO PINHEIRO	91	“Besides Human Rights, I Don’t See a Solution for Serving the Victims”
INTERVIEW WITH KUMI NAIDOO	97	“The Rule of Law Has Consolidated All the Injustices That Existed Before It”
THEMES		
JANET LOVE	105	Are we Depoliticising Economic Power?: Wilful Business Irresponsibility and Bureaucratic Response by Human Rights Defenders
PHIL BLOOMER	115	Are Human Rights an Effective Tool for Social Change?: A Perspective on Human Rights and Business
GONZALO BERRÓN	123	Economic Power, Democracy and Human Rights. A New International Debate on Human Rights and Corporations
DIEGO LORENTE PÉREZ DE EULATE	133	Issues and Challenges Facing Networks and Organisations Working in Migration and Human Rights in Mesoamerica
GLORIA CAREAGA PÉREZ	143	The Protection of LGBTI Rights: An Uncertain Outlook

ARVIND NARRAIN **151** Brazil, India, South Africa:
Transformative Constitutions and their Role in LGBT Struggles

SONIA CORRÊA **167** Emerging powers: Can it be that sexuality and human rights
is a 'lateral issue'?

CLARA SANDOVAL **181** Transitional Justice and Social Change

PERSPECTIVES

NICOLE FRITZ **193** Human Rights Litigation in Southern Africa:
Not Easily Able to Discount Prevailing Public Opinion

MANDIRA SHARMA **201** Making Laws Work:
Advocacy Forum's Experiences in Prevention of Torture in Nepal

MARIA LÚCIA DA SILVEIRA **213** Human Rights and Social Change in Angola

SALVADOR NKAMATE **219** The Struggle for the Recognition of Human Rights in Mozambique:
Advances and Setbacks

HARIS AZHAR **227** The Human Rights Struggle in Indonesia:
International Advances, Domestic Deadlocks

HAN DONGFANG **237** A vision of China's Democratic Future

ANA VALÉRIA ARAÚJO **247** Challenges to the Sustainability of the Human Rights
Agenda in Brazil

MAGGIE BEIRNE **257** Are we Throwing Out the Baby with the Bathwater?: The North-South
Dynamic from the Perspective of Human Rights Work in Northern Ireland

INTERVIEW WITH
MARÍA-I. FAGUAGA IGLESIAS **265** "The Particularities in Cuba Are Not Always Identified Nor
Understood By Human Rights Activists From Other Countries"

VOICES

FATEH AZZAM **273** Why Should We Have to "Represent" Anyone?

MARIO MELO **283** Voices from the Jungle on the Witness Stand of the
Inter-American Court of Human Rights

ADRIAN GURZA LAVALLE **293** NGOs, Human Rights and Representation

JUANA KWEITEL **305** Experimentation and Innovation in the Accountability
of Human Rights Organizations in Latin America

PEDRO ABRAMOVAY
AND HELOISA GRIGGS **323** Democratic Minorities in 21st Century Democracies

JAMES RON, DAVID CROW AND
SHANNON GOLDEN **335** Human Rights Familiarity and Socio-Economic Status:
A Four-Country Study

CHRIS GROVE **353** To Build a Global Movement to Make Human Rights
and Social Justice a Reality For All

INTERVIEW WITH MARY LAWLOR
AND ANDREW ANDERSON **365** "Role of International Organizations Should Be to Support
Local Defenders"

TOOLS

- | | | |
|---|------------|--|
| GASTÓN CHILLIER AND
PÉTALLA BRANDÃO TIMO | 375 | The Global Human Rights Movement in the 21 st Century: Reflections from the Perspective of a National Human Rights NGO from the South |
| MARTIN KIRK | 385 | Systems, Brains and Quiet Places: Thoughts on the Future of Human Rights Campaigning |
| ROCHELLE JONES, SARAH
ROSENHEK AND ANNA TURLEY | 399 | A 'Movement Support' Organization: The Experience of the Association For Women's Rights in Development (AWID) |
| ANA PAULA HERNÁNDEZ | 411 | Supporting Locally-Rooted Organizations:
The Work of the Fund For Global Human Rights in Mexico |
| MIGUEL PULIDO JIMÉNEZ | 419 | Human Rights Activism In Times of Cognitive Saturation:
Talking About Tools |
| MALLIKA DUTT AND NADIA RASUL | 427 | Raising Digital Consciousness: An Analysis of the Opportunities and Risks Facing Human Rights Activists in a Digital Age |
| SOPHEAP CHAK | 437 | New Information and Communication Technologies' Influence on Activism in Cambodia |
| SANDRA CARVALHO AND
EDUARDO BAKER | 449 | Strategic Litigation Experiences in the Inter-American Human Rights System |
| INTERVIEW WITH FERNAND ALPHEN | 461 | "Get Off Your Pedestal" |
| INTERVIEW WITH MARY KALDOR | 469 | "NGO's are not the Same as Civil Society But Some NGOs Can Play the Role of Facilitators" |
| INTERVIEW WITH LOUIS BICKFORD | 475 | Convergence Towards the Global Middle:
"Who Sets the Global Human Rights Agenda and How" |

MULTIPOLARITY

- | | | |
|--|------------|--|
| LUCIA NADER | 483 | Solid Organisations in a Liquid World |
| KENNETH ROTH | 491 | Why We Welcome Human Rights Partnerships |
| CÉSAR RODRÍGUEZ-GARAVITO | 499 | The Future of Human Rights: From Gatekeeping to Symbiosis |
| DHANANJAYAN SRISKANDARAJAH
AND MANDEEP TIWANA | 511 | Towards a Multipolar Civil Society |
| INTERVIEW WITH EMILIE M.
HAFNER-BURTON | 519 | "Avoiding Using Power Would Be Devastating for Human Rights" |
| INTERVIEW WITH MARK
MALLOCH-BROWN | 525 | "We Are Very Much A Multi-Polar World Now, But Not One Comprised Solely Of Nation States" |
| INTERVIEW WITH SALIL SHETTY | 531 | "Human Rights Organisations Should Have a Closer Pulse to the Ground" Or How We Missed the Bus |
| INTERVIEW WITH
LOUISE ARBOUR | 539 | "North-South solidarity is key" |

INTRODUCTION



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



sur

Human Rights in Motion

Themes

JANET LOVE

Are We Depoliticising Economic Power?:
Wilful Business Irresponsibility and Bureaucratic Response by
Human Rights Defenders

PHIL BLOOMER

Are Human Rights an Effective Tool for Social Change?:
A Perspective on Human Rights and Business

GONZALO BERRÓN

Economic Power, Democracy and Human Rights. A New
International Debate on Human Rights and Corporations

DIEGO LORENTE PÉREZ DE EULATE

Issues and Challenges Facing Networks and Organisations Working
in Migration and Human Rights in Mesoamerica

GLORIA CAREAGA PÉREZ

The Protection of LGBTI Rights: An Uncertain Outlook

ARVIND NARRAIN

Brazil, India, South Africa:
Transformative Constitutions and their Role in LGBT Struggles

SONIA CORRÊA

Emerging Powers: Can it be that Sexuality and Human Rights is a
Lateral Issue?

