PART 8: HOW GLOBALIZATION IMPACTS COMMUNITIES IN THEIR EFFORTS TO ARTICULATE AND PROTECT THEIR HUMAN RIGHTS

a) WINNERS AND LOSERS

By Upendra Baxi

We now need to face the task of clarifying the complex relationship between globalization and human rights - a difficult task because conceptions of globalization vary, and so do ways of evaluating its processes, promises and perils.

The <code>GO</code> word carries the tyranny of the singular; but it speaks to multiple and diverse realities. From human rights perspectives, it is clear that no matter how globalization is described, explained, and understood, its histories produce both <code>winners</code> and <code>losers</code>, and the winners have very different ways of seeing globalization than the losers. How to

construe these categories is part of the problem. Armed with a militant understanding of human rights, we now designate *losers* as peoples subjected to violent social exclusion and even physical annihilation. Thus various forms of colonialism, imperialism, fascism, racism, patriarchy, and

Perhaps, the most important task facing human rights education is to assemble divers understandings of voices of those most inimically affected by contemporary globalization processes.

capitalism, for example, have been deployed to name the losers. We may also include within this range contemporary globalization as producing a surplus of evil.

THE THREE GOS

G ONE

Commerce Christianity Civilization Conquest

If we were to regard globalization as a process by which people of the world are incorporated in a single world society, the first, and most long lasting form of globalization is marked by the colonization of most of the world. In G1, physical occupation and political subjugation of colonized peoples emerges as the collective human right of Euro American peoples to an Empire.

Its impact is still felt in the daily lives of ex-colonial peoples, so complete was the devastation. Human rights educators commit a grievous error when they ignore G1 as a thing of the past. The Euro American [past] continues to be the here and now, lived in the present for millions of decolonized human beings.

G TWO

G2 creates solidarity values which "take the real world of five billion people as an object of concern, the whole earth as a physical environment, everyone living in the world as the world citizens, consumers, and producers, with a common interest to solve global

ESSENTIAL TEXTS

Dadabhai Naroji s *Poverty and Un-British Rule in India*, Mahatma Gandhi s *Hind Swaraj*, Walter Rodney s *How Europe Underdeveloped Africa*, and the corpus of Touvalou Houenou, Lamine Senghor, Garan Kouyate, Frantz Fanon, Amilcar Cabral, Edward Said and Noam Chomksy

problems." (Albrow and King, Globalization, Knowledge, and Society).

This phase of *concrete ethical universalism* marks the emergence of contemporary human rights norms within the various phases of Cold War. The major text of G2 is the Universal Declaration of Human Rights, which pulsates in every word with the repudiation of the grammars of G1. The United Nations becomes an arena perfecting the global institutionalization of human rights. It also marks the advent of the Third World as a major articulator of progressive notions of human rights and global governance. G2 is the birthplace of astonishing normative contributions made by leaders of ex-colonial societies. This is an era of global humanism, in which all nations are urged to take human suffering seriously as a way of taking human rights seriously. It enunciates fascinating modes of global resource sharing, such as:

The Declaration on Social Progress

- The Declaration on Peaceful Uses of Science and Technology
- The New International Economic Order
- The Declaration on the Right to Development
- The Law of the Seas Convention

G THREE

G3, contemporary globalization processes, see the demise of G2 and a differential revival of G1. G3 signifies colonization without the colonizer. All nations are free and equal; accordingly physical occupation of territory by force and fraud is no longer legitimate. But aggressive global free market promotion of consumerist culture/ideology is, as Leslie Sklair puts this in *The Sociology of the Global System*.

The emerging global middle classes increasingly influence, and at times, even determine conceptions of the good life for us all. The players in the global market determine what human beings, rich and poor, need in order to pursue the good life.

Contradictions and Complexity

disinvestment denationalization deregulation

G3 is marked by several contradictory tendencies. The three Ds of contemporary globalization usher in a world without borders for the free flow of foreign investment, goods and services, but not for people. The state is increasingly divested of its redistributive role. It is *this* sense that the era of nation¥state seems to have ended. This means that free market efficiency determines the power to achieve social goods that otherwise state planning (the command and control economy) sought to achieve; and the state as a major economic actor (via nationalization of industries and control over capital formation) must disappear in G3. It is not planned economies but the global forces of the free market that determine the circumstances of social justice for the rightless peoples. That market may in the short run reproduce human rightlessness; but, it is being said, that in the long-term, the free market will remove all "substantial unfreedoms."

