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Solidarity or Solipsistic Tunnel Vision? Reminiscences of a Renegade Rapporteur

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1. INTRODUCTORY COMMENTS[1]

Given the approximately ninety seven presentations by activists, government officials, NGO representatives, politicians, sociologists, philosophers, lawyers and many others, what I want to do is briefly highlight some of what are, in my opinion, the key themes and tensions of the Conference and to play them out. However, my approach is not simply descriptive or synthetic, but critical and visionary. It also oscillates between pessimism and optimism. Thus my contribution follows the exhortation by feminist poet and writer, Adrienne Rich, when she calls for:

> "imagination, not merely for changing institutions but for human relationships; not merely for equal rights, but for a new kind of being".[2]

I should also add that given the status of those who have already presented and the quality of some of the papers I am quite nervous in giving these closing comments. But here goes.

2. THE NEED FOR CONCEPTUAL CLARITY: THE NATURE OF HUMAN RIGHTS

To some extent, I was disappointed that few of the presenters directly or expressly addressed the question of the nature of human rights. This may be

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** This was the Rapporteur's speech at the closing of the Conference.

[1]This report is, to a significant degree, the end product of a collective effort. Given that for a large part of the Conference several presentations were happening simultaneously, it was necessary that I gained the assistance of David Dzidzornu (LLM candidate, University of Calgary) and Rebecca Johnson (Third Year LLB student, The University of Calgary). Their support was invaluable, although what follows does not necessarily represent their opinions.

[2] A. Rich, "Toward a Woman Centre University" in *Lies, Secrets and Silence* (1979) pp. 125 at 155.

because most people assume that they (and everyone else) knows what they mean by human rights. However, I believe that this is a false assumption, that many of us have differing conceptions of human rights and that in the presentations given there appear to have been several not necessarily compatible assumptions. In short, human rights is "an essentially contested concept".[3] I think it is important to be clear right from the beginning as to what we mean by human rights, because that assumption will determine the remainder of our analysis. Two conceptions, in particular, tended to surface in the Conference and it is important to spotlight them because they underpin, concretize and reflect many of the other tensions of the last couple of days. These I shall call "the essentialist" and "the critical modernist" versions of human rights.

(1) The Essentialist Version

The idea underpinning the essentialist conception of human rights is that there is something about us as human beings, something that goes to our very nature, that inherently suggests that we have an entitlement to basic rights. The core theme is that human rights transcend the contingencies of politics.

At first blush, this version of human rights is attractive. The very universalizability and generalizability of this viewpoint makes it desirable. But it is, unfortunately, pervaded by a variety of problems. First, its very abstraction and lack of specificity while being its greatest strength in one sense, is also its central weakness. It is simply too vague and there is a fundamental lack of consensus as to what the nature and parameters of these basic rights might be. This becomes particularly apparent when the human rights dialogue is cracked open to the perspective of those who have traditionally been excluded from the conversation. This leads to the second problem. As several of the presenters at the conference have indicated, the universality ascribed to human rights discourse is false in that it incorporates Eurocentric and male assumptions. Restated, the white male perspective is the hidden but determinative norm of the dominant tradition in human rights. Third, the essentialist version is based upon a pre-modern concept of the person. In the spirit of the ancient Greek philosophers, it assumes that there is a core/essential subject, whereas a modern viewpoint comprehends the subject as a construct of a multitude of influences.

(2) The Critical Modernist Perspective

The critical modernist perspective refuses to essentialize human rights in this way. It conceives of human rights as an ideological discursive practice, that is, as a way of thinking, talking and knowing that facilitates, structures and

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[3] W.B. Gallie, "Essentially Contested Concepts" (1955) Ivi Aristotelian Society Proceedings N.S. pp. 167-198.

underpins the ways and means of social interaction. The key idea is that human rights are not distinct from politics, but an element of politics. Therefore, human rights are a contestable terrain of political struggle. By filtering discourse of human rights through the prism of politics, we then get particular, contextual and concrete angles on human rights debates. Because politics is about domination and subordination, power and powerlessness, the question can now be reformulated: "Can human rights as a discursive practice be utilized to break the hierarchy of domination and subordination?"

