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THE FUTURE OF HUMAN RIGHTS AND THE HUMAN RIGHT TO A FUTURE IN PALESTINE¹

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Abstract

Reflecting on the Palestinian experience, this article discusses the requirements of ensuring a development of human rights that exceeds the growth of their abuse allowing them to play a role in reshaping the world through fostering emancipatory processes. It looks at the human rights system in the current global context, the caveats of human rights, their limitations, potential in their historic context, current conditions, and their perspectives concerning enabling emancipation. The article makes the claim that sufficient basis exists in the human rights concepts, system, and history to overcome the current limitations and counter their battering through their further development on a basis of human solidarity. Such a transformation can warrant a future for human rights in Palestine.

Keywords

Palestine, Human Rights, Emancipation.

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Introduction

The crisis, which the COVID-19 pandemic unmasked, poses a serious threat of fascism beyond the pandemic. We are already witnessing the contestation over the future between two forces: those of radicalising the neoliberal oligarchy through securitisation and 'collectivisation' (Kadirgamar, 2017); and those of socialism. As David Harvey (2020) put it:

If the only policies that will work are socialist, then the ruling oligarchy will doubtless move to ensure they be national socialist rather than people socialist. The task of anti-capitalist politics is to prevent this from happening.

Is there room for a transformed human rights protection system in the struggle for the prevention of fascism? and what kind of transformation is required for the fulfilment of this task? After more than seven decades since the adoption of the Universal Declaration of Human Rights (UDHR) there are continuing gross violations of all sorts of rights at local and global levels. This situation prevails in spite of the vast and significant developments and efforts that were made in the past half century in the field of human rights protection. Recognising these efforts in view of the violations raises the question about the tacit reasons behind the inability of human rights defenders to achieve a better situation concerning the respect of human rights. More importantly, it raises the question about the future possibilities of respecting and protecting human rights. Reframing this question into an optimistic inquiry will transform it into one about the requirements of ensuring a broadening and deepening of human rights that exceed the growth of their abuse, and enable them to become an element in the endeavour to achieve an order where freedom meets necessity. Achieving such an order requires embracing "precisely those aspects of the socialist/communist ideal that allow a theory and practice radical enough to address the urgent needs of the present, while also not losing sight of the needs of the future." (Foster, 2020) This can as well realise the call to "approach human rights practically, not as the application of an independent philosophical idea to the international realm, but as a political doctrine constructed to play a certain role in global political life" (Beitz, 2009, pp. 48-9), and realise their critical capacity (p. 78).

The assumption behind this discussion is that there are two possible versions of human rights: the version that has been promoted widely and abused in the neoliberal framework; and an emancipatory version that aspires to ensure human dignity under-

stood as a necessary attribute of human/social life, and does not deviate from freedom equally to all, the potential of which exists in the ideal concept of human rights. This second version does have a history. It was utilised by the Global South's emancipatory undertaking during the four decades after the end of the WWII, and in the struggles for civil liberties and equality in the Global North. After a relative pose that lasted for three decades (overwhelmed by the first version), one can sense the second version in the wave of Arab Revolutions that erupted in late 2010 and in such movements as Black Lives Matter.

This article will discuss the requirements of an emancipatory human rights system by reflecting on the Palestinian experience. Being an extreme case of political change and reconstruction, suffering colonial, post-colonial, neo-colonial, and neoliberal impacts and conditionality, in addition to enlarged doses of class, gender, and ethnic repression, and benefiting [suffering] from extensive international intervention and aid², the Palestinian experience can serve as a blueprint of the contemporary reality. In particular, the higher degree of fragility and exposure, the lower threshold of resistance to external pressure, and the combined existence of external and internal conflict situations, typical to the Global South, make Palestine a suitable example to investigate the above-mentioned questions.