This shift betokens massive retreats from the human rights obligations of states towards their own peoples. Instead, states are now required to prioritize their obligations toward the rights of multinational capital. The new paradigm of human rights thus emerging dictates that the respect for and affirmation of human rights of people is best manifested by deference to the collective rights of the agents and forces of global capitalism. This also means that the state effectively manages and controls human rights movements, as well as political dissent, that seek to combat the massive human rights violations thus caused. The host state (for foreign investment) thus becomes a state held hostage.

In G3, the forces of production (especially digitalization and biotechnology) are represented both as a part of the problem and the part of the solution. The agents of globalization (transnational corporations, international and regional financial institutions, postmodern federations like the European Community, multilateral trade treaties and arrangements) now assume the functions of sovereign nation state communities. Even as the latter are required to *deregulate*, all kinds of specialized networks of international inter-governmentality are being put in place to *re-regulate*. Even as free and fair elections become the universal human rights norm of good governance everywhere, the elected representatives of the people stand invested with the task of serving the interests of the flow of global capital, and not with the older mandate of making the elected oligarchies directly responsible for securing human rights for their own peoples.

What is more, in the G3 consciousness, the entire United Nations System becomes increasingly privatized. Partnership with the worst corporate violators of human rights animates, at the end of the day, United Nations Secretary General Kofi Anan vision of a Global Compact. Mainstreaming human rights, the current United Nations mission, is more a response to the needs of a cash-stripped United Nations system than an approach to any authentic achievement of the UNDHR for the peoples of the world.

The UNDHR sought to make *universal* the human rights of individual human beings everywhere; the contemporary United Nations activities seek merely to *globalize* human rights. And, for HRE, this transition emerges more in the language of *threats* to, rather than the *promise* of, human rights.

Further, we are asked to believe that G3 technologies remain the best carriers for the future of human rights. Thus, if women are to be relieved of their double day, technology provides an answer. A washing machine or a refrigerator empowers women more than tons of human rights prose. So does the pill, and related contraceptive devises, outside which the reproductive autonomy of women remains almost insensible. Information technologies are represented as heightening the potential of women social and political participation, iconized by the provision of cell phones to Bangla Deshi women. The wonder world of Bill Gates, more than any historically known form of emancipation, now provides the basis of solidarity for global Sisterhood.

The dominant models of HRE remain deeply ahistoric when they begin addressing their tasks in the context of contemporary globalization. Human rights educators understandably celebrate the human rights movement as an aspect of New Social Movements (for example, women is rights as human rights, environmentalism, global

social action against the regimes of organized irresponsibility and organized impunity of transnational corporations.) Internet solidarity increasingly replaces the agency of mass protest and popular illegality. Human rights activism and education in the contemporary era of globalization becomes an integral aspect of what Manuel Castells describes as network society, impacting diversely our common future.

Contemporary globalization brings with it considerable ambivalence for human rights activism and education. Our critics charge us with duplicity: we condemn globalization even as we utilize its manifold technologies, such as air transportation, luxury venues, and digitalization, while critiquing globalization. These are rendered available by the modes of contemporary global capitalism against which we all protest.

Situated Critique

All critiques are socially situated. The old social movements used the telegraph, telephone, the transportation and print media technology to carry anti systemic messages. Mohandas Gandhi was able to travel throughout the imperial subcontinent, spreading the message of self-determination (Swaraj) through the means that the colonial administration provided

at the cost of enormous human violation: the Indian Railway system, which uprooted masses of people and entailed varieties of slave like labor in its construction. Similarly, Marx[]s revolutionary message would have proved historically effete had he had to communicate using trained pigeon carriers. Both these examples show the possibility of historical deployment of technologies in systemic []anti-systemic[] ways.

The multinational production technologies that human rights activists curse facilitate in one way or the other the very implementation of human rights. For example, the idea of reproductive autonomy of women remains insensible outside the reproductive technology developed by transnational corporations. We may, in the practice of HRE, criticize the corporate profit motivation that subjects women docide bodies to reckless forms of corporate greed. But even among the most radical feminist human rights movements, there will be few takers, I assume, who would contest the power of technology to both violate and reclaim women rights over their own bodies.