The significance of the "critical modernist view" is threefold. First, human rights cannot be ossified, reduced or restricted to any pseudo-determinative idea, like for example, "Liberty". To do so is ahistorical and unnecessarily enthrals us to liberal origins of the discourse of rights. Rather, I want to argue that human rights discourse should be conceived of as open-ended and revisable. Second, and more specifically, the critical modernist approach posits that human rights be developed to respond to and facilitate the achievement of the *needs* of people. Thus it does not mire itself in abstractions, but focuses on subordination and powerlessness in their diverse, specific and particularized forms. Third, this refurbished human rights discourse then provides us with an opportunity to not only challenge power, that is, domination and subordination which is "power over" or what Ursula Franklin called "control", but perhaps it also allows us the possibility to reconceptualize power as "power to", as "empowerment". Therefore, human rights can be developed as a strategy of resistance to help us articulate, and to give effect to another form of power, "power to".

2. Key Concepts of Conference

I was also a little disappointed at the looseness of the terminology used by a significant number of the participants and, more particularly, by the failure of some of the papers to address themes specified by the coordinators. In order to fill in this lacuna, let me briefly, though perhaps belatedly, attempt to trace for you my conception of the key concepts of "solidarity" and "interdependence", and the correlative and implicit ideal of "equality".

(1) Solidarity

In my opinion, the concept of solidarity was bandied about with a disturbing amount of imprecision. Let me offer two angles on it. The first draws on the work of the Latin American jurisprude and social theorist, Roberto Mangabeira Unger. The second comes from the work of some North American feminists, in particular, Carol Gilligan and Joan Tronto.

Unger, in his more visionary moments, offers us a substantive, normative vision for social interaction. He posits that

> "[solidarity is] love struggling to move beyond the circle of intimacy ... The kernel of solidarity is our feeling of responsibility for those whose lives touch in some way upon our own and our greater or lesser willingness to share their fate. Solidarity is the social face of love ..."[4]

Carol Gilligan and Joan Tronto have, along with many other North American feminists, suggested that we need a new social morality, what they call an ethic of care.[5] The central insight of the ethic of care is a consciousness of the constitutive interconnection of self and other. It encourages an enthusiasm for and understanding of the needs of others. It engenders a willingness to respond compassionately and responsibly to those needs. The ethic of care is, I suggest, a cognate of solidarity.

(2) Interdependence

Interdependence was more directly invoked by the presenters but it too has had a chameleon character, so let me attempt to introduce, once again, a little precision. Several layers of meaning were invoked for the purposes of this conference, but I want to suggest that the preferred emphasis should be on the third. The first level of meaning is descriptive, that is, the commonplace – now trite – idea that we live in a global village. One direct consequence of this is that we co-exist in economic mutual reliance. The second level of meaning might be described as "existential", that is, that as people we need each other for our mutual survival beyond material provisioning.

The third layer of interdependence I would describe as "ethical". As persons and communities, our identities are based upon the paradox of a need for, and yet a distance from "others".[6] Solidarity, as an ethos, proposes that we should reject "the fear of the Other"; a fear which I believe lies at the heart of subordination of the other one, for example, the basis of race, gender, class or sexual orientation.[7] Interdependence encourages the recognition that we need the other to be ourselves. This would suggest that we need to embrace and foster a radical diversity and to reject the repressive impulses of the ideology of sameness. For example, I would suggest that those who claim to be human rights supporters and proponents of interdependence and solidarity should concur with Ovide Mercredi's proposition that Canada must recognize and proactively support the "self-determination of First Nations" in Canada. Those of us who have power have nothing to fear from the other except,

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[4] R. Unger, *Law in Modern Society* (1975) 207,208.

[5] C. Gilligan. *In a Different Voice* (1982); J. Tronto, "Beyond Gender Difference Towards a Theory of Care" (1987) 12 Signs 644–663. For a significantly more nuanced discussion of the ethic of care than can be offered here see my "Nomos and Thanatos Part B: Feminism as Jurisgenerative Transformation, or Resistance Through Partial Incorporation" (1990) 13 Dal.L.J. pp. 123–210.

