

# Innovation in Multilateralism

Edited by

**Michael G. Schechter**  
*Professor of International Relations*  
*James Madison College*  
*Michigan State University*  
*East Lansing, Michigan*



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## 7 Expanding the Limits of Imagination: Human Rights from a Participatory Approach to New Multilateralism

Abdullahi A. An-Na'im

This chapter seeks to explore the possibilities and dynamics of a genuinely global people-centric (as opposed to state-centric) human rights movement as both a form of, and source of innovation for a new multilateralism. I suggest that international human rights standards and mechanisms are enabling a wide variety of organizations of local and global civil society not only to articulate popular demands for political participation and social justice, but also to establish their own structures and processes for realizing those demands. These popular movements are already achieving their objectives by influencing the existing state system as well as through their own structures and mechanisms. By expanding the limits of imagination through the broadening of the circle of 'imagers' to include non-state forces in this way, it seems to me, a whole range of possibilities for new multilateralism will emerge and materialize in practice.

By a people-centric movement, I mean not only familiar forms such as elite and mass movements, tribal, ethnic, radical or militant religious and ideological associations, but also other possible forms, as they define and perceive themselves. In describing all this variety as a 'human rights movement', I wish to indicate a commitment to human rights as a defining and organizing principle of the objectives and role of the forms of civil society I have in mind. As discussed below, however, commitment to a unified and coherent conception and content of human rights cannot be taken for granted. In the last section of this chapter, I will address the issue of the tension and possible conflict between competing conceptions and content of human rights, and how they might be mediated and resolved.

Since I advocate the enhancement of the contribution of a people-centric movement to the establishment and functioning of new structures and processes of multilateralism, it is not appropriate for me to preempt or constrain the outcome by the limits of my own imagination. Nevertheless, I hope that the theoretical discussion and brief outline of this source of innovation will be sufficiently concrete to indicate what might be expected, and to suggest strategies for enhancing and promoting its contribution to a new multilateralism.

The basic theme of the United Nations University (UNU) programme on multilateralism is the interaction of the dynamics of the changing structure of world order, on the one hand, and the process of international organization, on the other. The normative commitments of the programme are to 'social equity, a greater diffusion of power both among and within societies, a striving for peaceful settlement of conflicts and mutual recognition of the equality of civilizations and cultural traditions'.<sup>1</sup> The commitment of this conception of new multilateralism to maximum participation, and the consequent need for empowering the less powerful forces in order to enable them to pursue their objectives in relation to the forms and process of international organization, should clearly include, and be reinforced by, an expanding circle of the widest possible variety of civil society participants.

The UNU program presupposes dissatisfaction with the models, structures and functioning of the existing order and process of global multilateralism (or aspects thereof), and the prediction of their drastic transformation or impending demise. The very notion of the 'new' is based on a certain conception of the 'old'; and differences at that level, condition and shape evaluations of the old and projections of the new. Since such differences exist not only among state actors, but also among non-state actors as well as between the two sets of actors, it is important to open participation in the evaluation and reconstruction process to include forces of local and global civil society, especially those who have previously been excluded or had limited access to ways of influencing the structures and processes of multilateralism.

In purporting to contribute a 'Southern' perspective in the present discussion,<sup>2</sup> I wish to declare my own acceptance of the premise and normative commitments of the UNU programme. In my view, these normative commitments can and should be promoted as particularly conducive means to achieving global consensus around the objectives and processes of a new multilateralism. I take these commitments as providing a 'Grundnorm' (fundamental grounding norm) for a cosmo-



politan ethos of seeking an 'overlapping consensus' between the respective 'relativities' of all participants.<sup>3</sup>

By 'grundnorm' I mean an essentially assumed yet conceptually useful premise for dialogue among participants and actors from diverse cultural and contextual perspectives. The normative commitments of the UNU project constitute a good starting point for dialogue precisely because they presuppose, and seriously take into account, differences in the perceptions, experiences and assumptions of state and non-state actors, including differences about the justification and implementation of the normative commitments themselves.

As an assumed premise, however, this 'grundnorm' must anticipate and address the question of the role of those who do not agree with its underlying values and vision. Should elements of local or global civil society be excluded from the process of constructing a new multilateralism, and how can such charges be adjudicated and by whom? As I will argue in the last section of this chapter, it would be very problematic and probably counter-productive to attempt to deliberately exclude any participant for lack or insufficiency of commitment to any particular premise of a new multilateralism. I would trust the process itself to regulate and adjudicate the role of various actors, regardless of their views, rather than attempt to impose external safeguards and regulations.