In addition, in Palestine, there are at least three more important factors in the “de-railing” of human rights from the protection of rights, and in ensuring that the system of rights does not provide self-determination, not to mention equality. The first is that Palestine and the rights of Palestinians, as humble as they are designated by international law, were belligerently discarded and their formulation was systematically altered in the framework of the attempts to re-write international law after the emergence of the unipolar world order - a process in which Israel has played a pioneering role (Halper & Reifer, 2017). The second is the utility of settlement activity for the transition to neoliberal economic models through the investment in “settler real estate”, the major plans for which were set in the late seventies of the twentieth century.³ In addition to the rent-seeking settler enterprise, the occupied territories were found to be instrumental as a testing ground and a showroom for the development and sales of security technology.⁴ The third factor is constituted by the widely exerted efforts to de-platform

2. For a discussion of how aid replaces legal obligations and acts as “mastery”, see: Bahdi & Kassis, *Mastery and Gratitude: Development Aid & The Colonial Condition in Palestine*, 2021.

3. See the World Zionist Organization's Master Plan for the Development of Settlement in Judea and Samaria (1979-1983), by Matiyahu Drobles (United Nations, 1979).

4. “No other country in the world specializes in homeland security products, such as surveillance equipment and riot gear,

any critique of Israel or peaceful resistance to it through delegitimising them by wrongly equivocating them to antisemitism and hate speech and using existing or lobbying for new legislation (Bahdi, 2020) – a pioneering effort in limiting the limited freedoms that exist in the liberal order, that might hinder the neoliberal endeavour.

Over the past quarter century, there was an opportunity to restructure almost every single aspect of life in Palestine. A new regime emerged (The Palestinian Authority). Donors invested in the country to the extent that Palestine became a prime per capita recipient of donor funds. Legislators issued a colossal number of new laws including three different versions of the basic law and four versions of the elections law. Nonetheless, today, after this relatively prolonged period of intensive “peace making” and “state-building” along with dozens of billions of dollars in international aid, and numerous peace and prosperity initiatives, the Palestinians have two (pseudo) governments under occupation (dis) functioning in a fully blown colonial situation. This situation evidences itself in a multiplicity of aspects: war acts of large scale evidently including serious war crimes; borders controlled by Israel; territory turned either into a besieged ghetto or into Bantustans; movement blocked; economy dependant and stagnating due to intolerable restrictions; extra-judicial arrests by three different governments controlling a small nation; targeted assassinations; humiliation; embargo on the besieged ghetto (the Gaza Strip); a wall; poverty; bad education; growing political and domestic violence ...etc. These were all topped up by the Trump initiative labelled as “Peace to Prosperity”, also known as “The Deal of the Century”.

For an illustration of the situation consider the following: you temporarily give up your right to seek the application of your basic right to self-determination in order to gain a possible (limited) support to other rights such as the freedom of expression (does not include the right to criticize Israel! Since such criticism will be seen as (anti-emetic) incitement). The freedom of expression is rendered not effective because of the weakness of the central authority due to clientelism, and due to the dualism of power resulting from a situation where Israel has a de-facto veto on any step taken by the Palestinian Authority. Hence, the authority is delegitimised since it is perceived as a servant to colonial and neo-colonial agendas.

This illustration, although quite true, is misleading. If this, and only this, was the case, it would have been impossible to explain the support to this process by the

more than Israel.” (Hever, 2018, p. 134) “The “need to pursue an aggressive security politics is what thrusts Israel into wide-ranging global involvement unusual for such a small country. Without an Occupation, Israel would have neither the drive nor the conditions by which to develop, deploy, test and export world-class weaponry and models of control” (Halper, 2015, p. 36).

Palestinians at its initial stages in 1993 for a period that lasted around seven years, and revived for a few more years (after a brake) in the form of electing President Mahmoud Abbas in 2005. Such support reflects the [worst, unspoken] part of the deal: The trade-off was not between the right to self-determination on one hand and limited civil rights and some political rights on the other. What was at stake was the right to life. Since the colonial condition is a condition of perpetual war, peace meant, amongst other things, (hopefully) an end to random continuous daily threats to life. The Oslo process was a deal to trade off “let colonise” with “let live”, but it did not work out even as a temporary remedy. One of the reasons for the failure of this deal was that the much needed (and highly present) international support to the process (and its attributes) focused on other issues dictated by the “post-cold war” globalized and “securitised” agenda. What was sacrificed for “security” in this equation was the meaning of the right to life: while as a human rights concept it entailed a certain quality to life, generally expressed in the principle of respect of human dignity, in Palestine, it was treated, to a major extent, merely as a “right to exist in order to consume”. The unipolar order has created a discourse (including a human rights discourse) that “makes other valuable, often more valuable, emancipatory strategies less available.” (Kennedy, 2002, p. 108)