[6] See generally, Roberto Mangabeira Unger, *Passion: An Essay on Human Personality* (1984)

[7] See my "The Rule of Law and the Politics of Fear: Some Reflections on Northern Ireland" N.I.L.Q. (forthcoming).

perhaps, our loss of "power over", our socially constructed and conferred ability to dominate.

(3) Equality

If we revision human rights as being about "power to", and are hospitable to the ideals of solidarity and interdependence, we will also require a reconceptualization of equality. We can no longer accept "formal equality" or "equality of opportunity" as adequate to the task of a progressive praxis of human rights. Instead, human rights must aspire to "equality of condition". The focus of this approach is not solely on those who are disadvantaged, for it also factors in the structural conditions in which people exist so that they can have a real existential chance to pursue and direct their own destinies. As Margrit Eichler has pointed out, equality would transmute from an abstract concept to a concrete challenge to eliminate the hierarchical, socially constructed differences between people.[8] This would mean a reformulation of the human rights agenda towards what might be called "shrinking the disparity".

3. Towards a New Human Rights Norm: Self-Reflexivity

Having identified and developed some of the underlying concepts of the Conference, I now want to address and reflect upon some of the emotions that I went through the last couple of days. Stated briefly, as I have sat through the sessions I have oscillated between optimism and pessimism, usually in inverse proportion to the tone of the presenters' thoughts.

First, there were those who talked about the human rights conventions, institutions, decisions etc.. By and large theirs was a tone of reserved optimism, progress was being made, and problems were gradually being ironed out. My personal response to this type of presentation was much more pessimistic. To a person, it seemed to me that they all assumed the narrow and essentialist vision of what human rights might mean. Several went out of their way to emphasize that their work was beyond the contaminating crassness of politics. Their presentations indicate that, at least at this level, human rights has become mired in a legalized proceduralism, that it cannot even fathom the necessity for substantive transformation.

However, there were also many participants who talked about: the existential reality of domination and subordination; how perhaps things were getting worse rather than better; and how traditional and mainstream definitions of human rights were inappropriate for contemporary social relations. Examples might include: Charlotte Bunch, Ursula Franklin, Rozenna Maart, Mona Makram Ebeid and Catharine MacKinnon. Despite the genuinely

[8] Margrit Eichler, "The Elusive Ideal – Defining Equality" (1988), 5 C.H.R.Y.B. pp. 167–188.

and generally pessimistic tone of their analyses, I felt their work to be energizing. Although still marginal to the malestream of human rights discourse, they have problematized and destabilized the traditional human rights bureaucracy; they are acutely conscious of the political nature of human rights; they have disconnected it from its seventeenth century roots; and they have attempted to reconstruct the practice and definition of human rights so as to suit the needs of the twenty first century. Through their efforts human rights are become prospective, not retrospective.

These reflections on optimism and pessimism lead me to tentatively suggest a new norm for a modernist practice of human rights: the "Principle of Self-Reflexivity", the "Principle of Self-Revisability". As human beings, we have an emotional self-interest in believing that we are doing the right thing. However, we need to be more conscious of the particularity and partial nature of our self-perception and consequently to proactively seek out the gaps and failures of our analysis. In other words, we need to build into our analyses a process of critical self-recognition, a disposition for humility and an openness to critique.

The principle of "self-reflexivity" becomes particularly poignant and especially crucial if we are in a position of power and influence: whether it be at the micro or macro level. To provide a few suggestions of the utility of the principle in relation to situations of micropower that surfaced at this conference, consider some of the following illustrative examples. As a progressive white heterosexual male what are you doing in relation to issues of race, of gender, of sexual orientation? or, if you are a Black male struggling against racism, are there times when you perpetuate the domination of women? And if you are a privileged white woman, are you excluding the perspective of the working classes or people of colour?