## MULTILATERALISM AND THE LIMITS OF IMAGINATION

As a review of recent efforts at reforming the United Nations clearly illustrates,<sup>4</sup> significant change is unlikely to materialize within the framework of current forms of multilateralism. Such a process appears to be so restricted and inhibited by the premise, context and dynamics of the scheme it purports to reform that it cannot even 'imagine' more effective ways of improving it let alone conceive of alternative models.<sup>5</sup>

Thus, instead of a 'genetic-incrementalist approach' which takes existing forms of international organizations as given and merely looks for ways to improve their functioning, I would join the call for a 'structural-critical approach' that questions the stability and long-term durability of the inter-state system, and seeks to articulate normative bases for an alternative world order.<sup>6</sup> Rather than seeing multilateralism as necessarily exclusively derivative from the existing inter-state system, I would join those who question the assumptions shaping this order and inquire about the kind of relationships that could constitute multilateralism in a potentially changed reality of world politics.<sup>7</sup> But the challenge I

propose to the limits of imagination include questioning whose imagination is relevant as well as testing its real or perceived limits.<sup>8</sup> That is to say, I would seek to expand the circle of imaginers through the human rights movement in order to broaden and diversify the sources of innovation for a new multilateralism.

It seems to me that the present state-centric circle of imaginers, and the scope of their imagination, are limited by the fact that the origins and founding assumptions of the present inter-state system are confined to the intellectual, political and legal history of Western powers. Non-Western parts of the world are commonly seen as passive objects of a system rooted in Western conceptions of international organizations, relations and law which justified and facilitated colonialism and neo-colonial Western domination of other parts of the world.<sup>9</sup>

Nevertheless, the present system has grown enough in size and diversity of state membership, and generated sufficiently high expectations of the benefits of 'equal sovereignty' for its global membership to expose its own contradictions and inadequacy. Despite their relative weakness and illegitimacy as artificial constructs of the colonial era, the so-called nation-states of Africa and Asia did reflect some of the concerns of their populations for global equity, diffusion of power, peaceful settlement of conflict and mutual recognition of the equality of civilizations and cultural traditions.<sup>10</sup> The system has undermined its own stability by failing to protect peace and security in the South which became the battle ground for superpower 'wars by proxy' during 40 years of 'cold war', or in situations of so-called ethnic violence in places like Liberia, Somalia and Rwanda after the end of the cold war. It has also subverted its own long-term sustainability by failing to respond to Southern demands for a 'new economic order' and 'new information order' as pre-requisites for adjusting structural impediments to development, social equity and greater diffusion of power.<sup>11</sup>

This negative evaluation from a Southern perspective would equally apply, I suggest, to any form of multilateralism which is conceptually premised and operationally rooted in the present inter-state system, whether with global pretensions, like the UN and its specialized agencies, or of a regional or function nature, such as the European Union, the Group of 7, WTO, and so forth. It also applies, and for the same reasons, to apparently different forms of multilateralism, such as inter-governmental organizations like the World Bank and International Monetary Fund, as well as suprastate 'private' transnational business corporations which operate within the same framework. The basic problem here is how can the expectations of 'equal



sovereignty' be realized through an interstate system which is designed to emphasize and operate upon principles of power differentials rather than normative commitments to social equity and diffusion of power?

In an optimistic disposition, I would observe that despite, or perhaps because of, the politics of power differentials, normative commitments to justice, peace and human dignity do emerge and gain momentum. Human experience shows that the powerful limit their own power by the same act of trying to maximize it, and expand and protect its benefits. As shown by domestic struggles for constitutionalism, trade unionism and so forth, the apparently powerless have managed to extract some incremental and tactical concessions from the powerful which eventually transformed the distribution and operation of power. Though intended to preserve the *status quo*, such concessions have been effectively used, over time, to achieve radical change in power relations between rulers and their subjects, employers and their workers. Can the empowerment and liberation of domestic struggles for political and social justice through the assertion and exercise of civil rights be replicated at the international level?

It seems to me that in conceiving of, and constructing an international human rights system, the old order may have already provided the means for its own transformation. In particular, I believe that the dynamics of human rights as part of both *the ends as well as means* of constructing a new multilateralism should be pursued as a promising way forward.<sup>12</sup> I see human rights norms and mechanisms as a source of empowerment for civil society to articulate and pursue its own demands and aspirations as well as providing it with the means of the political struggle for achieving them in practice in order to achieve greater protection of their economic, social and cultural as well as civil and political human rights.