The Palestinian experience shows that the attempt to solve problems of colonial nature without emancipation, but rather with the transposition of liberation into market freedom and economic liberalisation, tends to create subjugation and warlords rather than sovereignty and prosperity. The rule of law becomes a slogan designating either ruling by law (when feasible), or simply regulating with disregard to rights and law. It is worth considering that the market led entrepreneurial trends within the liberation movements empower nationalist (or other sectarian) tendencies that are expressed through racist separatist trends in the resistance movement and beyond. The combination of free market and war creates two complementary types of warlords: those who gain financial and political power and status through supplying the heroes of their national resistance movement with arms; and those who garner lucrative status, positions, and opportunities, including a much wider range of legal or legalised business opportunities, in exchange for suppressing resistance!

These failures, transpositions, and drawbacks take place in an “enabling” global environment. We live in the era of the destruction of human achievements that were attained through the struggles and sacrifices accompanied by devastations and catastrophic acts including two world wars in the twentieth century. Modernity has

reached its peak a while ago, and is now forced to consume itself, and become bare, exposing a long veiled ugliness, and necessitates the viciousness of its godfathers and embalmers. The idea of perpetual peace was in effect transposed into a notion of perpetual conflict. While in the past Empires were imperialist, now imperialists are eager to reconstitute empires. Consider a couple of president Trump's actions: In 2018, he pulled out of the Treaty of Amity and from the protocol involving the ICJ in order to avoid a case filed against his country by Iran. In 2019, he withdrew from the optional amendment protocol concerning the compulsory settlement of disputes of The Vienna Convention on Diplomatic Relations of 1961 to avoid a possible decision by the International Court of Justice in a case filed by The State of Palestine regarding moving the American Embassy in Israel to Jerusalem. Such an act of withdrawal, which might seem as a symbolic diplomatic victory for the Palestinians, has abundant significance demonstrating the urge of an imperial power to stop masquerading in the apparels of international law after the wear of these apparels, which were used as a bridle to ensure that international law contributes to the interests of the powerful. Palestinians witnessed this repeatedly in the form of dual standards, which in essence condition right on might, and undermine the modest limitations that international law sets on might. Empires do not accept limitations to their might.

The picture that emerges in an internationally supported post-colonial state [imitation] is characterized by the lack of popular legitimacy; the failure to balance the negative social impacts of liberalization due to the lacking of a safety net for the poor and the vulnerable; disharmony between the legal (both national and international) and the political; and the de-politicisation of emancipatory tools (including human rights). Such characteristics cannot serve as an enabling environment for the respect and protection of human rights, not to mention their development.

This introduction is not a pessimistic prelude about the immanence of the symptom, nor an optimistic overture declaring the certainty of our ability to eradicate the abuse of human rights and infringement on them. It is rather a statement of the incompatibility of human rights with the current order. Human rights cannot be protected in the shadow of a disregard of rights, and of the law, which must serve as a tool for their protection, not the impunity of their perpetrators. Such incompatibility necessitates the adoption of transformative principles instead of amelioration techniques.

The Condition and Context of Human Rights Protection

The process of wear and tear of international law is not novel. Over the last seven decades, it has been taking place at various paces in different regimes and various historical segments. As early as the time of the drafting of the UDHR the representative of, then apartheid, South Africa voiced the reservation against attributing dignity to all human beings. Israel has a long record of escalating, continuous, and systematic attack on the United Nations and its system. The United States of America recently enacted legislation that undermines the sovereignty of other states, and declared multiple withdrawals from international treaties. Russia, while using techniques that are opposite to those by USA, is achieving similar impact. These are some examples of the challenges that international law faces all the time. It is noticeable that attacks on international law did not come from those who were subjected to UN sanctions like Iran, or Iraq (during Saddam Husein's rule), or by North Korea, as it seems none of these regimes felt like a lion practicing the law of the jungle. The attacks came from those who feel capable of presenting (and marketing) a replacement set!