CLARA SANDOVAL

Transitional Justice and Social Change



CLARA SANDOVAL

Clara Sandoval is a qualified lawyer and a Senior Lecturer in the School of Law at Essex University, as well as Director of the Essex Transitional Justice Network. She is the former Director of the LLM in International Human Rights Law, member of the Human Rights Centre, and Member of the Advisory Board of the Human Rights Clinic. She teaches and researches on areas related to the Inter-American System of Human Rights, Legal Theory, Business and Human Rights and Transitional Justice.

Email: csando@essex.ac.uk

ABSTRACT

This article questions whether transitional justice can deliver social change. The author discusses the importance of re-assessing expectations so that transitional justice processes and the legal framework that drives them, including international human rights law, are used to achieve what they are able to deliver. By classifying social change in three categories, namely: ordinary changes, structural changes and fundamental changes, the author argues that a fundamental social change happens when social struggle is able to put forward a new dominant ideology inspired by radically different values to those that allowed the repression or the conflict to take place. While it is not realistic to expect transitional justice to deliver development, democracy, rule of law or peace, the author argues, transitional justice, when properly conducted, can indeed contribute to deliver fundamental change but it cannot deliver it on its own.

Original in English.

Received in June 2014.

KEYWORDS

Transitional justice – Social change – Ideology – International human rights law



This paper is published under the *creativecommons* license.

This paper is available in digital format at www.surjournal.org.

TRANSITIONAL JUSTICE AND SOCIAL CHANGE

Clara Sandoval

1 Introduction

International human rights law has become one of the languages of social change of our time. It has gained such a prominent role in States' political agendas that over almost six decades, several international human rights and related treaties have been adopted and work continues on new ones. Domestic systems have also been active in this area, engaging in the dynamic incorporation of such treaties and other international obligations into their domestic law. New constitutions and legislation have been enacted and institutions (judicial and non-judicial) have been created in order to apply this new language of change. Even in the majority of relevant political discussions today, international human rights law appears to set the limits or possibilities for change.

Transitional justice has also become a language of social change. While it is not a branch of international law, as international human rights law is, it is a field deeply influenced by the power of this law and of other branches of international law. Indeed, they constitute its normative framework, dictating the types of changes that are needed in society to reckon with the legacy of mass atrocities. Indeed, stake-holders are turning to it in the hope that through its various processes and mechanisms (justice, truth, reparation and guarantees of non-recurrence), all of which are intimately related to the existence of international obligations, it might deliver lasting peace, reconciliation, democracy, human rights protection and even, for some, development and poverty eradication.¹

However, a few decades have passed since transitional justice began in the Americas region (Chile, Argentina, Guatemala, El Salvador and others) and in other parts of the world (South Africa), and legal and social operators are still waiting to enhance human rights protection and achieve these social goals. South Africa, for example, despite its very well-known truth and reconciliation commission's work, and despite various other measures taken to deal with the legacy of apartheid, remains

Notes to this text start on page 189.

a highly unequal State, poverty continues to be rampant (TERREBLANCHE, 2002, p. 5) and key human rights like the right to reparation of justice appear to be more theory than a social reality. So, what happened? Did transitional justice processes and mechanisms fail? What did South Africa do wrong?

If we look at other States that have engaged with transitional justice, the story is not that different. Consider, for example, Guatemala, Sierra Leone or East Timor. Therefore it is prudent to consider whether transitional justice can deliver social change and to re-assess expectations so that we use transitional justice processes and the legal framework that drives them, including international human rights law, to achieve what they are able to deliver.

This article shares some thoughts on this pressing question. Given space constraints, some issues cannot be explored in great detail but it provides the reader with some provocative thoughts so that all those interested and working in the field of transitional justice can take stock of what we have done and learned during these decades of work and project that into the future, with vision and realism about what is possible. It is there that the real potential of transitional justice for social change is to be found.

2 The normative framework of transitional justice

Transitional justice is a relatively new field. It is only a few decades old and it has emerged out of practice. Some of this practice is the result of strong campaigning carried out by human rights lawyers around the world to resist gross human rights violations and/or serious violations of humanitarian law (ARTHUR, 2009). That is how it began in countries like Argentina or Chile. At the time there was (and there still is) a strong need to fight impunity, and human rights law constituted a suitable tool to this end. Human rights lawyers began to advocate, quite strongly, that under international human rights law and other branches of public international law, there was an obligation to investigate, prosecute and, if applicable, punish perpetrators of human rights violations and serious breaches of humanitarian law (MENDEZ, 1997; ORENTLICHER, 1991, 2007) that there was a right to know the truth of what happened (HAYNER, 2001; UNITED NATIONS, 2006) and a right to reparations for harm suffered (SHELTON, 2005; UNITED NATIONS, 1997, 2005). It was also said that States had an obligation to adopt and implement guarantees of non-recurrence and institutional reform measures to ensure that what happened would not happen again (SHELTON, 2005; UNITED NATIONS, 1997, 2005).² Therefore, as can be seen, transitional justice processes (justice, truth, reparation and guarantees of non-recurrence) respond to and are driven by an international legal framework that includes international human rights law, international refugee law, international humanitarian law and international criminal law (UNITED NATIONS, 2004). Customary law and treaty law support the existence of these obligations under public international law. Therefore, any consideration of the potential of transitional justice to bring about social change is also a consideration of the potential of this legal framework to help towards that end.

3 The meaning and the possibility of social change and transitional justice

It is often taken for granted that States have the quality to free themselves from anything that oppresses them or keeps them from developing. This idea is based on the assumption that changes and progress are possible. This is a key belief of modernity. This idea is also present in international human rights law and the transitional justice field. It is believed that a process by which the attainment of a certain objectives, be they reckoning with the legacy of mass atrocities, establishing the rule of law, achieving peace, human rights, democracy and others, enabling perpetrators, victims and society as a whole to move forward, is achievable. This means that it is possible to transform the social, economic and political conditions and behaviour that made the atrocities possible. This possibility of social change, however, is very often taken for granted, while the capacity of social conditions to remain unchanged is usually overlooked.³ Yet this is not to suggest that change in the field of transitional justice does not occur. As with other social elements, change and fixity are present in the field of transitional justice and they can set limitations or possibilities on the former.⁴ These elements should be carefully scrutinised. This point is of extreme importance when approaching transitional justice, as we have to deal with different types of changes occurring in different tempos, which suggests that there are certain transformations which are natural to the system and others which conflict with the nature of the system transitional justice ought to transform. However, for the purposes of this article, it can be said that because the social conditions, broadly speaking, are susceptible to change, progress is possible, without all change implying progress.⁵ Indeed, change can take place in the middle of contradictions and complex transformations, which does not imply progress as a consequence, much less that the objectives of transitional justice have been achieved.