While HRE may contest forms of perverse globalization, it remains committed to the idea

Put all of this democratization of information together and what it means is that the days when governments could isolate their people from understanding what life was like beyond their borders or even their village are over, Life outside can't be trashed and made to look worse than it is. And life inside can't be propagandized and made to look better than it is. Thanks to the democratization of information, we all increasingly know how each other lives no matter how isolated you think a country might be. The minute you think that you have devised as new, higher, thicker wall to hide behind, you discover that that technology has found a way to lower it. And the minute that you think you have drawn a new sand to protect you, technology finds a way to erase

Thomas Friedman Lexus and The Olive Tree

of benign globalization, an image that may or may not withstand forms of human rights scrutiny. HRE is confronted with a mission impossible because it will always remain problematic to distinguish the evil from the good forms of contemporary economic globalization. Human rights humility, not arrogance, provides the mood in which we may face this prospect of constructive disengagement. How all this may speak to the future of human rights is a question which all forms of HRE must *responsibly* and *responsively* seek to answer.

Human Rights Education and Global Citizen Activism

Throughout this conversation, one message has been consistently conveyed. It is this: neither

domination nor resistance is monolithic happenings. Their contingent diversities are shaped by context and history, even as they in turn shape these.

We must guard as much against an over-rationalized understanding of domination as against a similar approach to resistance. If those who resist do not know quite how to do so, it is also true that those who dominate also do not quite know how to go about it. Their aims and intentions remain conflicted, their trajectories vulnerable to the articulation of discontent and social action. Human rights languages and logics remain, howsoever differently, embedded in forms of dominance and patterns of resistance.

All this suggests that HRE may not merely consist in education about human rights norms and standards, and their translation and transgression. It has also to preserve the public memory of the worst excesses of power and archive the actual histories of resistance.

What is more, among its future tasks is to provide an understanding of when resistance succeeds, and where it may fail, by close attention to the struggle within the local paradigm that now represents itself as the quintessentially global. From Seattle to Genoa, and beyond, people protests against global capitalism epitomize some sources of discontent in the human rights arena. Presented as a law and order problem by the managers and agents of globalization, for human rights educators they symbolize a new and burgeoning human rights consciousness. The mentality operative on this register suggests that people's human rights discontents can be quarantined by locating global policy-making in safe anti-democratic havens.

But what is recognized as *global citizen action* locates this articulation in a wider framework. The pursuit of activism beyond national frontiers begins to construct new meanings of active global citizenship and practices of resistance. Its promises and perils remain integral to the very future of human rights. HRE will serve this future when its carriers remain uninvolved in global citizen action and indifferent to the dilemmas and contradictions that shape it.



b) INTERNATIONAL NGO COMMITTEE ON HUMAN RIGHTS IN TRADE AND INVESTMENT

POLICY STATEMENT

INVESTMENT, TRADE AND FINANCE: THE HUMAN RIGHTS FRAMEWORK Focusing on the Multilateral Agreement on Investment (MAI).

- 1. We, the undersigned, are an alliance of organizations with specific concerns for the promotion, protection, defense and enforcement of human rights. We wish to add our voices to those of the many civil society groups across the world that have raised serious concerns about or have rejected outright the proposed Multilateral Agreement on Investment (MAI) currently being negotiated by the Organization for Economic Cooperation and Development (OECD).
- 2. While some of the elements of this draft agreement already exist in regional and bilateral agreements as well as in structural adjustment programs and other international financial institution conditionalities, we feel that the present text of the MAI represents a clear and qualitatively new threat to the international human rights regime. This agreement seeks to enshrine protections and advantages for corporate actors and major investors, which could threaten international and domestic laws and policies, designed to promote and protect the human rights of individuals and communities.
- 3. In accordance with the provisions of the International Bill of Rights, and other international human rights instruments, and as affirmed in the Vienna Declaration and Program of Action, the protection and promotion of civil, cultural, economic, political and social rights is the first responsibility of States. The United Nations Charter includes the promotion of human rights and fundamental freedoms as a founding principle of the UN. These rights and freedoms are concretely defined in the various legal instruments and the interpretive jurisprudence developed by the respective UN treaty bodies that monitor compliance with these instruments. We refer in particular to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the Convention on the Elimination of All Forms of Racial Discrimination (CERD). All these treaties have been widely ratified by states across the world and are legally binding thus obliging states to comply with their provisions.
- 4. We would like to stress that by human rights, we mean both economic, social and cultural rights (such as the human rights to food, health, education, housing, and work) and civil and political rights (such as rights to free expression and fair trials). These human rights are recognized and protected by international law, domestic law and social programs. Economic, social and cultural rights, however, are in particular need of emphasis as a consequence of the relative lack of attention states have paid to their promotion and protection. Economic, social and cultural rights also face the greatest threat of further neglect in the face of economic globalization as the rapid

pace of economic liberalization and integration has outstripped the capacity and commitment of states to address the implications of these developments for this category of rights. Concomitantly economic globalization has been accompanied by the rapid establishment of powerful institutions such as the World Trade Organization (WTO) and the North America Free Trade Agreement (NAFTA). The enforcement mechanisms of such institutions are very effective in stark contrast to the lack of attention given to the development of enforcement mechanisms to implement human rights, especially economic, social and cultural rights. For all these reasons, economic, social and cultural rights are our main areas of focus.