The battering of international law and its instruments is not only realised by withdrawing from conventions or joining them, but there is an assault on the content and the rationale of international law. For example, what was perceived three decades ago as an established right (even if it was not adhered to or implemented) is now a conditioned right. It is treated as a commodity, which persons or nations become eligible to benefit from, through a process of accepting a barter consisting of adopting a certain political behaviour as a necessary "down payment" to be able to benefit from a right. Such barter in international relations take the form of a war sometimes, diplomacy in other instances, humanitarian aid on occasion, and economic aid frequently. Take the example of the right of the Palestinians to self-determination, which became conditioned on their peacefulness, or actually, on giving up resistance (there are attempts to criminalise even the call to boycott Israel), by agreeing to negotiate with their occupier outside the platform of international law, and by succumbing to external conditionality. Even the right of children to attend a school became contingent on the Palestinian acceptance of a "deal" that ignores, in principle, the concept of rights, although these rights were deemed a couple of decades ago as inalienable. Trump's "Peace to Prosperity" self-declares that it "is intended to maximise self-determination, while taking all relevant factors into account" (*Peace to Prosperity: A Vision to Improve the Lives of Palestinian and Israeli People*, 2020, p. 8), explicitly limiting the

significance and potential practice of self-determination to become external-determination by hegemonic actors.

The pounding of human rights and international law is not novel. The first serious attempts to enact the protection of human rights were embedded in the inauguration of the two covenants, which were designed as tools in the service of cold war competitions, each serving what one of the two camps claimed to be their ideals. The more celebrated of the two covenants (which, also turned out to be more effective) masquerades behind individual rights. The second is neglected, as it mainly deals with those problems that started to become exacerbated in the same period when the two covenants were signed (in the mid-seventies of the twentieth century). Ignoring and side-lining the International Covenant on Economic, Social and Cultural Rights is, in essence, a declaration that the “necessary” (freedom and equality) is “not necessary” (because it is not attainable)! This period witnessed the emergence of Thatcherism, Reganism, and the capitalist transformations of China led by the Chinese Communist Party, i.e. the emergence of the neoliberal era. As Samuel Moyn put it, “human rights surged as a new political economy triumphed.” (2018, p. 2) The new syndrome is that the adolescence of this era, and its necessary eventual impact on the fall of modernity, necessitated removing the mask of abiding by international law, and thus, exposing the true aggressive nature of its perpetrators.

While agendas baring the titles of human rights promotion, democratisation, the rule of law, and the like, have objective basis, and are vital to securing a fully-fledged self-determination process (the ultimate human rights principle), they are frequently colonially conditioned and embed in themselves connotations that are averse to self-determination. “Human rights is increasingly seen as the language of a moral imperialism just as ruthless and just as self-deceived as the colonial hubris of yesteryear” (Ignatieff, 2003, p. 299).

The Caveats of the Human Rights System

The impunity of assailants on international law and the corresponding lack of immunity of international law needs to be seen in its historical context. The adoption of the UDHR in 1948 represented an unprecedented milestone in the development of a set of principles that recognise equality and dignity, establish freedom and justice, and require states to ensure the conditions necessary for the full realization of those principles.

The UDHR formed the cornerstone of a global movement to recognize human rights, protect human dignity, defend freedoms, and safeguard human lives. It constituted a ground for emancipatory struggles, including those related to self-determination, women, minorities, workers, prisoners of consciousness, and other oppressed people. The UDHR also played a central role in the development of vital milestones in the Global South's quest for self-determination and independence, including, inter alia, The Bandung Conference (1955), the creation of The Non-Aligned Movement (1961), and the Tehran Conference on Human Rights (1968).