Three types of social changes are present in social struggles in the field of transitional justice and more broadly: *ordinary changes*, *structural changes* and *fundamental changes*. The key to distinguish each one of these forms of change is their relationship between what changes and the ideology that allowed atrocities to happen. If the change taking place in the field of transitional justice does not transform the ideology that supported the conflict or the repressive regime, we have ordinary or structural changes. For example, the enactment of an amnesty law or statutes of limitation constitutes a form of ordinary change that often happens during a transition. These laws are enacted and, most of the time, drafted in order to maintain the ideology that made the atrocities possible. They might be the result of a strong political struggle and might face a lot of resistance but at the end of the day, they do not threaten or transform the existing regime. They perpetuate it.

A structural change is a bit more complex and can give the illusion that fundamental change is at stake. For example, the enactment of a new Political Constitution, as happened in South Africa with the Interim Constitution of 1993 or the Political Constitution of 1996 (post-apartheid) or with the Colombian Constitution of 1991, is often considered to be a fundamental change, given that the foundational piece of the legal system has been transformed. However, this is

far from being the case. These *structural* transformations might be necessary but are not sufficient for the production of this type of change. The enactment of a new Constitution, an important guarantee of non-repetition, will not constitute a fundamental change unless it is able to transform the ideology that supported the old system and this does not simply happen with the enactment of a new foundational law. The case of South Africa is again illustrative in this respect. An important interim and a new constitution were enacted that established civil, political, economic, social and cultural rights, along with various remedies for individuals and important social institutions to transform the status quo established by the apartheid regime. Still, despite the significant work carried out by institutions like the South African Constitutional Court to protect rights, the majority of South Africans do not have their rights protected and it remains a deeply unequal society, which was entrenched already during apartheid. Therefore, important elements of the apartheid ideology remain present in South Africa's society today.

The establishment of transitional justice mechanisms such as truth commissions, commissions of enquiry, civil and criminal tribunals as well as reparation programmes could also be seen as structural changes. While often they have such a nature, this is not the case in all situations, given that some of these mechanisms are established not to achieve the aims they seek—truth, justice and reparation or prevention—but to give the illusion that things are changing, when in reality, the objective of those in power is to maintain the *status quo*.

A fundamental social change happens when social struggle is able to put forward a new dominant ideology inspired by radically different values to those present during the repression or the conflict. It is hard to think of an example to-date where a change has been so fundamental in a society undergoing a transition that the old ideology has been defeated. Transitional justice, in my view, is due to provide us with such example. This also means that the majority of changes happening in the transitional justice field are ordinary, with some structural ones also taking place. Once again, look at South Africa. While apartheid and racial discrimination were defeated—key tenets of the dominant ideology until then—inequality is still present at various levels and particularly, but not only, affects the black population.

This does not mean that change in the transitional justice field is not important or that it is not possible. Indeed, transitional justice is only possible in States where the old ideology has been weakened, is under threat and has lost legitimacy, as happened with the apartheid regime or with the dictatorships in the Southern Cone. This constitutes a unique moment, a unique window of opportunity, even if small, to contribute to the transformation of that old ideology that permitted or consented to the atrocities that took place. Therefore, transitional justice offers important opportunities that are not often present in other political struggles.

3.1 What kind of change is achievable in the field of transitional justice?

While change (ordinary, structural and/or fundamental) in the field of transitional justice is possible, as has been suggested, it is important to remember that most often the expectations about what it can deliver are without grounds. To expect transitional

justice to deliver development, democracy, rule of law or peace is beyond what it can achieve, even if it might contribute to some of these goals. It is better to see the field of transitional justice in *realistic terms* without over dimensioning its potential. In such terms, transitional justice is about reckoning with the legacy of mass atrocities, and in that context, it is about achieving justice, truth, reparation and setting the grounds for such atrocities not to happen again. This is meant to contribute to a fundamental transformation of the ideology that allowed such atrocities. These are goals that transitional justice can work to deliver, using the various forms of change already indicated. This is not to set the bar too low. Indeed, transitional justice has struggled for decades to deliver this realistic view.

Transitional justice also delivers change at the individual level. For example, certain victims or perpetrators may feel that things have changed for them and that those changes are more than significant, as happens when a State recognises international responsibility for what it has done, apologises to the victims or finds the whereabouts of a disappeared family member. Others can feel and believe that changes have not happened at all, despite evidence that some things have changed. While the views and feelings of those who have been part of the repression or conflict, or suffered their consequences, are relevant to considering issues of social change, in this article I am concerned with changes of a universal nature, changes that affect society as a whole and not only few of its members. For example, from a justice perspective, structural change would mean that the majority of perpetrators (intellectual and material) have been investigated, prosecuted and punished, even if some of them were not, because their crimes were not proven beyond reasonable doubt.

3.2 How to maximise the potential of transitional justice processes to deliver social change?

Pablo de Greiff, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence reminds us that transitional justice is not a package of processes from which States can pick and choose (UNITED NATIONS, 2012, paras. 22-27). All processes of transitional justice should be used as they complement each other and are interdependent (UNITED NATIONS, 2012, paras. 22-24). Also, the success of these mechanisms in achieving their aims depends strongly on their capacity to co-exist and reinforce each other. However, States have been very selective about the processes they are ready to engage with and even if they implement some of them, they do so with various limitations (financial, legal and human). For example, truth is usually prioritised in order to avoid justice and or reparation as was the case of El Salvador. Reparation is often neglected, as has happened in East Timor, despite the recommendations made by CAVR (The Commission for Reception, Truth and Reconciliation) and very few examples exist where States have taken seriously the need to redress victims. Guarantees of non-recurrence are the missing part of the puzzle in almost every State undergoing a process of transitional justice.

Persuading States of the need to consider the aggregate value of all transitional justice processes and mechanisms is a challenge. Various questions remain outstanding about how to link the various mechanisms in a way that enhances their potential to

achieve their aims. There are also questions about whether sequencing is necessary. However, as the field of transitional justice evolves and new experiences take place, we continue to learn about the value added using all of these measures together. Even more, the will of States to reckon with the past can be tested by their capacity to engage in a holistic way with transitional justice mechanisms. The less mechanisms of transitional justice they are willing to engage with, the more that their will to deal with the legacy of mass atrocities can be questioned.