- 5. We believe that the promotion of human rights, in the broad sense of contributing to the welfare and dignity of all, rather than to the wealth of a few, is the only legitimate objective and justification for bilateral and multilateral trade, investment and financial regimes, and that to the extent that such regimes serve other objectives, they have no moral or other legitimacy. We believe that the MAI not only does not serve human rights objectives but that it proceeds from fundamentally different assumptions, and accordingly we reject it. We wish to contribute in solidarity with the environmental and other social movements to the mobilization of popular opposition to the provisions currently contained in the MAI text. We understand the broad human rights framework as being inclusive of and being informed by the principles and provisions of international environmental agreements. In pursuit of the objective of having a comprehensive human rights framework reflected in the ongoing debate on the MAI, we participated in the global NGO strategy meeting on the MAI that took place in Geneva on 17 May 1998.
- 6. Trade and investment regimes in general also need to be consistent with commitments made at the World Conferences, such as in the Copenhagen Declaration and Program of Action that contains recommendations to states of the need to intervene in markets to prevent or counteract market failure, promote stability and long-term investment, ensure fair competition and ethical conduct, and harmonize economic and social development, including the development and implementation of appropriate programs that would entitle and enable people living in poverty and the disadvantaged, especially women, to participate fully and productively in the economy and society. Some measures to protect economic, social and cultural rights include food subsidies, control of land speculation, agrarian reform and the implementation of health and environmental measures. These measures would also encompass community control of forests, local bans on the use of pesticides and hormone-induced foods, protection of local cultural industries, protection of civic services, clean air standards, limits on mineral, gas and oil extraction, and bans on toxic dumping.
- 7. We see our consideration of the MAI from a human rights perspective as an opportunity to develop this paradigm for wider consideration of the human rights imperatives for investment, trade and financial policy. We see the following four basic principles a inviolable in the context of the incontestable need for devising ways and means for the realization of human rights. From our perspective, they must form the organizing principles for all-bilateral and multilateral trade, investment and financial agreements, laws and policies.

Summary of basic human rights principles threatened by the MAI

8. The primacy of human rights: The promotion and protection of human rights and equality among women and men must be accepted as the fundamental framework for and goal of all

multilateral and bilateral investment, trade and financial agreements. Such agreements cannot exclude or ignore human rights principles and objectives without losing their most fundamental claim to legitimacy.

- 9. Non-retrogression: All states have a duty to respect, protect, ensure and fulfill international human rights obligations and cannot derogate from or limit them except as expressly provided for in the relevant human rights treaties. "Rollback" and "standstill" requirements, as formulated in the MAI, are incompatible with the requirement that economic, social and cultural rights be realized progressively, as explicitly stated in the International Covenant on Economic, Social and Cultural Rights. Governments must demonstrate that they are taking concrete steps towards realization of these rights. Moreover, there is a specific duty on state parties to not take retrogressive measures that would jeopardize economic, social and cultural rights.
- 10. The Right to an Effective Remedy in the Appropriate Forum: The right to an effective remedy for anyone whose rights have been violated cannot be contracted away by the state nor denied by the operations of intergovernmental institutions. Investment or trade bodies should not adjudicate concerns that fall firmly into the human rights domain as investment or trade disputes between corporations and state actors. Such disputes should be dealt with by appropriate domestic, regional, and international human rights fora and enforcement mechanisms.
- 11. Rights of participation and recourse of affected individuals and groups: Human rights cannot be effectively realized unless the right of participation of the affected populations in planning, implementation and seeking redress for violations is respected. The participation of women in all these processes is particularly important.