Assuming that any multilateralism will inevitably reflect the perceptions of self-interest of the parties, the way to change an existing order appears to be through either transforming the perceptions of the relevant actors, or replacing them with others who hold the desired perceptions of self-interest. Since states are the primary parties of the present system, and are likely to play an important role in any new system for the foreseeable future, the task would be either to change perceptions of state self-interest as articulated by the elites who control the apparatus of the state, or to replace them by elites who have different perceptions. Both options are currently being pursued within, and can be maximized



through, the realm of politics and consciousness transformation as mediated by human rights norms and processes.

Alternatively, a new multilateralism may be achieved by bypassing the existing order in some respects rather than seeking to confront and transform it. Instead of continuing to seek all the objectives and processes of multilateralism through an inter-state system, it may be possible to disperse and defuse them into several forms or types of multilateralism without attempting a frontal attack and dismantling of the present system as such. A gradual de-emphasis on the inter-state system may either lead to its eventual transformation or redundancy. This scenario, too, is already being pursued within, and can be maximized through, the realm of politics and consciousness transformation as mediated by human rights norms and processes.

For example, transnational business associations, trade unions, professional and sports organizations, and so forth, are now increasingly setting their own agendas and objectives. The state may continue to play a symbolic or formal role in implementing these agendas or objectives, but it is no longer the primary actor in these fields. In so far as the agendas and objectives of these organizations and movements reflect unifying commitments to shared perceptions of individual and collective self interest or visions of the common good, those perceptions can include elements of the above-mentioned normative commitment of a new multilateralism.

All I am suggesting here is a more focused and strategic use of human rights in relation to these processes. Does this analysis assume a particular conception and operation of human rights which may not exist, at least to a sufficient degree to generate the purported transformation of the old order? Did the old order conceive of and construct a human rights regime in a way that perpetuates and enhances the principles of power differential of the present inter-state system? If this was the intention, is it also the inevitable result or did the creation of a human rights regime initiate a dynamic of its own that may lead to different conclusions, as was (and continues to be) the case with domestic struggles for constitutionalism and trade unionism?

It is probably the case that the old world order did not wish or intend to initiate a human rights regime which would be capable of transforming the present realities of hierarchical power relations at the domestic as well as the global levels. Nevertheless, I suggest, the human rights regime so created is already generating its own dynamics and proceeding to its own conclusions at the multilateral level, irrespective of the wishes or intentions of the governments that initiated it.

## HUMAN RIGHTS FROM OLD TO NEW WORLD ORDERS

I take human rights to be rights (entitlements/claims) to which all human beings are entitled by virtue of their humanity, without distinction on grounds of gender, race, religion, language or national origin. As such, human rights should be universal in validity and application. Not only must the concept of human rights and its content be accepted by the general population of all parts of the world as a legitimate expression of their demands and aspirations, but they must also effectively apply to each in their respective context and circumstances.<sup>13</sup>

Although the term 'right' has different legal and philosophical connotations in various traditions, or may have even been unknown in its modern sense to some civilizations in the past, I maintain that it has acquired a degree of universal meaning in relation to human rights as defined here. This modern notion of rights and its connotations should not necessarily be confined to those of any particular tradition, including those of its Western origins. The notion of rights (as part of the concept of human rights) is now supposed to be invested with broader meaning and connotations to accommodate the demands and expectations of a diverse global constituency. It is supposed to include, for example, economic, social and cultural rights which impose 'positive' obligations on the state to act, in addition to traditional Western notions of the 'negative' duty not to violate civil and political rights. As indicated elsewhere in this chapter, this evolving notion of human rights also by now includes, in my view, collective rights, such as the right to self-determination, development and protection of the environment, which may not have been conceivable in the past.

This universalist vision, however, is hampered to date by several conceptual and structural difficulties. As a product of the inter-state system, the concept of universal human rights was supposed to be inhibited and restrained by traditional notions of national sovereignty and non-interference in the internal affairs of states.<sup>14</sup> The fact that the most significant documents were drafted and adopted so soon after the end of the Second World War and during the height of the cold war, heightened concern with sovereignty and protection of national security at the expense of a more effective system of human rights enforcement.

Given the nature and content of the international law itself within which human rights norms were conceived and purported to be implemented,<sup>15</sup> the latter appear to have been intended as expressions of moral and political claims rather than codification of legal rights. Since international law would not conceive, let alone permit, direct enforcement



through civil litigation and criminal prosecution of violators as is the case in the domestic context, 'promotion and protection' of human rights was supposed to take place through self-reporting procedures and political pressure on the offending state to 'honour its international obligations'.