Equally, transitional justice processes cannot be used in isolation from other important public policies that are adopted in a State moving away from conflict or repression, something De Greiff has also noted. Transitional justice should find ways to complement and enhance development projects, to work closely with DDR (disarmament, demobilisation and reintegration) and with other similar policies or programmes that take place in parallel to transitional justice, always aiming to maximise its lasting impact (UNITED NATIONS, 2012, para. 50). Transforming in a fundamental way the ideology that made the atrocities possible requires sustained social, economic, cultural and political efforts that use transitional justice processes but that go beyond them.

Aiming to reckon with the legacy of mass atrocities is a big challenge. Removing ideologies that have been present and that have allowed and have consented to such atrocities is not a task for a few years or days. It takes generations to change ways of thinking about humanity, what is right and wrong, and what goals should be pursued in society. Unfortunately, transitional justice mechanisms and processes continue to be thought of as extraordinary mechanisms that are only needed for a few years, after which, the work is done. This approach is a tremendous error. While it might be the case that they do not need to be permanent mechanisms, for social change to take place, of the kind that transitional justice can deliver, it is essential to invest in it in a holistic way for various years. But the reality is that States moving away from repression or conflict, with or without international cooperation, only back up such processes for a short period of time and then abandon the projects, as if the goals had been achieved. Sustained investment (human and financial) is essential in countries reckoning with their past. It is not only that structural and particularly fundamental change takes time to materialise, but also that States engaging with transitional justice have to constantly adjust their policy interventions in this area.

Chile is a good example of the decades involved in moving forward and transforming ideologies. In the case of Chile, more than 24 years have passed since Pinochet left power and Patricio Aylwin assumed as president of the country. Nevertheless, the Chilean Constitution is the same constitution of Pinochet from 1980 (although it has been amended on various occasions), and the amnesty law (Decree 2191/1978) remains part of the legal system. This is not to suggest that ordinary and structural changes have not taken place. Without a doubt, Chile has had an important experience with transitional justice processes that includes reparations, memorialisation, truth and, lately, justice measures. However, it did not deliver on these fronts right from the beginning. Indeed, while its first truth and reconciliation commission was established in 1990 to clarify the truth about the disappearances and killings and related violations to such atrocities like torture (CHILE, 1990), it

was not until September 2003, thirteen years later, that the Valech Commission was established to identify the victims of detention and torture for political reasons (CHILE, 2003). This means that even in States like Chile, where transitional justice has been an on-going project, the achievement of transitional justice goals remains an objective to be pursued.

Finally, transitional justice processes should always aim to empower victims and those most vulnerable from the conflict or period of repression. Only by getting them to understand that they matter for society and that they are agents of social change will they help transform old ideologies. Otherwise, they will always be marginalised and victimised. Therefore, all transitional justice mechanisms should see victims not as objects to achieve aims, as often happens with criminal investigations, but as rights holders. In this regard it is particularly relevant to empower women, children, minorities, the elderly and the disabled, among others (UNITED NATIONS, 2012, paras. 29-35).⁶

4 Conclusions

Without a doubt the field of transitional justice has articulated the language of social change. However, it is important to re-dimension its real potential to bring about any kind of change in society. In the transitional justice field, we find examples of ordinary and structural changes, and it is even possible to consider that it can contribute towards fundamental social change.

To be able to understand what changes take place in transitional justice and to be able to measure its ability to achieve them, it is necessary to clarify the kind of goals that could be pursued through transitional justice processes and mechanisms. In this regard, it has been suggested that a realistic approach is more likely to deliver changes. It is reasonable to expect transitional justice processes to deliver justice, reparation, truth and non-recurrence and to contribute in important ways to fundamental social change by helping to transform the ideology that permitted atrocities to happen. It is there that their potential for social change should be sought, and it is in the summation of the various tools it offers (truth, justice, reparation and non-repetition) that its real ability to deliver social change has to be pursued.

REFERENCES

Bibliography and Other Sources

- ARTHUR, Paige. 2009. How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice. *Human Rights Quarterly*, v. 31, n. 2, p. 321-367.
- BERMAN, Harold J. 1983. *Law and Revolution: The Formation of the Western Legal Tradition*. Cambridge, Massachusetts, London: Harvard University Press.

- FREEMAN, Mark. 2006. **Truth Commissions and Procedural Fairness**. Cambridge: Cambridge University Press.
- HAYNER, Priscilla. 2001. **Unspeakable Truths: Confronting State Terror and Atrocity**. New York, London: Routledge.
- LACLAU, Ernesto. 1996. **Emancipation(s)**. London: Verso.
- LEADER, Sheldon. 1998. The Peculiar Quality of Progress. *Brooklyn Law Review*, v. 64, n.4, p. 1205.
- MENDEZ, Juan. 1997. Accountability for Past Abuses. *Human Rights Quarterly*, v. 19, n. 2, p. 255. Available at: <<http://userpages.umbc.edu/~simpson/Human%20Rights/articles/Mendez,%20Accountability%20for%20Past%20Abuses.htm>>. Last accessed in: Aug. 2014.
- MINOW, Martha. 1998. **Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence**. US: Beacon Press.
- NISBET, Robert. 1969. **Social Change and History**. New York: Oxford University Press.
- _____. 1980. *The History of the Idea of Progress*. New Brunswick: Transaction Publishers. 370 p.
- ORENTLICHER, Diane. 1991. Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime. *The Yale Law Journal*, v. 100, n. 8, p. 2537-2615, June.
- _____. 2007. Settling Accounts Revisited: Reconciling Global Norms and Local Agency. *International Journal of Transitional Justice*, v. 1, n. 1, p. 10-22.
- ROHT-ARRIAZA, Naomi.; MARIEZCURRENA, Javier. 2006. **Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice**. New York: Cambridge University Press.
- SANTOS, Boaventura de Sousa. 2002. **Toward a New Legal Common Sense**. London: Butterworths.
- SHELTON, Dinah. 2005. **Remedies in International Human Rights Law**. Second edition. Oxford: Oxford University Press.
- TEITEL, Ruti. 2001. **Transitional Justice**. Oxford: Oxford University Press.
- TERREBLANCHE, Sampie. 2002. **A History of Inequality in South Africa (1652-2002)**. South Africa: University of Natal Press and KMM.
- TURNER, Catherine. 2008. Delivering Lasting Peace, Democracy and Human Rights in Times of Transition: The Role of International Law. *International Journal of Transitional Justice*, v. 2, n. 2, p. 126-151.
- UNITED NATIONS. 1997. **Report of Diane Orentlicher, independent expert to update the Set of principles to combat impunity** – Updated Set of principles for the protection and promotion of human rights through action to combat impunity Joint Principles, E/CN.4/Sub.2/1997/20/Rev.1, annex II (2005). Available at: <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G97/141/42/PDF/G9714142.pdf?OpenElement>>. Last accessed in: Aug. 2014.