Proposed recommendations for future action

- 12. Given the widespread threat to human rights norms and principles from the emerging instruments of international trade, investment and finance, such as the MAI, it is crucial that the UN secretary-general and the Office of the High Commissioner for Human Rights conduct a study of the human rights implications of the MAI, as was recommended by the Committee on Economic, Social and Cultural Rights. The results of such a study could also be presented the Commission on Human Rights, the Economic and Social Council (ECOSOC) and the General Assembly, as well as to the UN executive committees in which the High Commissioner for Human Rights participates.
- 13. Further, the OECD, WTO, IMF and other fora where negotiations on investment, trade and financial regimes may be undertaken should request the advice of bodies with appropriate expertise in human rights (such as the Office of the High Commissioner for Human Rights, the relevant UN human rights treaty bodies, the Committee of Experts of the Council of Europe, the International Labor Organization (ILO), the International American Commission on Human Rights of the Organization of American States (OAS) and the Commission on Human and Peoples' Rights of the Organization of African Unity (OAU) and appropriate UN agencies such as UNCTAD, UNDP and UNICEF). Consideration should be given to the human rights implications of not only the MAI negotiating texts but also all other investment and trade agreements, instruments, conditionalities and case law.

14. Parallel to a human rights review of the MAI, we consider it of crucial importance for the Office of the High Commissioner for Human Rights and other relevant UN bodies such as the ILO, UNCTAD and UNDP to analyze and prepare studies of the human rights implications and effects of existing international trade, investment and financial instruments, such as the WTO agreements, NAFTA, MERCOSUR, relevant IMF articles, and agreements emanating from the EU, OCED, APEC and other similar fora.

Analysis of impact on human rights principles The primacy of human rights

- 15. The process towards the realization of human rights and equality among women and men is the most sustainable framework for achieving peace, security and development. The proposed MAI, and all other investment and trade agreements, must function within that framework. Economic prosperity and the increased availability of goods and services, that may result from increased foreign direct investment and trade are valid objectives, only to the extent that they enhance the enjoyment by individuals and groups of their human rights.
- 16. Numerous civil society groups and governments (mostly from the developing countries) have raised concerns about the need for social and development issues to be taken into account during discussions for any multilateral trade and investment treaty. These voices have also spoken out about the need to retain and enhance the 'regulatory' role of the state. The ongoing East Asian crisis only reinforces this. We are convinced that the international human rights regime offers the framework for achieving, in a sustainable manner, development and social objectives. International human rights instruments also provide clear directives for state responsibility and for the state's essential regulatory role. We call for the application of the human rights regime in developing and implementing national and international regulatory frameworks that apply to the private sector.
- 17. Additionally, there is the complex issue of sovereignty. The Vienna Declaration and Program of Action reaffirms that the protection and promotion of human rights and fundamental freedoms is the first responsibility of Governments. In view of this primary responsibility what is the impact of the progressive bargaining-away of state sovereignty under international trade and investment agreements upon the state's capacity to proactively fulfill its human rights obligations? What are the human rights implications of strengthening state sovereignty, given the past and necessary focus on human rights defense against state abuse? To what extent is economic globalization used as a convenient excuse by states for failing to fulfill their human rights obligations? Obviously, these are questions in need of reflection and debate.
- 18. There are many potential threats to human rights already apparent in the current draft of the MAI. Numerous provisions of the ICESCR, CRC, CERD and CEDAW and other international human rights treaties require states parties to take positive measures to protect vulnerable groups. These requirements may include appropriate statutory and regulatory measures imposing restrictions on investors and may go against the proposed most favored nation (MFN) and national treatment principles of the MAI. Any provision requiring a state to repeal or refrain from implementing such measures could cause the state to violate its international human rights obligations.

19. Measures which are important components of the implementation of ICESR articles 2 (non-discrimination), 7 (work and equal opportunity) and 11 (adequate standard of living) of the ICESCR might be found to "discriminate" against a foreign investor under MAI.

The proposed MAI could also prohibit "performance requirements" established with a human rights purpose, such as requiring a foreign investor to employ local workers, to provide training or to contribute in other ways to the local economy. A state that abrogates such requirements could be in breach of its human rights obligations. Furthermore, the adoption and implementation of the MAI could undermine the development of new mechanisms for corporate accountability for violations of human rights.

20. It is, therefore, in the interest of negotiating states that a review of the MAI should be undertaken from the viewpoint of the compatibility with international human rights instruments. States should be clear on their international responsibilities such that they avoid committing themselves to provisions of an investment or trade agreement that are in any way incompatible with their international human rights obligations. To not do so would be to abdicate their responsibility for the promotion and defense of human rights. This principle was reaffirmed by the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights:

The obligation to protect includes the State's responsibility to ensure that private entities or individuals, including transnational corporations over which they exercise jurisdiction, do not deprive individuals of their economic, social and cultural rights. States are responsible for violations of economic, social and cultural rights that result from their failure to exercise due diligence in controlling the behavior of such non-State actors.

