

## HUMAN RIGHTS AND GLOBALIZATION: THE RESPONSIBILITY OF STATES AND OF PRIVATE ACTORS<sup>1</sup>

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Let me begin by reviewing some things that may have been discussed earlier, and that is the concept of human rights, which I think, in some ways, has broadened since the Universal Declaration of Human Rights right after World War II. That focused not only on the political rights but also on economic rights. Let me just try to emphasize that I do think that economic rights are very important, one cannot meaningfully exercise political rights if one is starving. Since then there been elaboration and nuancing of the notion of these rights, particularly, for instance, South Africa in its constitution has reflected, adopted a number of notions of economic rights and trying to define more precisely what they mean is not easy, but I think it is an important step forward.

The other area where it has been obviously broadened is environmental rights: rights to clean air; you might say rights to survive. Global warming has shown that those rights are at risk. Countries like the Maldives, you might say that the basic human rights of their citizens have been put in jeopardy by the pollution coming from the advanced industrial countries. The life expectancy of their country is 75 years or less and I met with the Prime Ministers and heads of government of many of the South Pacific island states and they too have a very limited life expectancy because of the rising sea level.

There are other elaborations or extensions of basic political rights, for instance the citizens' right to know what their government is doing has become a very important human right both directly and as part of the mechanism by which we insure that governments behave in ways that correspond to the wellbeing of their citizens.

<sup>1</sup> As delivered.

Traditionally, national authorities have been the locus of responsibility for the implementation and enforcement of these rights. In the US, for instance, it is reflected in the first ten amendments to the Constitution. What I want to do is talk a little bit about how globalization has affected these notions of rights and it is in three ways that I will try to comment. First, it is unambiguously positive that one aspect of globalization has been the globalization of ideas. One of the important ideas that has spread all over the world, through globalization, has been the idea of human rights. I think it has given force to these ideas, the ideas have been globalized and I think this is a very positive aspect of globalization. The second is that the responsibility for implementation and enforcement of human rights has changed in ways that have moved, you might say, both up and down, both up in scale to an international level but down to the level of non-state actors. It has moved up in the sense, for instance, that the notion of the duty to protect is an important extension of international responsibility that was recognised at the end of the last decade. And, obviously, one of the motivations of that was the kinds of atrocities which occurred – issues of genocide, as we saw in Rwanda – questions were asked, and the citizens of one country sit idly by when the human rights in another are being violated. Obviously these cross-border responsibilities pose some severe difficulties, for instance on what are appropriate standards, whose views, how do we effectively enforce or implement our appropriate concepts. An example, I think, is illustrated by what happened in the US during the Bush era, where I think there is a broad consensus that the Bush Administration violated the International Convention on Torture. The question is, the international community obviously did not do anything to stop it, to ostracize in any way what were, at the time, clear violations of international law, and since then the documents that have been released have made it even more clear that they were engaged in a violation of international law. So it raises very difficult questions about the enforcement of these rights and questions of holding particular individuals accountable for those violations.

The same thing, of course, is that we have begun to create international frameworks. The International Criminal Court is an important step forward in globalizing the implementation enforcement of what may be basic human rights. So that is going up in a way that globalization is the responsibility not just of the state but of the international community, but it has also gone down that non-state actors have a responsibility for enforcement implementation of human rights and it is both civil society, corporations and individuals. One of the interesting developments is that some firms

have actually adopted as part of their corporate charters the Universal Declaration of Human Rights and they take it quite seriously. Not most firms, I have to say, regrettably, but a few firms have. Hydro is a Norwegian firm that has not only adopted it but has training sessions for older management on what does it mean for the actions of the company and actions of individuals within the company to be consistent with the Universal Declaration of Human Rights. Hydro is a company that deals in hydrocarbons, an area where there are frequent violations of human rights, where the difficulties arise from acquiring oil and gas rights, dealing with governments – it was mentioned before – that are corrupt, and quite often violations of human rights have been an important part of the extractive industry in their behaviour. An important suit that is going on right now, for instance, in Ecuador involves the violation by Texaco and Chevron of, you might say, the basic human rights of the people in Ecuador, where I think the evidence is pretty clear; the only question is, will they have some sense of accountability through legal mechanisms.

Civil society today, I think, is playing an increasingly important role in the implementation of human rights. The basic notion here is what economists call a public good, that society as a whole is better off if there is respect for human rights, and that, in general, the notion that the public good and is a public good and will, as a result of that, be under supplied. There need to be collective responses for the provision of public goods and the enforcement, and that is where I think civil society has taken a particularly important role. In the US, for instance, it was only because of the intervention of civil society that there was disclosure of the torture memos, that there was an attempt to keep, which goes to another, as I say, basic human right, what I view as a human right, the right to know, there was an attempt at non disclosure but, as a result of the intervention of civil society, the government was forced to disclose and that information, I think, has had a very big impact.