On the level of macro power, the "self-reflexivity" principle also generates a series of problematics. Are the international human rights systems premised upon Euro-American ideologies that force the assimilation of other cultural worldviews? Or, are they driven by a male conception of the human condition and social structure? Or again, as Kevin Hamilton asks, is our worldview essentially imperialist in that our "well intentioned" attempts to "civilize" what we arrogantly call "primitive" or "third world" societies fail to recognize the richness and sophistication of such cultures? Moreover, we must consider our legal systems' complicity – directly and indirectly, coercively and ideologically – in the entrenchment and perpetuation of abilism, classism, sexism, racism and homophobia.

Of course, this process of "self-reflexivity" is not easy. It is painful to be told that you – individually and institutionally – are sexist and racist and abilist and homophobic. It is disturbing to be told that you are part of the problem when all along you thought you were part of the solution. You may want to resist. You may want to trivialize the critique. You may ridicule your detractors. You may want to lash out. However, the principle of "self-reflexivity" services as counterbalance to these knee-jerk reactions and demands that we respond to the

critiques with care, and responsibly.

Moreover, the principle of "self-reflexivity" acts as a counterfoil to one of the most pervasive and nefarious strategies of domination, that is, the silencing or occlusion of oppressions. "Self-reflexivity" helps us to avoid creating new exclusions. For example, as Svend Robinson pointed out, homosexuality and lesbianism have been accorded a relatively low level of priority at this conference. The same is true of children's rights. There has been no discussion of the victims of global economic liberalization – also known as free trade – or the impoverishing activities of the World Bank and the western dominated International Monetary Fund. I am sure there are others, but self-reflexivity demands that human rights discourse be open-ended, inclusive, pro-active, and forward-looking.

The obvious answer to these criticisms is that it is not possible to deal with everything at once, that choices have to be made on the basis of a finite budget. Undoubtedly, this is true. However, the more interesting question is by what criteria will these choices be made and what ultimately will be the results of such choices? This type of question cuts, I think, to one of the fundamental dilemmas of progressive human rights practice: vision constrained by structure. Put simply, this conference could only have happened with the support of what are in essence elitist and conservative structures of power; they provided the credentials, they provided much of the funding, and they provide the space. Yet they also had to be heavily represented, taking up a lot of space, and frequently saying little that is of progressive value. The act of speaking is, of necessity, a monopolization of the channels of discourse and thereby excludes the voices of others. I think that given these constraints the organizers have done quite well in creating deviationist space for some of those who have been excluded by the mainstream of the human rights community. But we must be careful about the excesses of self-congratulation for a great deal more needs to be achieved. The obstacles are structural not just individual.

(1) Public/Private Dichotomy

The principle of "self-reflexivity" has also helped me to get an angle on another of the tensions of the conference: the subterranean but pervasive influence of the public/private dichotomy. The public/private dichotomy like the essentialist conception of human rights invokes closure; it presupposes that there are certain spheres that are naturally "unchangeable", or are "beyond the mandate". However, critical theory and feminism have exposed the "lie" of the public/private dichotomy and have demonstrated the constructed, contingent nature of that ideology, though all the time recognizing that it is a particularly pervasive one.

I want to challenge the public/private dichotomy as it tends to manifest itself in human rights discourse, not to deny that there is State violence, but to highlight the incompleteness of an analysis that goes no further. There is absolutely no doubt that there is extensive State violence, that it is pervasive and

systemic and that, in spite of all our self-perceptions of progress, perhaps that we have reached that stage where State violence has become normalized and therefore seemingly legitimate.

Consider the following brief examples. In my native British occupied Northern Ireland, there have been "shoot to kill" policies carried out by RUC/SAS death squads; speeches made by members of the Thatcher government that, in my opinion, have led to the execution of lawyers who defend Irish freedom fighters [the parallel with the Rushdie affair seems to have been missed, the real difference being that Pat Finucane is dead and Rushdie is alive]; and the incarceration of political prisoners whose only "choice" is death by hunger strike. Then, of course, there is my current country of residence, Canada, the so called "peaceable kingdom", with its phenomenally high incarceration rates of First Nations peoples and violations of human rights at Kanesatake and Kahnawake this past summer. And how could we forget the United States, with its covert and overt violence, domestically and internationally. Nor must we ignore the activities of the Israeli state against the Palestinian people, nor forget the historical repression by the Soviet Union against Jews in particular, and more generally the citizenry of other nations.