Non-retrogression

- 21. Under international human rights law, states have the obligation of non-retrogression, according to which states are not permitted to remove, weaken or withdraw from legislation and programs, which implement their human rights obligations. It is essential that investment and trade agreements contain no provisions impeding the capacity of state parties to respect, protect, ensure or fulfill human rights in accordance with their obligations under international and domestic human rights law. According to Article 2 of the ICESCR, states are under the obligation to take immediate steps to fulfill their obligations by guaranteeing economic, social and cultural rights without discrimination.
- 22. As espoused in the proposed MAI, the principles of roll back and standstill could require states to repeal legislation protecting human rights (under rollback) or foreclose such future legislative measures (standstill). If states succumb to pressure to do this in order to attract foreign investment these states would be in direct contravention of their obligation of both the immediate and progressive realization of the rights protected by such national legislation.
- 23. Therefore, measures taken by states to respect and protect human rights should be exempted from rollback and standstill requirements. This would protect states from being in violation of human rights standards of immediate and future applicability, such as the duty not to discriminate on the basis of race, sex, language, color, national origin or other status.

The right to an effective remedy in the appropriate forum

- 24. The control over the protection and implementation of human rights cannot be left to a determination by an investment or trade tribunal or panel, which by definition is not competent to judge the meaning and scope of international and domestic human rights law. Human rights have evolved through specialized monitoring bodies established at the national and international levels. These institutions have acquired considerable experience in these matters. A vast body of specialized jurisprudence has developed in the last fifty years since the adoption of the Universal Declaration of Human Rights (UDHR), including special interpretative principles.
- 25. Moreover, under international human rights law, everyone is entitled to "an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law." (UDHR, Article 8). Allowing a trade or investment panel or other body to determine the legality of provisions claimed to have negative effects on the protection and enjoyment of human rights would be in clear violation of international law, as would provisions limiting access by individuals to effective remedies in competent national tribunals for acts violating his or her fundamental rights. Also as currently stated in the MAI, citizens are excluded from the dispute settlement system.
- 26. It is of fundamental importance that any dispute that may arise regarding the compatibility of the provisions of investment and trade agreements with a state party's obligations under a human rights treaty be referred to the competent body. Specifically, if a state invokes their human rights obligation in response to a challenge by an investor or other state party under an investment or trade agreement, the dispute should be examined under the ordinary procedures of domestic law and, where applicable, be referred to the appropriate UN human rights treaty body for an opinion. The defendant state and affected groups of civil society should have the option of having the dispute adjudicated under its domestic law or submitting it to the appropriate human rights treaty body for an ad hoc determination of the compatibility of the provision of that agreement with the state's obligation under human rights treaties.

Rights of participation and recourse of affected individuals and groups

- 27. It is an accepted principle of sustainable development that the affected population should participate in the planning and implementation of development policies, programs, and projects. It is also a basic principle of justice that persons affected by a procedure, which may result in the deprivation of their rights, be given a fair hearing. This principle must also be applied to investment and trade.
- 28. Therefore, communities and individuals affected by the proposed MAI and other investment and trade agreements must have access to the government agencies and international institutions entrusted with the negotiation, application and implementation of these agreements. This is underscored by the human rights tenet expressed in Article 21.3 of the Universal Declaration of Human Rights (UDHR): "The will of the people shall be the basis of the authority of government..."

29. The people affected or likely to be affected, and civil society groups concerned with human rights, environment and development must have meaningful access to these agencies, and the right to take part in the procedures mentioned above, as well as to resources necessary for their participation, especially considering the vast resources available to major investors. This would also include the right to submit documentation and advisory opinions. They should also have a right to information and notification of discussions in the OECD, WTO, IMF, IBRD and other relevant bodies of investment and trade matters affecting human rights, the environment and other community interests. Investment and trade disputes affecting vulnerable groups should never be adjudicated without those groups having full standing and resources to defend their interests.