At the same time, the UDHR displayed the shortcomings characteristic of international treaties drafted during the colonial era. Major powers, in the aftermath of WWII, had a disproportionate impact on the UDHR's drafting. Only 58 states were members of the United Nations (UN) when the vote to adopt the UDHR took place in the General Assembly; consequently, more than two thirds of the countries that are members of the UN today did not participate in the UDHR's creation (not to mention non-member states, such as Palestine). Even if we dismiss this fact, on the grounds that this was not intentional, the fact is that these powers now acting under the chic name "the will of the international community" held (and still hold) in their hands the interpretation, realization, inactivation, and prioritization of the declaration and the human rights system, which emerged subsequent to it. Colonial era concepts such as "universal respect," "social progress," "nationality," "a person before the law," "national tribunals," "rights granted by the constitution," "security of person," "periodic and genuine elections," and "a democratic society" are used throughout the UDHR, reflecting its status as an instrument of modernization and its pedigree as an "enlightenment" project. Such concepts are not representative of the world population. Rather, they assume that all people must "live up" to the model of the nation-state and the value system accompanying it. The language of the UDHR, moreover, reflects a liberal ideology that exaggerates the role and place of the individual, reflects the balance of powers which existed at the time of its drafting and inception, and assumes the validity of modernist structures and values for the world. In essence, as Oscar Correas Vázquez stipulates, "Third World countries have human rights that First World countries define." (Trigo, 2017, p. 269)

Third World countries, along with several liberation movements that had not yet formed states, had to struggle for the "real universality" in the UDHR's substance, tenor, meaning, and effect. They had to struggle for focusing the UDHR's impact on achieving liberty and completing the processes of decolonization. This struggle took place despite their formation in the neo-colonial era; their adoption and endorsement of international

law systems; the enormous differences in the political and ideological standings of these countries and their movements; and their asymmetrical alignments with the two poles of the Cold War. For some four decades, Third World countries worked to develop the principles of the UDHR to reflect the right of peoples to self-determination and the right to resist both colonialism and neo-colonialism. They also worked to associate themselves with other principles of international law such as sovereignty, formal equality between states, and economic development. Their efforts occurred primarily under the umbrella of resistance and decolonization projects, and managed to “democratise” international law in general and human rights in particular.

These efforts, as well as the emerging force of anti-colonial alliances that were led by the Non-Aligned Movement, have contributed, for example, to keeping the Palestinian cause a viable emancipatory project that drew worldwide diplomatic, political, and military support. This support helped establish a platform for the continuation of hope, an important factor in the steadfastness of the Palestinian people. In a way, these attempts to democratise the world order can be seen as trying to concretise the abstract universality of rights set in the UDHR, or overcome the dominance of the imperial values that the declaration reflected.

Recent transformations in the application of international law, and the implicit limitation of human rights for the benefit of securitisation and corporatisation are rendering them ineffective from the perspective of their emancipatory utility. In this framework, the closer the Palestinians reach out to international law and its instruments, the further this law and instruments get from being able to serve their emancipation endeavours. Nonetheless, solidarity forces that insist on anti-colonial emancipation remain one of the most important pillars of support for the recognition and fulfilment of Palestinian rights, but international law is losing its capacity to serve as a ground for solidarity.

As stipulated, the above-mentioned transformations date to the mid-seventies of the twentieth century, but they were mainly serving the cold war agendas. The collapse of one of the two parties on the cold war front in the last decade of the twentieth century led to several developments including, inter alia, the emergence of the unipolar world, the rise of international terrorism, the decline of the Non-Aligned Movement and its countries, and the emergence of the “new world order”. In this new global context, struggle for the “universalization of universal concepts” became difficult. Endeavours to develop rights in line with the interests of the people of the Global South were practically halted and replaced by new schemes whose pretensions included the facilitation of a “postmodern” global village.