These are important criticisms and should remain a component of human rights activism but, even in this sphere, particularly in societies that are so numbed by consumerism, the tendency is to only look at the spectacular disasters, the most extreme examples. The principle of self-reflexivity demands that we look at the normalization and legitimization of human rights abuse everyday via domestic law. I would argue that we have become desensitized to the horror of law, that law, and we who work in the legal system, have constitutionalized violence; and that we have imbricated within our laws what Hannah Arendt has called "the banality of evil".[9]

Though all of these fears of State violence, and a vast amount more, are true, to cease one's analysis of human rights abuses at this point would be to leave us with a dramatically incomplete picture. If human rights are to be understood as a challenge to power, as a mode of resistance to domination, then we must confront power in all its manifestations.

Human rights have a contingent history. Specifically, they can be traced to the origins of the liberal democratic tradition. Central to this tradition was the ambition to control and limit the power of the Nation State. Even if it was true at the time, it is no longer true that the State is the sole or even primary agent of domination in the late twentieth century world community. Only those who espouse what Asbjorn Eide has iconoclastically termed "fundamentalist liberalism" could believe this. Power over, power as domination, is not just centralized and statist. It is also pervasive, systemic, localized, individualized, privatized and technified. Rephrased, there are countervailing and complementary dominating powers to that of the State. Therefore, the public/private dichotomy, in this context, is best understood as an ideological

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[9] H. Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (1976).

construct and social practice that simultaneously obscures and legitimizes private domination. Consequently, we need a reconceptualization and expansion of our conception of human rights if it is to be an effective strategy in the pursuit of equality of condition.

Examples of the "private" abuses of human rights are legion and were pointed out in a number of papers. One example is the forum shopping by multinational pharmaceutical corporations either to dump or test drugs on humans. Another is the violence against women perpetrated in patriarchal societies. Specifically, pornography, as produced by an economic empire and consumed by individual men, subjects women to sexual assault, or as MacKinnon has powerfully portrayed, torture. Another example of private and novel forms of private human rights abuses are the practices around and uses of the New Reproductive Technologies. Private corporations in the pursuit of profit, and for no other reasons despite their humanitarian rhetoric, have joined what Renate Klein has described as an "unholy alliance of sexist, racist and eugenicist technodocs" which results in. commodification and objectification of women. Or again, the media, under the banner of the liberal fundamentalist principle of freedom of expression, propagate misogyny, racism, homophobia and xenophobia, frequently via the insidious strategy of blaming the victim.

Cumulatively, this expanded conception of the domain of the human rights, engendered as it is by a rejection of the public/private dichotomy, is depressing because it highlights much more intangible and complex forms of abuses that simply cannot be fully fathomed within the fishbowl that is called malestream liberalism. Ursula Franklin nicely captured the problem through her discussion of what she called "control technologies", that they are a "headless tyranny", a paradigm of "power over" because they are routinized and normalized. Consider, in this light, Rhoda Howard's discussion of the self-mutilization of North American women, for example, by plastic surgery or by dieting to fit with the male image.

But slowly, I think, the first steps are being taken to combat the problem. By the process of naming, by fighting from the margins, the destabilization of the hegemonic view has begun. Perhaps those who refuse to listen to these alternative conceptions of human rights, those who invoke the silencing strategy of definitional closure, those who control the international human rights agenda should get out of the way. Then they would be part of the solution, or at least not part of the problem.

