

Human Rights: From Practice to Policy

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The Indivisibility of Rights and the Affirmation of ESC Rights

Presentation by David Petrasek

Amnesty International, as you know, was not in the vanguard of work on Economic Social and Cultural (ESC) Rights. In this area, Amnesty was playing catch up. At the international level, other groups—Human Rights Watch (HRW) and the International Commission of Jurists (ICJ), for example—have done as much or more work in this area as Amnesty and in the case of the ICJ they have been a bit further ahead. It's important to acknowledge that.

I'll speak about those factors that influenced AI's decision to work on ESC rights, both factors internal and external to the organization.

Policy Considerations within Amnesty International

First, there was the internal context—what was happening inside Amnesty. As you know, up until the late 80s, Amnesty had a prisoner-based mandate. There were some loose strands in AI's work, but there was also an essential coherence around prisoner work. That began to change towards the end of the 1980s, and in the 1990s it began to change rather rapidly—through a process of the AI membership voting to add new areas of work to the mandate. We reached a point, I think, in about 1995 or 1996, where it was difficult to explain the intellectual coherence of the mandate. At the time, I held the position of “Mandate Adviser” within the International Secretariat, and in discussions within AI's Standing Committee on the Mandate it became clear that there was no longer a principled or coherent explanation to say why we were working on one human rights issue but not another, beyond simply indicating that the membership had not (yet) voted to do so. In my view, this was *the* most important factor influencing AI's move to ESC rights. Put simply, it had become very difficult to explain why we were moving forward in some areas and not others.

After the 1989 worldwide Human Rights Now! concert tour, Amnesty began speaking of itself as the “world's largest human rights organization.” That messaging was embraced by the movement, yet it created a challenge and a contradiction. “If you're the largest human rights organization, why aren't you embracing all human rights?” I felt

this contradiction very acutely following the 1995 ICM. It was clear that the process of incrementally adding human rights issues to the mandate would eventually lead to work on all rights. The AI sections and membership who were pushing change eventually saw the logic of making a leap to embrace all human rights, rather than waste time debating each new addition.

It is also important to recognize that during the period where this shift happened, Amnesty was led by a Secretary General from the Global South who had a strong interest in working on the full range of rights. Pierre Sane was very outspoken on the need for AI to begin work on the issue of economic, social and cultural rights. AI's actual vote to take up the full spectrum of rights happened after Pierre left, but he had championed the process that led to that vote. His successor, Irene Khan, was also from the Global South and also had a very strong attachment to working on all rights. That, too, was important.

There was also a shift inside the International Secretariat, among the research staff. From the mid-90s there were many new researchers. In the 1980s, research teams had strongly resisted expansion of Amnesty's mandate. The resistance wasn't (usually) on intellectual grounds. Essentially, it was a workload issue and entirely understandable. But that shifted. From my work with researchers, by 1995-96 I saw that there were very good, young researchers who felt constrained by what the mandate permitted. They wanted to stretch out. So *inside* the International Secretariat itself a range of opinions was forming, and by 1997-98, there was a strong movement within the Secretariat advocating work on the full range of rights.

AI's work related to specific events also moved the organization in this direction. For example, in the context of work on the Bosnian civil war, 1992-94, AI researchers were newly permitted to take up some issues related to international humanitarian law. In that context, I remember press releases where we denounced the use of food as a weapon of war, or starvation, or the destruction of schools. And the question arose: why would we work on food, health and education concerns in the context of war but not during peace? Intellectually, it was not coherent.

Externally, there were also several factors. Some academics criticized Amnesty's limited approach to human rights. Philip Alston, among others, was quite public in his criticism. My view, however, is that while such criticisms were recognized, they weren't a major factor in shaping Amnesty's policies. More important was the criticism from other international and national NGOs. The 1993 World Conference on Human Rights in Vienna *was* crucial because a lot of Amnesty people were exposed to it. They came away with a sense that Amnesty had fallen behind because everybody else was embracing universality and the indivisibility of rights. AI's banner in Vienna, raised high above the conference centre, said "All human rights for all"—indeed!

Mary Robinson's appointment as High Commissioner for Human Rights was also very important. Mary Robinson's very public and emphatic endorsement of economic and social rights in 1997 caused Amnesty to reflect on its position. And then, there was the 1998 "Battle of Seattle" protest against globalization--you have to remember the time!--and the Jubilee Campaign on debt that focused Oxfam and others on issues of global inequality. Rights language was being used in these contexts, in ways that we thought were sloppy and often incoherent. But the very fact that other NGOs were using human rights language forced us to think about the human rights angle and what we could contribute to the discussion. This broader NGO world was important as AI reflected on its limited mandate. Amnesty, of course, has a membership base, and its members were exposed to these developments--they saw it on their televisions. The youth groups, in particular, in many Amnesty sections seized on the issue-- so the effect was amplified.