- _____. 2004. Secretary General. **The Rule of Law in Conflict and Post-Conflict Societies**. New York, 23 Aug., p. 5. Available at: <<http://www.unrol.org/files/2004%20report.pdf>>. Last accessed in: Aug. 2014.
- _____. 2005. Office of the High Commissioner for Human Rights. **Basic principles and guidelines on the right to a remedy and preparation for victims of gross violations of international human rights law and serious violations of international humanitarian law Van Boven-Bassiouni Principles**. UN Doc E/CN.4/2000/62 (2005). Available at: <http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-35.doc>. Last accessed in: Aug. 2014;
- _____. 2006. Office of the High Commissioner for Human Rights. **Rule-of-Law Tools for Post-Conflict States: Truth Commissions**. UN Doc. HR/PUB/06/1. New York and Geneva. Available at: <<http://www.ohchr.org/Documents/Publications/RuleoflawTruthCommissionsen.pdf>>. Last accessed in: Aug. 2014.
- _____. 2012. Human Rights Council. **Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, Pablo de Greiff**. UN Doc. A/HRC/21/46, 9 Aug. Available at: <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/158/58/PDF/G1215858.pdf?OpenElement>>. Last accessed in: Aug. 2014.

Jurisprudence

- CHILE. 1990. Ministry of Justice. **Supreme Decree N. 355** of 25 Apr.
- _____. 2003. Ministry of Interior. **Supreme Decree N. 1040** of 26 Sept.

NOTES

1. See for example, Roht-Arriaza; Mariezcurrena (2006), Teitel (2001), Minow (1998), Arthur (2009), Turner (2008).
2. Updated Set of principles for the protection and promotion of human rights through action to combat impunity.
3. Nisbet, in his book *Social Change and History*, develops a powerful argument to show the priority of fixity over change in the social reality. He claims that, "Change is, however, not 'natural', not normal, much less ubiquitous and constant. Fixity is" and then continues, "In the realm of observation and common sense, nothing is more obvious than the conservative bent of human behavior, the manifest desire to preserve, hold, fix and keep stable. Common sense tells us that, given the immense sway of habit in individual behavior and of custom, tradition, and the sacred in collective behavior, change could hardly be a constant, could hardly be ubiquitous" (NISBET, 1969, p. 271).
4. Just think, for example, how difficult it is to enact a new constitution, especially inside rigid legal systems, or to enact a new treaty in the international arena. Most of the changes in the law are gradual changes that have to follow certain patterns not to violate the essence of the system where they are taking place.
5. For interesting insights into the concept of emancipation within modernity, see: Leader (1998), Berman (1983), Laclau (1996), Santos (2002) and Nisbet (1969, 1980).
6. In this report De Greiff reminds us of the importance of recognition and trust for victims. They are goals that transitional justice should aim to achieve.

PREVIOUS NUMBERS

Previous numbers are available at <www.surjournal.org>.

SUR 1, v. 1, n. 1, Jun. 2004

EMILIO GARCÍA MÉNDEZ
Origin, Concept and Future of Human Rights: Reflections for a New Agenda

FLAVIA PIOVESAN
Social, Economic and Cultural Rights and Civil and Political Rights

OSCAR VILHENA VIEIRA AND A. SCOTT DUPREE
Reflections on Civil Society and Human Rights

JEREMY SARKIN
The Coming of Age of Claims for Reparations for Human Rights Abuses Committed in the South

VINODH JAICHAND
Public Interest Litigation Strategies for Advancing Human Rights in Domestic Systems of Law

PAUL CHEVIGNY
Repression in the United States after the September 11 Attack

SERGIO VIEIRA DE MELLO
Only Member States Can Make the UN Work Five Questions for the Human Rights Field

SUR 2, v. 2, n. 2, Jun. 2005

SALIL SHETTY
Millennium Declaration and Development Goals: Opportunities for Human Rights

FATEH AZZAM
Reflections on Human Rights Approaches to Implementing the Millennium Development Goals

RICHARD PIERRE CLAUDE
The Right to Education and Human Rights Education

JOSÉ REINALDO DE LIMA LOPES
The Right to Recognition for Gays and Lesbians

E.S. NWAUCHE AND J.C. NWOBIKE
Implementing the Right to Development

STEVEN FREELAND
Human Rights, the Environment and Conflict: Addressing Crimes against the Environment

FIONA MACAULAY
Civil Society-State Partnerships for the Promotion of Citizen Security in Brazil

EDWIN REKOSH
Who Defines the Public Interest?

VÍCTOR E. ABRAMOVICH
Courses of Action in Economic, Social and Cultural Rights: Instruments and Allies

SUR 3, v. 2, n. 3, Dec. 2005

CAROLINE DOMMEN
Trade and Human Rights: Towards Coherence

CARLOS M. CORREA
TRIPS Agreement and Access to Drugs in Developing Countries

BERNARDO SORJ
Security, Human Security and Latin America

ALBERTO BOVINO
Evidential Issues before the Inter-American Court of Human Rights

NICO HORN
Eddie Mabo and Namibia: Land Reform and Pre-Colonial Land Rights

NLERUM S. OKOGBULE
Access to Justice and Human Rights Protection in Nigeria: Problems and Prospects

MARÍA JOSÉ GUEMBE
Reopening of Trials for Crimes Committed by the Argentine Military Dictatorship

JOSÉ RICARDO CUNHA
Human Rights and Justiciability: A Survey Conducted in Rio de Janeiro

LOUISE ARBOUR
Plan of Action Submitted by the United Nations High Commissioner for Human Rights

SUR 4, v. 3, n. 4, Jun. 2006

FERNANDE RAINE
The measurement challenge in human rights

MARIO MELO
Recent advances in the justiciability of indigenous rights in the Inter American System of Human Rights

ISABELA FIGUEROA
Indigenous peoples versus oil companies: Constitutional control within resistance

ROBERT ARCHER
The strengths of different traditions: What can be gained and what might be lost by combining rights and development?