The liberal ancestry of human rights in the Western constitutional traditions of civil liberties, and the inter-state context within which the modern movement was conceived and born, also imposed certain conceptual limitations. Not only were economic, social and cultural rights given a lower status in the standard-setting and enforcement processes, but the concept of human rights itself was incapable of conceiving of alternative notions of collective rights which are crucial to social justice and human dignity in the South.<sup>16</sup> The concept of human rights as articulated at the end of the Second World War was also unable to accommodate notions of inter-generational rights which have recently been developed by the environmental movement, that is, the notion that future generations have rights to enjoy a healthy and sustainable environment, with a corresponding duty on the preceding generations to protect the environment for the benefit of subsequent beneficiaries.

The inadequacy of agreement on a rationale and role of human rights in the present world order no doubt contributes to the lack of political will for consistent and effective implementation and enforcement. But the present structure and processes of international organization are hardly conducive to achieving such agreement or generating the necessary political will for collective efforts to respect and protect human rights. Neither are the dynamics and power relations of the present world order favourable for inducing and sustaining a genuinely collaborative system of implementation and enforcement, hence the current 'human rights dependency' of the South on the initiatives, resources and priorities of the North, at both the governmental and non-governmental levels.

At the governmental level, this human rights dependency is clearly manifested, for example, in 'conditionality of aid' from the rich countries of the North to the poor countries of the South on particular standards of human rights performance. As can be expected, those standards of performance tend to reflect Northern conceptions and priorities by emphasizing, for example, civil and political rights over economic and social rights to health care, education, and so forth. The indivisibility and interdependency of human rights is seen as a one-way street – assuming that realization of economic and social rights depends on protection of civil and political rights – without appreciating the counter-



dependency of the latter on the former. In this way, the existing economic and technological dependency of the South on the North is used to create and sustain a human rights dependency.

The same dynamic of power relations and priorities are assumed and relied upon by Northern 'international' non-governmental organizations (NGOs) which monitor violations in the South in order to report on them to constituencies in the North which are then expected to lobby their own governments into 'pressuring' governments in the South to protect the human rights of Southern populations. Human rights advocacy strategies also assume and rely upon the informational and media superiority of the North. In contrast, Southern NGOs are unable to monitor human rights violations in the North, and Southern governments are incapable of pressuring Northern governments on their human rights performance. Thus, perhaps with the best of intentions, Northern human rights NGOs are contributing to the perpetuation and legitimization of a human right dependency of the South on the North. I will return below to this particularly serious challenge to the thesis of this chapter.

Despite these conceptual limitations and structural problems, I suggest the international human rights movement has achieved significant progress in creating its own dynamics and agenda, including efforts to curtail and diminish the negative consequences of conceptual and structural concerns.<sup>17</sup> The premise of universality and international legal obligation to respect and protect human rights signified a limitation of sovereignty and exclusivity of internal affairs. The self-reporting system itself was transformed into a quasi-judicial regime through the work of specialized committees under the various conventions, as supported by the activism of national and international non-governmental organizations. Stronger enforcement mechanisms within the European and Inter-American human rights systems not only achieved justiciability within those regions, but also helped in clarifying concepts and norms and the development of the jurisprudence of an international movement,<sup>18</sup> subject, of course, to the need for contributions from other parts of the world in light of their own context and circumstances.

With the growth of stronger local and international activism and evolution of human rights as an independent, though interdisciplinary, field of scholarship, issues of the indivisibility and interdependence of civil and political rights, on the one hand, and economic, social and cultural rights, on the other, are being explored and clarified.<sup>19</sup> Notions of 'new generation' or 'solidarity' rights are also being articulated in order to respond to demands of the South for a collective right to development,

protection of the environment, and so forth.<sup>20</sup> In short, the 'Jinni' of human rights is out of the bottle, and there is no way to force it back into the confines of the traditional inter-state system.

In this sense, the international human rights movement is both the progenitor and prototype of the new multilateralism. What it has not been able to do directly because of its conceptual and structural limitations, it empowered people to do through, for example, the environmental movement. While the latter emerged from and was inspired by the former, it has now succeeded in developing its own independent agenda and strategies in protecting, for example, collective economic and social rights as well as civil and political rights of indigenous peoples more effectively than can be done through 'traditional' human rights activism.