I think there is a basic moral responsibility of each individual not to interfere with the human rights of others, but there is also a basic responsibility, a moral responsibility, to help enforce the human rights of others. It raises some very particular issues: is there a special responsibility when it comes to actions or violations of the human rights by one's own government? Do American citizens have a particularly strong responsibility for countering actions of their government that violate the human rights of others? I think that is a difficult issue but I think the answer is yes, and that is both for the political rights and for the economic rights. For the

political rights the issue of torture is obviously uppermost in people's minds today. On the economic rights the issue is that this global economic crisis has a very much *Made in USA* label on it. We exported not only the deregulatory philosophy that enabled the spread of the crisis around the world but we exported many of our toxic mortgages. Let me try to emphasize. These toxic mortgages is a description which suggests that they were highly risky but those toxic mortgages were far worse than that, they were deliberate exploitation by the banking sector and the financial community of the poorest Americans, Afro-Americans. They were an attempt – you know, there has been a lot of discussion about, in recent years, the discovery that there is money at the bottom of the pyramid – what America's financial community tried to make sure was that it did not remain at the bottom of the pyramid but that it moved to the top, and they were remarkably successful in moving the money from the bottom of the pyramid to the top. If you see the devastation that has been done to middle class and lower income Americans in communities like Baltimore and Cleveland you understand the moral dimension of what America's financial market has done. So it is not just that it is a wreck to the American economy or it is not just that it has wrecked the global economy: these subprime mortgages, by themselves, were intensely, I think, immoral on any ground. But then we exported that, we persuaded others to accept these, and as I say, I think 'toxic' is too kind of a word for them, the Administration now calls them 'legacy assets'. There was an evolution in terms, first it was 'toxic' and then it became 'troubled assets' and now they are 'legacy assets' and I think that really does not do justice to the opprobrium that they should have received. Anyway, the global crisis now is having effects all over the world and the most severe effects are in the poorest countries. For a variety of reasons, the worst impact is on the poorest countries and these countries do not have the resources to cope, to undo, to offset the effects and so the effects on poverty are likely to be very severe in the developing countries. Estimates of between 100 million or more will move into poverty as a result of this global crisis. So the question is here, in a sense, the actions of one country have very severely affected the wellbeing of citizens in another. The question is, is there a moral responsibility of the US, having created the crisis, to do something to help the poorest countries? My view is that there is, but unfortunately the US has been the least forthcoming in providing that international assistance. Japan and Europe have been much more forthcoming in providing that assistance than the US.

There is a third dimension that has led to a weakening of the human rights of many individuals, both directly and indirectly, both economic rights and political rights. Let me just try to illustrate what I have in mind. The impact on, you might say, economic rights broadly conceived is illustrated by the example that I just gave, where problems in one country can be amplified and lead to an increase in poverty in another. But it is also the case that the rules of the game, the way by which the global governance have in many instances weakened the ability of national authorities, which have been the traditional locus of responsibility for enforcement of human rights, it has weakened the ability of national authorities to do so. Let me just give you a couple of illustrations, examples, of the ways in which this has happened. IMF conditionality, I think there is a broad consensus, has weakened democracy, democratic processes in many countries. The World Trade Organization (WTO) has imposed conditions which have taken away certain degrees of national sovereignty in ways which can undermine the ability of national authorities to protect their citizens. So these international structures have had the effect of simultaneously exposing developing countries to more volatility, therefore putting at risk the citizens of those countries to deprivation of their basic economic human rights, at the same time that they have undermined the ability of the nation state to respond to those problems. The recent crisis, I think, illustrates some of the issues in a very intense way.

One example that illustrates, I think, some of the difficult issues, is Iceland. Iceland responded to the global wave of enthusiasm about deregulation and several banks, three banks in Iceland, grew to the stage where their size, in some sense their assets, were greater than the GDP of Iceland. Now, when those banks failed, the question was whose responsibility was it. The failure of those banks meant that there were economic consequences for many people in the UK and other countries, including charities, individuals who had put their money into these Icelandic banks, getting a higher rate of return than they would have gotten elsewhere, whereas there is no such thing as a free lunch, which meant that they should have known that there was more risk, but the IMF's response was to demand that Iceland, the people of Iceland, take over these private obligations. IMF was successful with the UK government in persuading the Icelandic government to do that and the implication is that the citizens of Iceland will be impoverished, will be poorer than they would have been, for generations to come. The citizens never had voluntarily undertaken in some sense this obligation, it was undertaken by their government, it was an elected government to be sure, and the government, after it did this, was forced out of office, but the obli-

gations remain. So, in the world of globalization, one has this increasing risk of the socialization of private obligations, the socialization, in particular, of private losses, while you have the privatization of profits, which is obviously a system, I think, that is inequitable, but clearly raises very deep issues.

Again, in its current economic crisis, state power is being used to transfer large amounts of resources to fulfil private obligations and to recapitalize private institutions. Globalization has had a very big role in shaping this, for instance in the US one of the interpretations of why the large mortgage company Fannie Mae was treated the way it was, in particular there were large debt holders in Fannie Mae, who, under a normal process of conservativeness, of financial restructuring, would have had to have paid the obligations but this was not done. The US tax payers assumed 6 trillion dollars of obligations: that is a lot of money, to go on [incomprehensible]. The reason was that of those obligations, a large amount, not huge, 300 billion, were held by the Chinese and the feeling was that to make those people pay would have had international consequences that we did not want to deal with at the time. The point I want to raise, and the subject of this talk, is how has globalization affected the way we approach issues of human rights. Here globalization, in effect, was a huge transfer of resources, changing the rules of the game, and the result of that is that resources that would have been available for a huge number of other uses have been devoted to giving money to bond holders that did not have any contractual right to those but got them because of the international complications of not giving those moneys to particular actors.

So globalization has clearly made the implementation of economic human rights much more difficult. I think that, going forward, the issues of economic, political, environmental human rights, within a global context, will continue to be a subject of a great deal of discussion and I think the vocabulary of economic and political rights is a vocabulary that is a useful way of approaching these issues. We will have more discussion on Monday on exactly that topic, which Ravi Kanbur is going to be talking about more in detail.