4. Individual and Community Rights; Universalism and Particularism

Another precept of fundamentalist liberalism and the essentialist conception of human rights is that the individual subject is the core, and frequently exclusive, focus of the analysis. However, the hegemony of this liberal *weltanschauung* reflects an impoverished vision of "the self", severing her interdependence with

"the other" and is blind to our mutually constitutive nature. Moreover, it may be premised on ethnocentric assumptions that fail to incorporate the needs and/or visions of subordinated cultures. This, in turn, has tended to generate a fetishization of rights ideology within international human rights circles thereby underplaying the importance of duties or other normative desiderata. What is required, I think is greater responsiveness to community needs and collective rights. Examples might include the inability of the Canadian Government to even comprehend, let alone recognize and affirm, the collective rights of the First Nations. Consider also the discomfort of many within the international human rights field with the African idea of duties not just rights. Perhaps we require, for example, the duty of the State to provide food, or the duty of private corporations to distribute wealth.

The inability of mainstream human rights discourse to fully come to terms with the concept of collective rights is, in fact, symptomatic of another of the tensions that has pervaded the Conference: universalism and particularism. As I tried to make clear earlier, the traditional essentialist conception of human rights espouses universalistic assumptions and visions, premised upon generic, abstract, acontextual and transhistorical conceptions of the person, society and culture. I want to suggest, however, that this is a false universality because its very abstraction renders it pragmatically anaemic. More nefarious though, is that the pretension to universality obscures the partiality and uni-dimensionalism of the underlying norms. To be clear, it seems to me that contemporary mainstream human rights discourse is premised upon a privileged, white male interpretation of the meaning of rights.

What is required is much greater sensitivity to existential, specific reality of differently situated people. Rephrased, we need to work on conceiving and developing a contextualist practice of human rights, one that forgoes the mendaciously idyllic, one that comes to terms with the messiness, specificities and complexity of the multiplicity of realities. Let me provide a few examples. Environmental security may mean very different things depending on whether you live in a rich North Atlantic society, whether you are an Inuit, or whether you are an Indigenous person in a South American rain forest. Human rights activists should be sufficiently self-reflexive to recognize the diversity of these realities and to respond accordingly. This may require fundamental reinterpretations of the source and nature of the problems, the types of questions asked and the answers sought. Or again, refugee rights, rather being premised upon some prototypical norm, must recognize the multiplicity of reasons for actually becoming a refugee including, for example, gender or sexual preference. This is very different from asking, does this person fit within the traditional legalized definition of "refuge status"? Similarly, if the right to be free from torture, inhuman and degrading treatment was reconstructed to accord with a contextualist approach then we would recognize the specific and particular harm that pornography causes to women even though there is no parallel for men.

5. RESPONSIBILITY AND SOLIDARITY: AN INTEGRATIVE THEORY OF HUMAN RIGHTS

What I am trying to grapple with in this paper is the articulation of what might be called an Integrative Theory of Human Rights. In this approach, concepts of solidarity and interdependence are dovetailed with the dream of equality of condition to provide us with a discursive ideological practice that empowers us to go beyond liberal essentialism; assuage the seeming contradiction of the individual and community; and recognize the mutuality of 'self' and 'other'. Moreover, an integrative vision helps us to resist the subdivisioning (and therefore hierarchicalization) of human rights into civil, political, economic, social and cultural ghettoes because that, as Shelly Wright points out, fractionalizes and does violence to our existential reality.

In particular, this Integrative Theory of Human Rights, because of its emphasis on solidarity, shifts the frame of analysis. Traditionally, the focus of human rights discourse has been on the victims of abuse. This is, of course, vital but at times it ironically results in a sort of structural 'blaming the victim' syndrome. Moreover, we must not forget that human rights abuses do not just happen. Somebody abuses somebody else; there is agency involved. This suggests that we must shift our focus. Therefore, we must look to the cause of the abuse, to seek out who or what is responsible. More specifically, it is necessary to self-reflexively inquire as to whether we who have privilege and power are complicitous in the subordination.

Again some examples might help. Over the last couple of years one question that I have been asking myself is: What is my responsibility as a white male in relation to the domination of women? At this point, part of the answer is that I consider it one of my responsibilities to help make institutional space for women in the environment where I work and to facilitate the emergence of conditions of equality that would engender womens' empowerment. Note that this is very different from doing it for women, for that would be appropriate or masculinist ventriloquism. Rather, the project should be to surrender power over, to encourage power to. Alternatively, I would ask: What is the responsibility of the conference organizers in relation to, for example: the mentally or physically challenged; or the homosexual, lesbian or bisexual members of our societies; or Canada's linguistic minorities?