An aspect of the limitations and problems of the international human rights movement which is particularly relevant to its future role as the progenitor and prototype of new multilateralism is what I referred to earlier as the human rights dependency of the South on the initiative, resources and priorities of the North, at both the governmental and the NGO levels. An international dynamics of human rights monitoring and advocacy must continue, but the peoples of the South must contribute as equal partners in a global movement if it is to respond to their own priorities and concerns. That is unlikely to materialize, however, as long as the strategies of the international human rights movement continue to assume and rely upon the present North-South balance of power and dynamics of the inter-state system. How can the assumptions of dependency and its implications for the operational strategies of the human rights movement be made more consistent with the role of this movement as the progenitor and prototype of a new multilateralism?

I believe that a North-South overarching alliance of a people-centric human rights movement, as defined here, can utilize the political space created through the present dependency underlying human rights aid conditionality and international advocacy in the short term to diminish the economic, technological and other bases of that dependency in the long term. The present Northern governmental and non-governmental emphasis on civil and political rights can produce a counter emphasis on economic, social and cultural rights precisely because the former helps in creating space and mechanisms for action by Southern civil society which will, in turn, assert its priorities which include economic, social and cultural priorities as well as civil and political rights. Those Southern priorities, it should be noted, are already accepted and acted upon by some Northern governments and NGOs.



The objection raised earlier to a Northern one-sided view of indivisibility and interdependence is not intended to deny the validity and utility of that view. Rather, my point is that, instead of being seen as reflecting a permanent reality, emphasis on a civil and political rights view of human rights should be *supplemented* by strategies which seek to emphasize the economic, social and cultural side of the equation. Reliance on the present dependency for human rights purposes should be used as a tactical tool for shifting the bases of North-South relations from a dependency of differential power relations to a partnership of shared commitment to the above-mentioned values of a new multilateralism. This shared commitment, I suggest, can and should be promoted and utilized by a global civil society.

#### HUMAN RIGHTS AND THE CONSTRUCTION OF NEW MULTILATERALISM

As the child of the inter-state system, the international human rights movement is clearly handicapped by some of the characteristics of that order. Nevertheless, I maintain that this movement is capable of being the progenitor of a new multilateralism if it can achieve its potential of being a genuinely global people-centric movement in pursuing the normative commitments stated earlier.<sup>21</sup> In this last section, I will elaborate a theoretical model for this expansion of the limits of imagination, and then apply it to issues of ethnic and cultural self-determination as problematic of a new multilateralism, including its human rights component.

As suggested earlier, a new multilateralism can be *constructed* through the incorporation of its above-mentioned normative commitments into state-elite perceptions of self-interest within the existing inter-state system or bypassing it in some respects and seeking to disperse and defuse the objectives and processes of multilateralism into several types and forms without attempting to dismantle the present inter-state system as such. Both strategies, I maintain, are already being pursued within, and can be perfected through, the realm of politics and consciousness transformation as mediated by human rights norms and processes.

Thus, the key to a successful human rights mediation on both counts is a global people-centric movement that defines and pursues its objectives independently from the inter-state system. Otherwise, the human rights movement will only be co-opted into enhancing and perpetuating the structural power differential and normative injustice of the present inter-state system by creating the illusion of temporary or marginal



relief instead of pursuing lasting and meaningful change through the construction of a new multilateralism. Is such a genuinely global people-centric movement possible, and how would it contribute to the definition and realization of a new multilateralism?

The human rights movement should be, by definition, people-centric because, in their most traditional sense, human rights norms are designed to protect people against the abuse of power by the state. As indicated earlier, civil and political rights are supposed to provide people with the 'political space' for articulating their demands from the state, and the means of the struggle for their legal and political realization. In this light, it is imperative for the movement to break away from its current dependency on the inter-state system to 'protect and enforce' human rights norms against states which are the primary object of limitation and protection. Otherwise, the paradox will persist in that the state (and inter-state system) will continue to monopolize the specification and implementation of human rights norms which are supposed to guard against its own abuse of power.

The desired transformation is not for a people-centric human rights movement to 'replace' the state and inter-state system, as the two are interdependent. Rather, it is for the human rights movement to be as imaginative, independent and people-centric as possible in defining its objectives and pursuing its implementation and enforcement strategies. There is good indication that this is already happening through, for example, the indigenous peoples' rights movements.<sup>22</sup>

By the same token, the role such a human rights movement can play in the construction of a new multilateralism, and the precise impact or consequences that role will have, cannot be defined and specified beforehand because it is a *product of a process* rather than a preconceived task or goal. Yet, I suggest, it is possible to predict that the above-mentioned normative commitments of a new multilateralism will be part of the outcome if they are seen as integral to the process itself.