J. PAUL MARTIN
Development and rights revisited: Lessons from Africa

MICHELLE RATTON SANCHEZ
Brief observations on the mechanisms for NGO participation in the WTO

JUSTICE C. NWOBIKE
Pharmaceutical corporations and access to drugs in developing countries: The way forward

CLÓVIS ROBERTO ZIMMERMANN
Social programs from a human rights perspective: The case of the Lula administration's family grant in Brazil

CHRISTOF HEYNS, DAVID PADILLA AND LEO ZWAAK
A schematic comparison of regional human rights systems: An update

BOOK REVIEW

SUR 5, v. 3, n. 5, Dec. 2006

CARLOS VILLAN DURAN
Lights and shadows of the new United Nations Human Rights Council

PAULINA VEGA GONZÁLEZ
The role of victims in International Criminal Court proceedings: their rights and the first rulings of the Court

OSWALDO RUIZ CHIRIBOGA
The right to cultural identity of indigenous peoples and national minorities: a look from the Inter-American System

LYDIAH KEMUNTO BOSIRE
Overpromised, underdelivered: transitional justice in Sub-Saharan Africa

DEVIKA PRASAD
Strengthening democratic policing and accountability in the Commonwealth Pacific

IGNACIO CANO
Public security policies in Brazil: attempts to modernize and democratize versus the war on crime

TOM FARER
Toward an effective international legal order: from co-existence to concert?

BOOK REVIEW

SUR 6, v. 4, n. 6, Jun. 2007

UPENDRA BAXI
The Rule of Law in India

OSCAR VILHENA VIEIRA
Inequality and the subversion of the Rule of Law

RODRIGO UPRIMNY YEPES
Judicialization of politics in Colombia: cases, merits and risks

LAURA C. PAUTASSI
Is there equality in inequality? Scope and limits of affirmative actions

GERT JONKER AND RIKA SWANZEN
Intermediary services for child witnesses testifying in South African criminal courts

PREVIOUS NUMBERS

Previous numbers are available at <www.surjournal.org>.

SERGIO BRANCO

Brazilian copyright law and how it restricts the efficiency of the human right to education

THOMAS W. POGGE

Eradicating systemic poverty: brief for a Global Resources Dividend

SUR 7, v. 4, n. 7, Dec. 2007

LUCIA NADER

The role of NGOs in the UN Human Rights Council

CECÍLIA MACDOWELL SANTOS

Transnational legal activism and the State: reflections on cases against Brazil in the Inter-American Commission on Human Rights

TRANSITIONAL JUSTICE

TARA URS

Imagining locally-motivated accountability for mass atrocities: voices from Cambodia

CECILY ROSE AND

FRANCIS M. SSEKANDI

The pursuit of transitional justice and African traditional values: a clash of civilizations – The case of Uganda

RAMONA VIJEYARASA

Facing Australia's history: truth and reconciliation for the stolen generations

ELIZABETH SALMÓN G.

The long road in the fight against poverty and its promising encounter with human rights

INTERVIEW WITH JUAN MÉNDEZ

By Glenda Mezarobba

SUR 8, v. 5, n. 8, Jun. 2008

MARTÍN ABREGÚ

Human rights for all: from the struggle against authoritarianism to the construction of an all-inclusive democracy - A view from the Southern Cone and Andean region

AMITA DHANDA

Constructing a new human rights lexicon: Convention on the Rights of Persons with Disabilities

LAURA DAVIS MATTAR

Legal recognition of sexual rights – a comparative analysis with reproductive rights

JAMES L. CAVALLARO AND STEPHANIE ERIN BREWER

The virtue of following: the role of Inter-American litigation in campaigns for social justice

RIGHT TO HEALTH AND ACCESS TO MEDICAMENTS

PAUL HUNT AND RAJAT KHOSLA

The human right to medicines

THOMAS POGGE

Medicines for the world: boosting innovation without obstructing free access

JORGE CONTESSE AND DOMINGO LOVERA PARMO

Access to medical treatment for people living with HIV/AIDS: success without victory in Chile

GABRIELA COSTA CHAVES, MARCELA FOGAÇA VIEIRA AND RENATA REIS

Access to medicines and intellectual property in Brazil: reflections and strategies of civil society

SUR 9, v. 5, n. 9, Dec. 2008

BARBORA BUKOVSKÁ

Perpetrating good: unintended consequences of international human rights advocacy

JEREMY SARKIN

Prisons in Africa: an evaluation from a human rights perspective

REBECCA SAUNDERS

Lost in translation: expressions of human suffering, the language of human rights, and the South African Truth and Reconciliation Commission

SIXTY YEARS OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

PAULO SÉRGIO PINHEIRO

Sixty years after the Universal Declaration: navigating the contradictions

FERNANDA DOZ COSTA

Poverty and human rights from rhetoric to legal obligations: a critical account of conceptual frameworks

EITAN FELNER

A new frontier in economic and social rights advocacy? Turning quantitative data into a tool for human rights accountability

KATHERINE SHORT

From Commission to Council: has the United Nations succeeded in creating a credible human rights body?

ANTHONY ROMERO

Interview with Anthony Romero, Executive Director of the American Civil Liberties Union (ACLU)

SUR 10, v. 6, n. 10, Jun. 2009

ANUJ BHUWANIA

"Very wicked children": "Indian torture" and the Madras Torture Commission Report of 1855

DANIELA DE VITO, AISHA GILL AND DAMIEN SH-ORT

Rape characterised as genocide

CHRISTIAN COURTIS

Notes on the implementation by Latin American courts of the ILO Convention 169 on indigenous peoples

BENYAM D. MEZMUR

Intercountry adoption as a measure of last resort in Africa: Advancing the rights of a child rather than a right to a child

HUMAN RIGHTS OF PEOPLE ON THE MOVE: MIGRANTS AND REFUGEES

KATHARINE DERDERIAN AND LIESBETH SCHOCKAERT

Responding to "mixed" migration flows: A humanitarian perspective

JUAN CARLOS MURILLO

The legitimate security interests of the State and international refugee protection

MANUELA TRINDADE VIANA

International cooperation and internal displacement in Colombia: Facing the challenges of the largest humanitarian crisis in South America

JOSEPH AMON AND KATHERINE TODRYS

Access to antiretroviral treatment for migrant populations in the Global South

PABLO CERIANI CERNADAS

European migration control in the African territory: The omission of the extraterritorial character of human rights obligations

SUR 11, v. 6, n. 11, Dec. 2009

VÍCTOR ABRAMOVICH

From Massive Violations to Structural Patterns: New Approaches and Classic Tensions in the Inter-American Human Rights System

VIVIANA BOHÓRQUEZ MONSALVE AND JAVIER AGUIRRE ROMÁN

Tensions of Human Dignity: Conceptualization and Application to International Human Rights Law

DEBORA DINIZ, LÍVIA BARBOSA AND WEDERSON RUFINO DOS SANTOS

Disability, Human Rights and Justice

JULIETA LEMAITRE RIPOLL

Love in the Time of Cholera: LGBT Rights in Colombia

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

MALCOLM LANGFORD

Domestic Adjudication and Economic, Social and Cultural Rights: A Socio-Legal Review

PREVIOUS NUMBERS

Previous numbers are available at <www.surjournal.org>.