Finally, I will mention the role of AI sections regarding AI's decision to take up work on ESC rights. There was to some degree a North-South split as the debate progressed. It was somewhat messy and sometimes divisive. Interestingly, sections from northern Europe who had tended to champion mandate expansion in the 1980s tended to be the more conservative voices in the debate. But eventually everyone came on board with the decision to move to work on "the full spectrum" of human rights.

Resistance and Obstacles to Taking Up ESC Rights

With regard to resistance and obstacles to taking up ESC rights, I think there were three. First, there was an ideological opposition to working on these rights, that is, from those who doubted the validity or equal importance of these rights. That opposition existed but it was not a major concern inside Amnesty. Methodological concerns were a bigger problem -- could AI work on these rights in ways that were familiar and would have an impact? There were questions about the precise nature of the duties implied by these rights. These concerns persist and are real, and arguments about whether Amnesty was equipped to address them were significant, and remain so. The third set of reasons were perhaps more sociological in nature. Some people within Amnesty said, "Yes, yes, ESC rights are *rights*; yes, they're important. But somehow working on these rights would ally us too closely to a political position or to social justice causes, in a way that will confuse our message." The sense here was that ESC rights would lead Amnesty away from what it was really about as an organization. Whereas Amnesty had always underscored the importance of political impartiality, the fear was that to take up socio-economic rights would lead AI to take sides in political struggles and be forced to adjudicate between competing economic policies. For some within Amnesty, that seemed radically different than what we had done before. That concern persists, I think.

The Indivisibility of Rights

As you know, I was involved in an advisory role in the design and launch of Amnesty's current 'Demand Dignity' campaign. As conceived, the focus of that campaign would not be exclusively or even primarily on economic and social rights; the focus would be on the human rights of people in poverty--and the indivisibility of those rights. This in my view is the only way to advance the issue--not to allow the Cold War categorization of human rights to shape 21st century strategies for human rights campaigning. The current UN systems for protecting and enforcing rights work according to these outdated categories. Addressing this issue is the next great challenge. I think AI itself is still struggling with the indivisibility issue. Some of those in the NGO world who have historically pushed the work on economic and social rights quite naturally want to carve out a separate area of work. If

this is done without sufficient attention to issues of indivisibility, it might well prove a continuing obstacle to moving these rights forward. I see this dynamic within Amnesty, and moving beyond it is the next great challenge.

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Glossary

AI (and Amnesty) – Amnesty International. Founded in 1961, AI is one of the oldest and most prominent transnational human rights organizations, with international headquarters in London. The organization relies on 3 million members and supporters in 150 countries to carry out its work, and policies are vetted through complex processes and structures that involve membership in the decisions. (See *ICM, IEC, IS, AI mandate, and Secretary General* below.)

IS – International Secretariat. Based in London, UK, it is responsible for the majority of the organization’s research and campaigning work.

AI Mandate - For many years, an internal “mandate” limited Amnesty International’s work to a relatively small number of issues, including the release of prisoners of conscience, fair trials for political prisoners, opposition to torture, disappearances and the death penalty. The mandate was amended several times, and was ultimately replaced in 2002 with a broader mission statement linking AI’s work to the full spectrum of rights enshrined in the UDHR.

Secretary General – AI’s executive director of worldwide operations.

ESC – Economic, social and cultural rights. Generally understood to be those included in the ICESCR, although ESC rights are no longer considered a discrete category of rights.

HRW – Human Rights Watch. A prominent international human rights NGO that originated as a series of US-based “watch committees.” The first such committee was charged to monitor Soviet compliance with the 1975 Helsinki Accords. Subsequent committees were formed to monitor human rights concerns in Latin America, Asia, Africa and the Middle East. Before consolidating as “Human Rights Watch” in 1988 the organization was known as the Watch Committees.

ICJ (sometimes called the World Court) – International Court of Justice. The main judicial body of the United Nations, it addresses legal disputes and questions submitted to it by states and IGOs. (Not to be confused with the International Criminal Court, see *ICC*.)

IHL – International Humanitarian Law (or *laws of war, international humanitarian law of war*), the body of customary and treaty law that defines the conduct and responsibility of nations at war, relative to each other and to civilians. It includes most prominently the Geneva Conventions and the Hague Conventions, but also the 1997 Landmine Treaty.

NGO – Non-governmental organization. In the human rights context, NGOs are organizations comprised of private individuals working to protect and promote human rights, either domestically or internationally.