Why is it necessary to characterize this process as a human rights movement, and how does it work in practice in the construction of a new multilateralism? It is important to emphasize the human rights nature of the process for two main interrelated reasons. On the one hand, this would enable participants in this process to draw on the moral and political as well as the legal force of an already established concept and principle of international law and relations. Casting the process in human rights terms, on the other hand, clearly indicates the normative parameters of action taken in its name. This applies both to exclude as well as include certain objectives, structures, principles, and so forth, as contrary

to or consistent with the human rights normative framework of the movement. In other words, characterizing the process as a human rights movement is helpful in defining the objectives, structures and dynamics of the new multilateralism it can contribute to constructing.

The essential character of a multilateral relationship is that it is supposed to be between three or more entities, whether of state or society; governmental, inter-governmental or non-governmental or combinations thereof. In my view, the key feature of a desirable new multilateralism is that the objectives, structures and processes of multilateral relationships should be consistent with human rights norms and institutions, as defined above.

However, it is of course conceivable that a people-centric movement might lead the project in directions unacceptable to some people, indeed into what some people might perceive to be even more 'dangerous', unstable or untenable forms of multilateralism than what pertains under the present inter-state system. Is that likely to happen in practice, and is there some form of self-correcting mechanism whereby the movement can avoid or reverse those undesirable directions?

In responding to this important question, I would first emphasize that the choice here is not between a 'neutral' and 'safe' inter-state system, on the one hand, and a partisan and unruly people-centric movement, on the other. Both are dynamic processes which reflect the perceptions of self-interest of those in control of the state, in the first case, or the constituency of the movement, in the second. Between the two, in my view, a people-centric movement is more likely to be consistent with the normative commitments of a new multilateralism, and more amenable to self-correction and adjustment in response to the requirements of those commitments, than the present inter-state system. To illustrate how that might happen, take the question of ethnic and cultural self-determination in the Horn of Africa and its multilateral implications.

The roots of ethnic and cultural conflicts in Africa as a whole are no doubt varied, complex and controversial, but I would maintain that much of the genesis and scale of the present phase is the product of the disruptive intrusion of colonialism and subsequent failure of the inter-state system to respond to demands and expectations of the peoples of Africa who have been forcibly constituted into 'nation-states' and incorporated into the global economic, political and security processes of that system. This is generally as true, for example, of the genocidal conflict of Hutu and Tutsi in Rwanda (and Burundi), as it is of the Eritrean/Ethiopian and Somali conflicts in the Horn of Africa. The heritage of Belgian colonialism in the case of Rwanda, Italian and British in the



Horn, and Soviet/US rivalry in the cases of Somalia and Ethiopia, is continued by the role of France in central Africa and decades long failure of both the UN and the Organization of African Unity.

It is not my objective here to simplify the complexities of these situations or to shift the blame to outsiders for tragically cruel local conflicts. On the contrary, I hold local governments and elites more responsible for the recent and current tragedies of these and other African societies. But I do believe that it was the colonial and post-colonial insistence on imposing an alien 'nation-states' model, as part of an established concept of an inter-state system, which enabled local elites to perpetuate the negative colonial and cold-war heritage in these and other parts of Africa. Thus, my objective here is to suggest that the present inter-state system is too much part of the problem to provide good prospects of resolution. But there are other forms of colonialism, some of an internal nature, which are equally counter-productive from the point of view of the normative commitments of a new multilateralism adopted in this chapter.

For example, cultural self-determination as claimed by the present Arab Ba'thist regime in Iraq and the Islamic government of Sudan appear to present a serious conceptual challenge to my proposal in that they seek to use the notion of a people-centric movement in order to undermine and repudiate the normative commitments of a new multilateralism. With pan-Arab and pan-Islamic claims to an alternative model of political and social organization, economic development, international relations, and so forth, pan-Arab nationalism in Iraq and pan-Islamic revivalism in Sudan profess to be legitimate applications of the concept of a people-centric movement. Yet, the totalitarian ideology and repressive policies of the Iraqi regime against the Kurds, and the Sudanese regime against non-Muslim peoples of the South and Nuba Mountains, are fundamentally inconsistent with the normative commitment of new multilateralism to diffusion of power within society, a striving to peaceful settlement of conflicts and mutual recognition of the equality of civilizations and cultural traditions.<sup>23</sup>

I would argue, however, that these cases present a more apparent than real challenge to the premise and operation of the proposed source of innovation for a new multilateralism because their claims to being the product of people-centric movements is merely a pretence to gain legitimacy for a state-centric totalitarian project. Notwithstanding their claims of cultural self-determination to provide indigenous alternatives to Western hegemony, Arab nationalism and Islamic revivalism are merely the other side of the coin of the present inter-state system, operating



on the same principles of power differentials. But since the proponents of these models will no doubt argue to the contrary, how can the issue be settled? How to safeguard against the co-optation or 'hijacking' of my plea for a people-centric human rights movement to legitimize the achievement of objectives contrary to the normative commitments of new multilateralism?