New mechanisms have emerged to regulate the meanings, interpretations, and applications of international legal principles, including those set forth in the UDHR. Distinct from the practices of national sovereignty, these new mechanisms have become an expression of unipolar hegemony over international relations and conventions. The change in regulation is so convoluted that a range of tools, originally central to the system and indicative of it - such as the concepts of international consensus and international law - have been frequently ignored and replaced by new terms or jargon such as the “will of the international community”. Such new terminology reflects the acceptance of the transformation of the world order into a regime of “might makes right”. Chomsky and others observe that the words “international community” really mean the “United States joined by some allies and clients,” and the media that expresses them. (Chomsky, 2009)

In the era of globalized neoliberalism, human rights have become more intensively and extensively violated, and more difficult to defend. States have left or have been forced to abdicate their traditional role of protecting their citizens and the organization of their lives to the private sector. This has allowed transnational corporations to take custody over peoples’ rights, partially replacing the role of states with arrangements such as “corporate social responsibility”. “The human rights revolution of our time is bound up with a global concern for ‘wretched of the earth,’ but not in the egalitarian sense that the socialist and postcolonial promoters of that [post WWII] phase originally meant.” (Moyn, 2018, p. 8)

Despite persistent attempts to find ways to protect human rights, the limitations of these efforts are demonstrated, at least for the last three decades, by the lack of progress in fighting poverty, environmental problems, wars, other inequalities, and the absence of protecting human dignity and the right to live. The fiasco of the current world order in dealing with COVID-19 pandemic is probably the ultimate demonstration of the failure to protect the most basic of rights – life. The neoliberal system has been signalling the decreasing chances of achieving human rights, and it seems to be delivering its closing remarks with the pandemic crisis, the growth of populism, and the approaching ghost of fascism. It also demonstrates significant tendencies to transpose obligations to protect into charity and intervention through aid, humanitarian aid, and through the development of new conceptual grounds for external and internal discrimination as fragility, and identity accordingly.

In the case of Palestine, the application of international law and human rights standards used to describe the process of national liberation have undergone many transfor-

mations, including the de-legitimisation, and criminalisation of an ever growing range of resistance acts that are legitimate under international law, including describing them as “acts of terrorism”. The right of the Palestinian people to self-determination is conditioned by the consent of the occupying power in prevailing international discourse, including at the UN. State obligations have been transformed from legal duties to charity, often presented in the form of aid, which is increasingly subject to conditions contrary to the will of the Palestinian people, and amount to the abandonment of inherent and inalienable rights.

Many years of oppression, displacement, and occupation have prevented the Palestinian society from normal development, caused its deformation, and produced a set of distorted priorities. As a result, social and economic rights are virtually ignored and political divisions consume energy. People living under occupation are left suffering from escalating unemployment, poverty, and deprivation. This is a people engaged in the struggle for national liberation, whose forces have been exhausted in internal conflict. Today, the situation in Palestine is characterized by corruption and fragmentation. The chances that the Palestinian people will exercise their right to self-determination, see the return of their refugees, realize human rights and freedoms, and establish a state are grimmer today than in the past. In other words, the deterioration of freedoms, the de-development, unemployment, and poverty, are a natural escort to the denial of rights.

The Potential of Human Rights

The struggle between the two “versions” of human rights has, thus far lost to the first version, which Samuel Moyn (2018) calls the “subsistence minimum” (, p. 6) imperative. This minimum is currently only an unrealised aspiration that is adopted widely by human rights activists, but even achieving this minimum will not salvage humanity from the evils of inequality. In addition, the vast polarisation under the neoliberal order that reached striking levels is still incomparable with the polarisation of the colonial order. Furthermore, maintaining this polarisation further shall entail a transformation towards more oppressive totalitarian neoliberal political powers with a fascist threat. The struggle against such a future should, of course, be multifaceted, but an egalitarian human rights doctrine should be an essential and central component of it.

The two versions of human rights have generated two distinct narratives. While they can be seen as two faces of a single coin, the coin cannot maintain its value with one face. The two narratives are pretty much resembled in the two covenants of human rights. The first narrative is that of the drafters/authors of the UDHR, and of the context in which it was drafted, and what can be deduced about their intentions in any critical historical reading of the document and its drafting process. While voting for the UDHR, black Americans were still banned from sitting in the front side of a bus, and had to give up their seats for white Americans. There are no illusions concerning the intentions of the states adopting the rhetoric of human rights defence. There are numerous indicators that it was intended for “others”, and did not reflect the actual intentions of the majority of states partaking the drafting and adoption processes.