ANN BLYBERG

The Case of the Misallocated Allocation:
Economic and Social Rights and
Budget Work

ALDO CALIARI

Trade, Investment, Finance and
Human Rights: Assessment and
Strategy Paper

PATRICIA FEENEY

Business and Human Rights: The
Struggle for Accountability in the
UN and the Future Direction of the
Advocacy Agenda

INTERNATIONAL HUMAN RIGHTS COLLOQUIUM

Interview with Rindai Chipfunde-
Vava, Director of the Zimbabwe
Election Support Network (ZESN)
Report on the IX International
Human Rights Colloquium

SUR 12, v. 7, n. 12, Jun. 2010

SALIL SHETTY

Foreword

FERNANDO BASCH ET AL.

The Effectiveness of the Inter-
American System of Human
Rights Protection: A Quantitative
Approach to its Functioning and
Compliance With its Decisions

RICHARD BOURNE

The Commonwealth of Nations:
Intergovernmental and
Nongovernmental Strategies for the
Protection of Human Rights in a
Post-colonial Association

MILLENNIUM DEVELOPMENT GOALS

AMNESTY INTERNATIONAL

Combating Exclusion: Why Human
Rights Are Essential for the MDGs

VICTORIA TAULI-CORPUZ

Reflections on the Role of the
United Nations Permanent Forum
on Indigenous Issues in relation to
the Millennium Development Goals

ALICIA ELY YAMIN

Toward Transformative
Accountability: Applying a Rights-
based Approach to Fulfill Maternal
Health Obligations

SARAH ZAIDI

Millennium Development Goal 6 and
the Right to Health: Conflictual or
Complementary?

MARCOS A. ORELLANA

Climate Change and the Millennium
Development Goals: The Right to
Development, International
Cooperation and the Clean
Development Mechanism

CORPORATE ACCOUNTABILITY

LINDIWE KNUTSON

Aliens, Apartheid and US Courts:
Is the Right of Apartheid Victims to
Claim Reparations from Multinational
Corporations at last Recognized?

DAVID BILCHITZ

The Ruggie Framework: An Adequate
Rubric for Corporate Human Rights
Obligations?

SUR 13, v. 7, n. 13, Dec. 2010

GLENDIA MEZAROBBA

Between Reparations, Half Truths
and Impunity: The Difficult Break
with the Legacy of the Dictatorship
in Brazil

GERARDO ARCE ARCE

Armed Forces, Truth Commission and
Transitional Justice in Peru

REGIONAL HUMAN RIGHTS MECHANISMS

FELIPE GONZÁLEZ

Urgent Measures in the Inter-
American Human Rights System

JUAN CARLOS GUTIÉRREZ AND
SILVANO CANTÚ

The Restriction of Military
Jurisdiction in International Human
Rights Protection Systems

DEBRA LONG AND LUKAS
MUNTINGH

The Special Rapporteur on Prisons
and Conditions of Detention in Africa
and the Committee for the Prevention
of Torture in Africa: The Potential
for Synergy or Inertia?

LUCYLINE NKATHA MURUNGI
AND JACQUI GALLINETTI

The Role of Sub-Regional Courts in
the African Human Rights System

MAGNUS KILLANDER

Interpreting Regional Human Rights
Treaties

ANTONIO M. CISNEROS DE
ALENCAR

Cooperation Between the Universal
and Inter-American Human Rights
Systems in the Framework of the
Universal Periodic Review Mechanism

IN MEMORIAM

Kevin Boyle – Strong Link
in the Chain
By Borislav Petranov

SUR 14, v. 8, n. 14, Jun. 2011

MAURICIO ALBARRACÍN
CABALLERO

Social Movements and the
Constitutional Court: Legal
Recognition of the Rights of Same-
Sex Couples in Colombia

DANIEL VÁZQUEZ AND
DOMITILLE DELAPLACE

Public Policies from a Human
Rights Perspective: A Developing
Field

J. PAUL MARTIN

Human Rights Education in
Communities Recovering from
Major Social Crisis: Lessons for
Haiti

THE RIGHTS OF PERSONS WITH DISABILITIES

LUIS FERNANDO ASTORGA
GATJENS

Analysis of Article 33 of the
UN Convention: The Critical
Importance of National
Implementation and Monitoring

LETÍCIA DE CAMPOS VELHO
MARTEL

Reasonable Accommodation: The
New Concept from an Inclusive
Constitutional Perspective

MARTA SCHAAF

Negotiating Sexuality in the
Convention on the Rights of Persons
with Disabilities

TOBIAS PIETER VAN REENEN
AND HELÉNE COMBRINCK

The UN Convention on the Rights of
Persons with Disabilities in Africa:
Progress after 5 Years

STELLA C. REICHER

Human Diversity and Asymmetries:
A Reinterpretation of the Social
Contract under the Capabilities
Approach

PETER LUCAS

The Open Door: Five Foundational
Films That Seeded the
Representation of Human Rights for
Persons with Disabilities

LUIS GALLEGOS CHIRIBOGA

Interview with Luis Gallegos
Chiriboga, President (2002-2005)
of the Ad Hoc Committee that Drew
Up the Convention on the Rights of
Persons with Disabilities

SUR 15, v. 8, n. 15, Dec. 2011

ZIBA MIR-HOSSEINI

Criminalising Sexuality: *Zina* Laws
as Violence Against Women in
Muslim Contexts

LEANDRO MARTINS ZANITELLI

Corporations and Human Rights:
The Debate Between Voluntarists
and Obligationists and the
Undermining Effect of Sanctions

INTERVIEW WITH DENISE DORA

Former Ford Foundation's Human
Rights Officer in Brazil (2000-
2011)

IMPLEMENTATION AT THE NATIONAL LEVEL OF THE DECISIONS OF THE REGIONAL AND INTERNATIONAL HUMAN RIGHTS SYSTEMS

MARIA ISSAEVA, IRINA SERGEEVA AND MARIA SUCHKOVA

Enforcement of the Judgments of the European Court of Human Rights in Russia: Recent Developments and Current Challenges

CÁSSIA MARIA ROSATO AND LUDMILA CERQUEIRA CORREIA

The *Damião Ximenes Lopes* Case: Changes and Challenges Following the First Ruling Against Brazil in the Inter-American Court of Human Rights

DAMIÁN A. GONZÁLEZ-SALZBERG

The Implementation of Decisions from the Inter-American Court of Human Rights in Argentina: An Analysis of the Jurisprudential Swings of the Supreme Court

MARCIA NINA BERNARDES

Inter-American Human Rights System as a Transnational Public Sphere: Legal and Political Aspects of the Implementation of International Decisions

SPECIAL ISSUE: CONECTAS HUMAN RIGHTS - 10 YEARS

The Making of an International Organization from/in the South

SUR 16, v. 9, n. 16, Jun. 2012

PATRICIO GALELLA AND CARLOS ESPÓSITO

Extraordinary Renditions in the Fight Against Terrorism. Forced Disappearances?