In my view, there is no alternative to belief in the ability of the process itself to correct its own course, no legitimate way to settle the issue other than to continue the struggle to secure the necessary political space for the peoples of Iraq and Sudan to debate, and the means to act, to resolve issues of cultural identity and adopt a system of government of their choice, in ways that secure the rights of minorities and dissidents. For the international governmental and non-governmental communities to attempt to silence what they hold to be undesirable voices, or to exclude those they deem to be unwelcome actors, is both conceptually inconsistent with the normative commitments of new multilateralism itself and practically difficult, if not impossible, to achieve. What the international communities can and should insist upon is at least a formal commitment to the values of social equity, diffusion of power, striving for peaceful settlement of conflicts and mutual recognition of the equality of civilizations and cultural traditions. If such commitment is refused, the legitimacy of a people-centric human rights movement can be rightfully denied. Once given, a formal commitment can be used to insist on its implementation, including maximum participation in debate and action by all the affected population, and on the involvement of the international human rights movement.

By definition, issues, identity and governance should not be settled once and for all by the same generation for itself, let alone for future generations. Each generation must have the right and ability (space and means) to define and redefine or revise its own cultural identity, and identify and pursue its own political, economic, social, cultural and other objectives. In other words, the protection of human rights, as we know them today, is an essential pre-requisite for any valid claim of the right to cultural self-determination itself. In this way, requiring a commitment to human rights as a defining and organizing principle of the objectives and role of civil society would be useful in disqualifying some potential candidate from membership in a people-centric human rights movement which can contribute to the construction of a new multilateralism because their beliefs and behaviour are inconsistent with the objectives and methods of the project they purport to join.

Granted the political space for debate and action, alternative visions of cultural self-determination which are fully consistent with the normative commitments of new multilateralism will emerge. As a Sudanese Muslim and participant in an internal re-constructive project in the Islamic context in general, I know that consistency, indeed mutual support, between Islamic self-determination and new multilateralism as defined here is conceptually possible and politically desirable.<sup>24</sup> What I need in seeking to implement this project in my own context is the support and assistance of a global human rights movement.

### Notes

1. Robert W. Cox, 'Programme on Multilateralism and the United Nations System, 1990-95', *Interim Report* (Tokyo: The United Nations University, August 1992) p. 1.
2. As a Muslim from the Sudan and an African human rights worker, my Southern perspective pertains to both the Islamic Middle East and Sub-Saharan Africa. I would emphasize, however, that 'North' and 'South' in this context are concepts, rather than geographical regions. There are pockets of the South within the North and vice versa. Although some people from the South are not of the South, there are many from the North who are committed to priorities and concerns of the South. As shown later, I count on this latter group in the dynamics of cosmopolitan consensus building.
3. The notion of 'overlapping consensus' refers to the possibility of agreement on common principles for action despite disagreement over respective justifications for that agreement. See John Rawls, 'The Idea of Overlapping Consensus', *Oxford Journal of Legal Studies*, 7 (1987): 1-25.
4. See, generally, Joachim W. Müller, *The Reform of the United Nations: A Volume in the Series Annual Review of the UN Affairs*, 2 vols (New York: Oceana Publications, Inc., 1992).
5. This applies, in my view, to private initiatives as well as those commissioned by the UN. For a brief review of both types of initiatives, see Gene M. Lyons, 'Reforming the United Nations', *International Social Science Journal* (May 1989): 249-71.
6. Robert W. Cox, 'Multilateralism and the Democratization of World Order', paper prepared for the International Symposium on 'Sources of Innovation in Multilateralism', 26-8 May 1994, Lausanne, Switzerland, pp. 1-2. See p. 3 for different conceptions of multilateralism corresponding to these two approaches.
7. *Ibid.* p. 3.
8. See my review of A. Carty, *The Decay of International Law? A Reappraisal of the Limits of Legal Imagination in International Affairs* (1986), in *Columbia Journal of Transnational Law*, 25(3): 754-64.
9. See generally, R.P. Anand, *Confrontation or Cooperation? International Law and the Developing Countries* (Boston, Mass.: Nijhoff, 1987).