The second narrative is, in part, that, which is known to a good extent in Palestine. The UDHR and subsequent documents played an important role in the recognition of the rights of those who suffer from foreign hegemony, stated the right to self-determination, and served (and still serves) as a vehicle for enacting international solidarity with the Palestinian people. It also provided clarity and defined the legality of the legitimate Palestinian national liberation struggle. In addition, it provided the legal formalization of the successes of this struggle, like the recognition of the right of the Palestinian people to self-determination as an inalienable right. Another part of the second narrative is related to the legalisation / legitimisation of such concepts like equality, and justice, including social justice. These concepts do not represent the mainstream ideology prevailing today (not the liberal, nor its recent newer neo-liberal version). Nevertheless, the human rights system, has definitely served as an inhibitor to the intentions of the powerful, whether they act as colonizers, exploiters, slave owners, or simply males who believe that their biological specifications grant them social superiority!

The current prevailing “liberal” paradigm of human rights is limited in application to territorialised national jurisdictions, centred on the individual, and conjoined with the market. It resembles the first abovementioned narrative, and contradicts the first statement in the preamble of the UDHR that stipulates the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” (United Nations General Assembly, 1949).

What is needed is the “equality” imperative (which also guarantees minimal subsistence). It adds an additional dimension to the principle of universality of human rights. To illustrate the difference, the “subsistence minimum” allows ideally, for the elevation

of the standard of living of people under colonial or neo-colonial regimes at the expense of colonized or neo-colonized peoples. The same is not possible under the “equality” imperative. Furthermore, the “equality” imperative should lead, eventually, to some form of equality between nations as well, and not stay limited to an internal national framework that is contradictory to the notion of equality in the first place.

Conclusion

There can be no doubt concerning the hypocrisy of those who voted for the UDHR, but there can also be no doubt concerning its usefulness for emancipatory projects in spite of the hypocrites and their colonial and neo-colonial projects. The impact of the UDHR does not emanate from its text, nor from the intentions of its drafters, or those who designate them. It emanates from our own protection of rights. No documents or international institutions can liberate us if emancipation is not our strategy, but they can be elements of our toolbox. The question is where and how these tools should be utilised in order to fulfil the functions that we designate for them.

Because the future is conditioned on achieving equality and solidarity, there is need to counterpoise current root causes of polarisation and fragmentation. Such a strategy requires the braking of the monopoly of the wealthy and powerful over international law. Antony Anghie demonstrated how “the Third World was intent on furthering the project ... of separating international law from its colonial past and reconstructing an anticolonial international law that would serve the interests of the entire international community.” (2007, p. 198) Today we need to undertake the project of separating international law from its neoliberal present.

“Human rights cannot be everything to everyone. There must be some basis for identifying the perspectives that support human rights protection and those that compromise it.” (Pruce, 2019, p. 170) The celebration of human rights as the “lingua franca” of today as a particular “exclusive” language should end. What we need is a language that is globally coined, and belongs to all peoples. We should strive for a world that is free from exclusion and free from inequality. People should become the designers of rights and not only their recipient. The essence and the impact of the UDHR and its subsequent covenants, conventions, and decisions, is determined by what we do with these documents and not by what the documents do to us. Human rights do include principles that can serve as basis for transformation and tools for change. The “invocation of

the concept of human dignity, was, and is, explicitly transformative.” There is evidence that it is the main principle that can “address the legacy of cruel and dehumanising regimes.” (Evadne, 2007, p. 8)

Such a development in the human rights paradigm is possible, and should lead to re-orienting human rights practice away from the notions of charity like “legal aid”, notions of reform like “lobbying” that in essence reproduce and foster the current system, and from market notions that substitute individuality for human particularity (Marx, 1987, p. 331), thus objectifying human subjectivity and transforming it into a commodity.

An egalitarian emancipatory human rights paradigm will facilitate and enable solidarity instead of charity, democratic choice rather than cosmetic reforms of monopolised politics, and personal and communal self-determination instead of a universalised individuality that comes at the price of sacrificing the rational human will. Under such a regime, the Palestinian aspiration for freedom and the practice of self-determination can be realised without having to make “painful concessions” that amount to sacrificing freedom and dignity. The freedom of the Palestinians will stop being conditioned on an external colonial will.

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