A starting point and a central responsibility, I would suggest, is that we begin to learn to listen to others. One particular problem is that we of the western culture have constructed a hierarchy of communicative modes, that is, we priorize the written over the spoken word. By way of illustration, consider the preoccupation of the international human rights organizations with conventions, declarations, protocols, and judicial decisions compared to their almost total disregard of oral traditions of, for example, the African verbal tradition or First Nations. Perhaps modern technology could be put to some constructive use here, particularly the visual media. But listening is not enough. As Spike Lee has suggested we must "Do The Right Thing".

Although I have been critical of the international human rights bureaucracy, I also believe that it is too important, too powerful, too influential, to ignore. It too must be rendered vulnerable to the principle of self-reflexivity and the politics of progressivism. Therefore, it is perhaps time for us to name and espouse a new conception of rights: what might be called Solidarity Rights. Roberto Mangabeira Unger has tentatively identified these as being "the domain of the half-articulate relations of trusting interdependence", as giving "legal form to social relations of reliance and trust".[10]

It seems to me that several advantages might accrue from adopting the concept of Solidarity Rights. First, through the power of naming, we provide an entitlement concept that can be drawn upon by the victims of human rights abuse in the plethora of forms that have been identified in this conference. Second, when conceptualized and touted as a right then solidarity might just be understood (and perhaps even responded to) by those who are in positions of responsibility and power. Third, as a strategy, perhaps solidarity rights can be understood not as a complete break with the mainstream tradition of human rights discourse but as an emancipatory leap forward drawing on the already existing precedents of economic, social, cultural rights but casting them in a significantly new light.

However, as my concerns about universalism make clear, insofar as the current international human rights community remains entrenched, other terrains of social struggle need to be developed. Therefore, the environmental slogan, "think globally, act locally", can perhaps be drawn upon in developing a critical practice of human rights activism. Viewed in this light, human rights must be fought for from the bottom up, as well as from the top down. By this I mean, rather than waiting for the sclerotic institutions to play catch up, those who are interested in the praxis of human rights must continue their efforts to reinforce the struggle against racism in South Africa and for self-determination by the First Nations of Canada; recognize the work of women in sexual assault centres as human rights work; and support the mobilization of Blacks in the United States, the intifada by the Palestinians, and the development of anti-sexist and anti-racist refugee policies.

This might all sound just too much, too removed from the traditional ways of "doing human rights". However, the old essentialist ways will not serve the needs of the twenty first century. As the quote from Rich suggests, we need imagination but we do not need to re-invent the wheel for there are models of solidarity practices upon which we can build. Consider, for example: the feminist modes of alternative dispute resolution; the strategies of judicial education; the Waitangi tribunal; and the Rainbow Coalition of Jesse Jackson. However, I think that we need to look beyond the myopic confines of western society: to the non-violent action of the dispossessed in Latin America; to empowerment at the grass roots level in Asia; and the base communities and the

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[10] *False Necessity: Anti-Necessitarian Social Theory in the Service of Social Democracy* (1987) pp. 535–536.

preferential option for the poor and the oppressed as developed and practised by the traditionally conservative Catholic Church.

6. Closing Comments

It seems to me that a theory and practice of human rights appropriate for the needs of the twenty first century requires a new critical modernist approach; one that challenges "power over" and pursues "power to"; one that highlights our responsibilities and our opportunities. The options are optimism or pessimism. As I have indicated there have been tensions and controversies in this conference. People have been angry, dismayed, hurt, frustrated. But part of the reason why this is so is because people who have traditionally been excluded have gained some space (though certainly inadequate) to articulate their vision of human rights. The debate has been painful and, I think that the human rights community have begun to hear them. The task that lies ahead is to invoke the standard of self-reflexivity; to turn critique into reconstruction; for those who have power to help transform rage into solidarity; and, for all of us to imagine and put into effect a new relationship, between life, law and love.