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HUMAN RIGHTS AS POLITICS

The panel was convened at 10:30 a.m., Saturday, March 27, by its Chair, Hurst Hannum, Fletcher School of Law and Diplomacy, Tufts University, Medford, MA, who introduced the panelists: Ruth Gana, University of Oklahoma School of Law, Norman, OK; Makau Mutua, Harvard University Law School, Cambridge, MA; Mona Rishmawi, International Commission of Jurists, Geneva; and Henry Steiner, Harvard University Law School. The comments of one panelist, Professor Mutua, are presented here.

INGOs AS POLITICAL ACTORS

*by Makau Mutua**

The human rights movement can be seen in a variety of guises. It can be seen as a movement for international justice, or as a cultural project for “civilizing” “savage” cultures. In this talk, I discuss a part of the movement as a crusade for a political project. Perhaps the most influential component of the human rights movement is the international nongovernmental organizations (INGOs), that small and elite collection of human rights organizations which are based in the most powerful political and cultural capitals of the West. INGOs have been the engine of the human rights movement in terms of mapping the discourse and determining the types of human suffering deserving of attention, advocacy and condemnation.

INGOs have concentrated their efforts in the areas of standard setting, government lobbying and the publicizing of human rights violations, especially in countries where local groups have not been permitted to operate, or have done so only under difficult circumstances. This was especially the case during the Cold War, when one superpower or the other bankrolled repressive regimes in the Third World that choked off civil society organizations. In other many cases, INGOs have inspired and orchestrated the establishment of copycat domestic human rights nongovernmental organizations in Africa, Asia and Latin America. It is in this sense that INGOs have been the most influential factor in the spread of the human rights movement in areas other than the industrialized states of the West.

Thus, INGOs have come to see themselves as the leaders in the struggle against evil states and cultures bent on diminishing the worth and dignity of the human person. They have assumed a moral certainty that is rare among secular organizations. I am talking here of the key INGOs: Human Rights Watch, Amnesty International, the Lawyers Committee for Human Rights, the International Human Rights Law Group and the International Commission of Jurists, all based, as I have said, in the political and cultural capitals of the most powerful states in the West.

Normatively, INGOs are doctrinally conventional; that is, they are modern-day abolitionist groups marked by their heavy and almost exclusive reliance on positive law in treaties and other sources of international law as the basis of their advocacy. Almost without exception, they stress the primacy of civil and political rights, and have historically viewed economic and social inequities as a kind of suffering that is unfortunate but for which the state should not be held accountable. This position is commonly held despite the rhetoric of some INGOs on the often-chanted mantra of the indivisibility, interrelatedness and interconnectedness of all human rights.

This rhetoric has been put into even sharper profile by inaction, even in the case of Human Rights Watch, one of the few INGOs to cautiously start addressing economic and social

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rights—but only when such violations are directly linked to violations of civil and political rights. Thus, the mandates of INGOs are generally limited to the protection of “core” rights, such as those found in the bills of rights of Western industrial democracies.

Ideologically, therefore, INGOs are themselves copycats of traditional civil rights organizations in the West such as the American Civil Liberties Union. They present themselves as apolitical, as not interested in the political character of a state, although they clearly seek to vindicate liberal values in non-Western societies. They perpetuate a fiction of neutrality, a law-versus-politics dichotomy, to present the appearance of objectivity. A good example of this was the refusal by Amnesty International (AI) to condemn apartheid as an evil political system, or AI’s refusal to adopt the century’s most important prisoner, Nelson Mandela, as a prisoner of conscience because AI does not endorse the use of force in rebellion against tyranny.

Both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which are foundational to the work of INGOs, promote the typology of a state and society that would yield a political democracy. This means a society that is governed by the idea of constitutionalism—the rule of law, separation of powers, an independent judiciary, genuine periodic elections, a guarantee of individual rights and respect for political participation and expressive rights. This typology excludes monarchies, religious states, one-party states and inherited leaderships. Further, the ideas advocated by the corpus grow out of the liberal tradition. Political democracy seems to imply a permission for a society based on free enterprise and markets.

INGOs need to end their stance of nonpartisan advocacy of benign universality, and accept their proper role as ideological combatants for the universalization of a political agenda. They also need to reexamine their relationships with powerful Western states and institutions—themselves part of an unjust international legal and economic order—as allies in “promoting” human rights.