CONCLUSION

- **30.** We, the undersigned, recognize the threat of the proposed MAI to our human rights futures. We are gravely concerned about the human rights implications of not only this and other investment and trade agreements, but also the entire international system of investment and trade institutions and processes. We are committed to developing and documenting a comprehensive understanding of these implications and promoting human rights based framework for investment, trade and financial policy and practice.
- 31. We advocate alternative international investment and trade agreements and processes that would genuinely seek to ensure that international investment and trade regimes are fully consistent with international obligations arising from standards relating to human rights, environmental protection and sustainable development. Such alternative measures, promoting the establishment of an integrated international agenda, would serve to strengthen democratic control of capital flows and to stimulate investments and commerce that would benefit disadvantaged groups especially women, children and vulnerable communities such as marginal farmers, indigenous peoples, the urban poor, fisherfolk and rural agricultural laborers. Of particular importance would be measures that are sensitive to and strengthen the critical role played by women in all dimensions of economic, social and cultural human rights.
- 32. In order to promote such an integrated agenda, it becomes an inescapable task that all-relevant organizations carry out reviews, analysis and impact studies of international trade, investment and finance agreements, policies and practices. We have outlined initial recommendations along these lines (see paras.12 to 14). At the same time we realize that it is essential that part of this task needs to be taken up by civil society groups.
- 33. We commit ourselves, therefore, to a work plan of action that includes rigorous research and mobilization (including education, documentation and monitoring), such that the full spectrum of local human rights impacts caused by the international investment, finance and trade system can be disaggregated, analyzed and documented. This includes analyzing the human rights implications of investment and trade treaties, examining international, regional, national and local governance processes, documenting local impacts in our regions, and identifying private actors. In doing so, we seek to hold the international investment, finance and trade system accountable for the realization of human rights within the context of social justice and sustainable development for all.

The International NGO Committee on Human Rights in Trade and Investment

Geneva, Switzerland:

-Habitat International Coalition (Miloon Kothari) - Tel/Fax: 41.22.7388167, <u>e-mail:</u> hic_hrc@iprolink.ch

-Lutheran World Federation (Peter Prove) - Tel: 41.22.791 6364, e-mail: pnp@lutheranworld.org

New York, USA:

PDHRE, -People's Decade of Human Rights Education (Shulamith Koenig) Tel 1.212.7493156, Fax 1.212.666 6325, e-mail: pdhre@igc.apc.org

Lima, Peru:

-CLADEM, Latin American and Caribbean Committee for the Defense of Women's Rights Tel: 51.1.463 9237 Fax: 51.1.463 5898, e-mail: cladem@chavin.rcp.net.pe

Signed by:

International and Regional Human Rights Organizations:

Habitat International Coalition (HIC)
People's Decade for Human Rights Education (PDHRE)
The Lutheran World Federation (LWF)
Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM)
Food First Information and Action Network (FLAN)

National Organizations:

Youth for Unity of Voluntary Action (YUVA), India Center for Equality in Rights and Accommodation (CERA), Canada Mazingira Institute, Kenya

c) HUMAN RIGHTS EDUCATION AND LEARNING: TOWARDS A UNIVERSAL VISION FOR THE WORLD SOCIAL FORUM By Minar Pimple

Introduction

One of the main sentiments emerging from Porto Alegre since the inception of the World Social Forum in 2001 was of the power to act together. WSF being an open space, for all actors of civil society who oppose neo-liberal globalization, war and militarism, patriarchy, religious fundamentalism and exclusion, is not envisioned as a platform for united action. In this context, what is required is an all-embracing vision which will weave together all issues of human life into one tapestry – colorful, varied, dynamic and constantly growing and evolving; a tapestry of modes of life, production and reproduction, of human relations, dialogues and creative exchanges.

Alongside theories and methodologies explaining, interpreting and offering ways of survival – personal and collective – of building humane civilization, of and in, history, the 20th century gave the world yet another axis along which humanity can constitute itself in a way which will promise, create and sustain equality, justice, dignity and freedom, both personal and collective: **HUMAN RIGHTS**. This vision to become reality it is essential to let all of humanity know human rights through human rights education and formal, non-formal and informal learning, which itself evokes a new, transforming consciousness.

Human Rights as a Vision

A particularly eloquent affirmation of the positive value for human rights as normative grounding for social justice was provided by the closing speech of the World Social Forum 2002 in Porte Alegre, Brazil, delivered by the winner of the Nobel Prize for Literature, Jose Saramago. He spoke about "the multiple movements for resistance and social action that are fighting to establish a new, distributive and commutative justice that all people can come to recognize as intrinsically theirs, a justice that protects freedom and rights, and not any denial of them."