10. These are so-called nation-states because, as illustrated by recent and current events in Liberia, Rwanda, Sudan, Somalia, Sri Lanka and even relatively democratic and well-established states like India, the assumptions of coincidence of territorial integrity with national unity and shared identity have proven to be seriously deficient, if not totally lacking. This state of affairs has serious implications for the ability of the 'state' to satisfy the basic needs of its population for provision of essential services, democratization and economic development.
11. Edmund P. Wellenstein, 'The North-South Dialogue: Another Confrontation or a New International Economic Order', in Jan Lith (ed.) *Change and the New International Economic Order* (Boston: Nijhoff, 1979) pp. 150-64; and Craig Murphy, 'What the Third World Wants: An Interpretation of the Development and Meaning of the New International Economic Order Ideology', in Paul Diehl (ed.) *The Politics of International Organization* (Chicago: Dorsey, 1989) pp. 226-41.
12. Irwin Cotler, 'Human Rights as the Modern Tool of Revolution', in Kathleen E. Mahoney and Paul Mahoney (eds) *Human Rights in the Twenty-First Century: A Global Challenge* (Boston: Nijhoff, 1993) pp. 7-20.
13. Space does not permit a discussion of issues of the universality of human rights. For a methodology to realize the *project* of universality see, generally, Abdullahi Ahmed An-Na'im and Francis M. Deng (eds), *Human Rights in Africa: Cross-Cultural Perspectives* (Washington DC: The Brookings Institution, 1990); and Abdullahi Ahmed An-Na'im (ed.) *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus* (Philadelphia: University of Pennsylvania Press, 1992).
14. Richard Falk, *Human Rights and State Sovereignty* (New York: Holmes & Meier, 1981).
15. Cf. Bruno Simma and Philip Alston, 'The Sources of Human Rights Law: Custom, Jus Cogens, and General Principles', *The Australian Year Book of International Law*, 12 (1992): 82-108.
16. See, for example, Michael McDonald, 'Should Communities Have Rights? Reflections on Liberal Individualism', in An-Na'im (ed.) *Human Rights in Cross-Cultural Perspectives*, pp. 133-61.
17. Cotler, 'Human Rights as the Modern Tool of Revolution', pp. 13-20.
18. On the basic structure and functioning of these regional systems, see Thomas Buergenthal, 'The Inter-American System for the Protection of Human Rights'; and Rosalyn Higgins, 'The European Convention on Human Rights', both in Theodore Meron (ed.) *Human Rights in International Law: Legal and Policy Issues* (Oxford: Clarendon, 1984) chs 12 and 13, respectively.
19. For an introduction see David M. Trubek, 'Economic, Social, and Cultural Rights in the Third World: Human Rights Law and Human Needs Programs', in Theodore Meron (ed.) *Human Rights in International Law: Legal and Policy Issues*, cha. 6. For views closer to my perspective here see the group of short essays in Section IV of Kathleen E. Mahoney and Paul Mahoney (eds) *Human Rights in the Twenty-first Century*. Cf. Marc Bossuyt, 'International Human Rights Systems: Strengths and Weaknesses', in the same volume, pp. 47-55, at 52-5.



20. Jack Donnelly, 'Human Rights in the New World Order', *World Policy Journal* 9 (Spring 1992): 249-77.
21. For some tentative ideas on this see Mahoney and Mahoney, *Human Rights in the Twenty-first Century*, Section VI(b), 'Shifting the Paradigm', pp. 957-90.
22. See, for example, Manuela Carneiro da Cunha, 'Custom Is Not a Thing, It Is a Path: Reflections on the Brazilian Indian Case', and Tom G. Svensson, 'Right to Self-Determination: A Basic Human Right Concerning Cultural Survival: The Case of the Sami and the Scandinavian State', both in An-Na'im (ed.) *Human Rights in Cross-Cultural Perspectives*, pp. 276-94 and 363-84, respectively.
23. In relation to Iraq see, Middle East Watch, *Genocide in Iraq: The Anfal Campaign Against the Kurds*, (New York: Human Rights Watch, 1993). On Sudan, see Human Rights Watch/Africa, *Civilian Devastation: Abuses by All Parties in the War in Southern Sudan* (New York: Human Rights Watch, 1994); and 'In the Name of God: Repression Continues in Northern Sudan', (New York: Human Rights Watch, 1994).
24. See, for example, Abdullahi Ahmed An-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law* (Syracuse University Press, 1990).