BRIDGET CONLEY-ZILKIC

A Challenge to Those Working in the Field of Genocide Prevention and Response

MARTA RODRIGUEZ DE ASSIS MACHADO, JOSÉ RODRIGO RODRIGUEZ, FLAVIO MARQUES PROL, GABRIELA JUSTINO DA SILVA, MARINA ZANATA GANZAROLLI AND RENATA DO VALE ELIAS

Law Enforcement at Issue: Constitutionality of Maria da Penha Law in Brazilian Courts

SIMON M. WELDEHAIMANOT

The ACHPR in the Case of *Southern Cameroons*

ANDRÉ LUIZ SICILIANO

The Role of the Universalization of Human Rights and Migration in the Formation of a New Global Governance

CITIZEN SECURITY AND HUMAN RIGHTS

GINO COSTA

Citizen Security and Transnational Organized Crime in the Americas: Current Situation and Challenges in the Inter-American Arena

MANUEL TUFRÓ

Civic Participation, Democratic Security and Conflict Between Political Cultures. First Notes on an Experiment in the City of Buenos Aires

CELS

The Current Agenda of Security and Human Rights in Argentina. An Analysis by the Center for Legal and Social Studies (CELS)

PEDRO ABRAMOVAY

Drug policy and *The March of Folly*

Views on the Special Police Units for Neighborhood Pacification (UPPs) in Rio de Janeiro, Brazil

Rafael Dias — Global Justice Researcher

José Marcelo Zacchi — Research Associate, Institute for Studies on Labor and Society — IETS

SUR 17, v. 9, n. 17, Dec. 2012

DEVELOPMENT AND HUMAN RIGHTS

CÉSAR RODRÍGUEZ GARAVITO, JUANA KWEITEL AND LAURA TRAJBER WAISBICH

Development and Human Rights: Some Ideas on How to Restart the Debate

IRENE BIGLINO, CHRISTOPHE GOLAY AND IVONA TRUSCAN

The Contribution of the UN Special Procedures to the Human Rights and Development Dialogue

LUIS CARLOS BUOB CONCHA

The Right to Water: Understanding its Economic, Social and Cultural Components as Development Factors for Indigenous Communities

ANDREA SCETTINI

Toward a New Paradigm of Human Rights Protection for Indigenous Peoples: A Critical Analysis of the Parameters Established by the Inter-American Court of Human Rights

SERGES ALAIN DJOYOU KAMGA AND SIYAMBONGA HELEBA

Can Economic Growth Translate into Access to Rights? Challenges Faced by Institutions in South Africa in Ensuring that Growth Leads to Better Living Standards

INTERVIEW WITH SHELDON LEADER

Transnational Corporations and Human Rights

ALINE ALBUQUERQUE AND DABNEY EVANS

Right to Health in Brazil: A Study of the Treaty-Reporting System

LINDA DARKWA AND PHILIP ATTUQUAYEFIO

Killing to Protect? Land Guards, State Subordination and Human Rights in Ghana

CRISTINA RĂDOI

The Ineffective Response of International Organisations Concerning the Militarization of Women's Lives

CARLA DANTAS

Right of Petition by Individuals within the Global Human Rights Protection System

SUR 18, v. 10, n. 18, Jun. 2013

INFORMATION AND HUMAN RIGHTS

SÉRGIO AMADEU DA SILVEIRA

Aaron Swartz and the Battles for Freedom of Knowledge

ALBERTO J. CERDA SILVA

Internet Freedom is not Enough: Towards an Internet Based on Human Rights

FERNANDA RIBEIRO ROSA

Digital Inclusion as Public Policy: Disputes in the Human Rights Field

LAURA PAUTASSI

Monitoring Access to Information from the Perspective of Human Rights Indicators

JO-MARIE BURT AND CASEY CAGLEY

Access to Information, Access to Justice: The Challenges to Accountability in Peru

MARISA VIEGAS E SILVA

The United Nations Human Rights Council: Six Years On

JÉRÉMIE GILBERT

Land Rights as Human Rights: The Case for a Specific Right to Land

PÉTALLA BRANDÃO TIMO

Development at the Cost of Violations: The Impact of Mega-Projects on Human Rights in Brazil

DANIEL W. LIANG WANG AND

OCTAVIO LUIZ MOTTA FERRAZ

Reaching Out to the Needy? Access to Justice and Public Attorneys' Role in Right to Health Litigation in the City of São Paulo

OBONYE JONAS

Human Rights, Extradition and the Death Penalty: Reflections on The Stand-Off Between Botswana and South Africa

ANTONIO MOREIRA MAUÉS

Supra-Legality of International Human Rights Treaties and Constitutional Interpretation

PREVIOUS NUMBERS

Previous numbers are available at <www.surjournal.org>.

SUR 19, v. 10, n. 19, Dec. 2013

FOREIGN POLICY AND HUMAN RIGHTS

DAVID PETRASEK

New Powers, New Approaches?
Human Rights Diplomacy in the 21st
Century

ADRIANA ERTHAL ABDENUR AND
DANILO MARCONDES DE SOUZA
NETO

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

CARLOS CERDA DUEÑAS

Incorporating International Human
Rights Standards in the Wake of
the 2011 Reform of the Mexican
Constitution: Progress and Limitations

ELISA MARA COIMBRA

Inter-American System of Human
Rights: Challenges to Compliance with
the Court's Decisions in Brazil

CONOR FOLEY

The Evolving Legitimacy of
Humanitarian Interventions

DEISY VENTURA

Public Health and Brazilian Foreign
Policy

CAMILA LISSA ASANO

Foreign Policy and Human Rights in
Emerging Countries: Insights Based on
the Work of an Organization from the
Global South

INTERVIEW WITH MAJA

DARUWALA (CHRI) AND SUSAN
WILDING (CIVICUS)

Emerging Democracies' Foreign Policy:
What Place for Human Rights? A Look
at India and South Africa

DAVID KINLEY

Finding Freedom in China: Human
Rights in the Political Economy

LAURA BETANCUR RESTREPO

The Promotion and Protection
of Human Rights through Legal
Clinics and their Relationships with
Social Movements: Achievements
and Challenges in the Case of
Conscientious Objection to Compulsory
Military Service in Colombia

ALEXANDRA LOPES DA COSTA

Modern-Day Inquisition: A Report
on Criminal Persecution, Exposure
of Intimacy and Violation of Rights
in Brazil

ANA CRISTINA GONZÁLEZ VÉLEZ
AND VIVIANA BOHÓRQUEZ
MONSALVE

Case Study on Colombia: Judicial
Standards on Abortion to Advance
the Agenda of the Cairo Programme
of Action