... [W]e already have a readily understandable code of practical application for this justice, a code embodied for the past fifty years in the Universal Declaration of Human Rights, those thirty essential, basic rights that these days are mentioned only vaguely, if not systematically disregarded. [I]n terms of the integrity of its principles and the clarity of its objectives, the Universal Declaration of Human Rights, just as it is now worded and without changing a single comma, could replace to advantage the platforms of every political party on Earth. ¹⁶

Human Rights Education and Learning as a precondition

previous century, though, did not complete this mission: human rights remained the prerogative of the few, narrowly interpreted as civil and political rights and laws undermining the holistic vision including social, economic and cultural rights. Human rights never came to be in the possession of the many, as part of the knowledge of all, a component of the gendered class consciousness, an instrument of change of the masses. That can be achieved only through human rights education and learning, i.e., through enriching humanity with the learning of the indivisibility and interconnectedness of all human rights, their interdependence, their basis in equality and dignity, and their power to change life on earth through resolute action.

Human rights education and learning must address patriarchy as a mode of oppression and of creating power, of embedding power in culture, of internalizing the rights of the powerful only, and of maintaining power via gaining – and keeping – a stronghold on economy, consumerism, the distribution of resources and goods, and manipulating matter and mind. Understanding patriarchy through its work in gender relations as a powerful oppressor of women will then grow into understanding its use of specific apparatuses and ideologies to create this oppressing power. The process of WSF over its last four editions has also come to realize and integrate patriarchy as a cross cutting theme.

The potential presented by the World Social Forum

The WSF process is becoming increasingly open to discussion about human rights as part of the systemic analysis which can provide the arena for dialogue and integrating human rights education and learning into the process, as a powerful tool for women and men, youth and children to fulfill their aspiration for economic and social justice. Human rights learning in the context of the WSF are an imperative which can be realized through the dedication of all the groups and movements participating in the WSF process to understand human rights as relevant to their issues and concerns and make a commitment to make this knowledge available to their constituencies.

The World Social Forum offers a space that has the potential for integrating the human rights framework in all its themes and becoming an arena for developing a people's human rights movement based on dialogue and learning about the meaning of human rights as a holistic, pragmatic vision to achieve economic and social justice at the local, national and global level.

Thus, there cannot be in the age of monoculture driven globalization, one unifying vision, but there will always be a multiplicity of visions. What we need to strive for, therefore, at the World Social Forum, is not a united, unifying statement but a platform of consensus around an axis, which will be the vertebrae of transformation of consciousness and the world. This axis will develop and emerge among many sites where issues of minority, identity, labor, peace, ecology and many other such discourses are discussed. Especially important is the gender discourse in all and independently, as it describes patriarchy and its modes of operation. We should look for a platform offering transformation by exposing, undermining, resisting and changing the apparatuses serving patriarchy.

This platform will be based on human rights, and will become an instrument of transformation through the force of learning about human rights by all the people, women, men, youth and children, who will demand, take, and sustain their human rights, understanding not only what they are but recognizing the powers that can undermine them and the capacity to fight back.

Continuing efforts at WSF

PDHRE in its commitment to promote learning about human rights as a holistic vision for transformation, has been engaged with WSF since its inception. PDHRE had participated in all of the four WSF since 2001, including the Asia Social Forum. Seminars and workshops were held about human rights learning with youth, women and leaders of social justice NGOs where the concepts, activities and development of human rights cities were introduced and discussed.

Furthermore, with members of the *Human Rights Caucus for WSF 04 in Mumbai* PDHRE organized a panel on *Human Rights for Social Change*, which was attended by about 3000 women, men and youth, and became a public education and learning process covering the following themes;

- 1. Human Rights as an overarching principle, a holistic framework and way of life, Which takes into account the indivisibility of Human Rights; civil, cultural, economic, political and social. Human rights are a universal value system protected by international and national law.
- 2. The contemporary context of economic globalization, military aggressions, new and emerging forms of exclusions at local and global levels the significance of human rights as guiding and organizing principle for institutions of global governance.
- 3. Human rights as a necessary and integral part of the humane, people centered and equality driven development process as Meaningful alternatives to the present form of globalization.
- 4. The role of the human right education as a critical building block for the realization of human rights

More concretely the following sub-themes were covered:

- 1. Social Movements and how they exercise human rights as instruments for accountability and justice at the local, national and global level.
- 2. Human rights approaches to trade, development and poverty eradication.

Learning and building on this experience, PDHRE, as a member of the Content and Methodology Commission of WSF, as well as in alliance with economic and social justice groups and human rights groups, will continue to deepen this engagement with the WSF process. This will lead to popularizing human rights and learning about them globally while simultaneously offering a proactive vision for the future.

