

Decolonising human rights

Speech delivered by Salil Shetty at the London School of Economics

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Introduction

It is great to be back at the LSE. It is a long time since I was a graduate student here, and several years since I was last here to speak. So, as I come to the end of eight years as Secretary General of Amnesty International, it is good to have this opportunity to visit the LSE again and talk about the human rights struggle in these complicated times.

I speak as a practitioner with the full knowledge that there are many people in this room who have much stronger academic and scholarly credentials than I have. So, apologies in advance for any imperfections.

This is a big year for human rights. In December, we will mark 70 years since the Universal Declaration of Human Rights was adopted. That was a landmark moment in human history, and the anniversary this year should be something to celebrate.

Of course, there have been huge gains during those seven decades, too many to list. If I had been alive at that moment on the eve of the Universal Declaration of Human Rights, shaken by the horrors and inhumanity of the Second World War, and I had been able to see ahead by seven decades, I may be pleasantly surprised to see an elaborate international normative system that includes protection of refugees; respect for the rights of Indigenous peoples; protection of the rights of people with disabilities; fighting the scourge of torture; and fulfilment of such rights to dignity as the human right to water and sanitation.

With the controversial precedent of the Nuremburg and Tokyo War Crimes Tribunals then, who among us in 1948 would have taken it for granted that the next 70 years would see the forces for justice of an International Criminal Court that seeks accountability for atrocities, the international tribunals for the former Yugoslavia and for Rwanda, and of the range of hybrid courts from the Special Court for Sierra Leone, through the Special Panels for Serious Crimes in East Timor, to the Extraordinary Chambers in the Courts of Cambodia?

Over the seven decades in the life of the modern, formal, international human rights system, there have been major steps forward for women's rights and LGBTI rights. The global fight against the death penalty is being won, slowly but surely. Frameworks and mechanisms have been put in place to protect civilians in conflict, children in war zones and in peacetime, and migrants and their families – to name a few.

Yet, it looks and feels to many of us that believe in human rights that this is not a time for celebrations. Rather, we look with serious concern on the future of human rights. Why do I think this is an anxious moment?

The international human rights system is deadlocked, unable to respond effectively to crises – whether Myanmar or Syria or Gaza. Very few leaders stand ready to champion human rights and provide ethical leadership in the world. Respect for established norms is ebbing away ever more quickly.

And in so many individual countries, the picture is bleak: in Turkey, where one third of all the world's imprisoned journalists languish in jail in Venezuela, where 120 people were killed last year in protests against the government; in South Sudan; in the Philippines, with President Duterte's abusive so-called war on drugs; in Hungary, where the government has launched an all-out assault on organisations speaking out for refugees.

So reaching this 70th anniversary, it is a good moment for us to take stock and ask the fundamental question, why do we need human rights, what are they really for?

Defining human rights

But in order to address this question, we have to get some clarity on what we mean by "human rights". This might be a blasphemous statement to make in the hallowed portals of LSE. But the fact is that human rights often means different things to different people. And they don't mean anything at all for a good number of people in the developing world.

Putting a positive spin on it, local interpretation and definition could be a strength for human rights. But it can also be a slippery slope – and in practice, varied understandings mean that we can easily speak at cross purposes.

Forgive me for personalising this a little bit. Growing up in India in the 1970s, at a time when Prime Minister Indira Gandhi declared a national emergency suspending pretty much all civil and political rights, with both my parents being active in the Dalit and women's rights struggles, I became president of my college students' union. But I never classified myself as a human rights activist. Maybe that's because the language and discourse of human rights – in the way we talk about it in London, Geneva and New York – was little known to most Indians at the time.

Now that I know this discourse, I certainly feel in retrospect that I would qualify as a human rights defender. But I don't think that this lack of awareness has changed that much in the body politic of India.

This is despite India being home to some of the greatest revolutionaries – from Buddha to Mahatma Phule, from Narayana Guru to Guru Govind Singh. Even those

who intimately know the progressive and impressive Constitution of India and the work of Dr Ambedkar; its principal author, would not immediately associate Dr Ambedkar's Constitution with human rights. You could easily find a highly educated person in India speak in favour of the Constitution of India and against human rights in the same breath.

So, let me clarify what human rights mean to me. I see human rights as the struggles of ordinary people to hold those in power to account – particularly power that is abused by those in government or corporations. These days we have become more conscious of abuse of power by non-state actors as well.

It does not matter whether we are talking about this at the level of a violent husband, or an abusive landlord, or a government criminalising people because of who they are, or states playing games with people's lives at the UN Security Council. All of these are about the abuse of power against the powerless. And this is why we need some rules of the game, why we need human rights.

Decolonising human rights

Let us, with this understanding, get to the topic of today's discussion – about decolonising human rights. Do human rights need decolonising? Is that the right approach to this question? What do we mean by the colonisation of human rights?

This is not a lecture about the history of human rights, but I want to talk about how we as people who believe in human rights can set ourselves up for success in the face of challenges which are probably more intensive than at any moment in the history of human rights. And I am using the lens of decolonisation to say three things about the history, the present and the future of human rights.

Firstly, the essence of human rights and decolonisation are basically the same thing: the struggle for freedom against the abuse of power. The modern human rights framework as we know it was born in the crucible of decolonisation. It is a historical context we would do well to remember.

Secondly, human rights themselves have always been subject to efforts at colonisation: misappropriation and being manipulated for political ends. We need to recognise this for what it is, and in this sense the fight to decolonise human rights is a permanent one.

And **thirdly**, to be true to the character of human rights, we need to reconnect again with the struggles of ordinary people against abusive power.

Origins

So to the first point, relating the history of human rights. I want to be clear about my historical lens when I am talking about the human rights system and its origins.

I will start with the backdrop. Human rights in the last one-and-a-half centuries were in an odd and artificial way always linked to the project of colonisation itself, before they more genuinely, became a part of the reverse effort of resistance against colonialism. Here is Joseph Conrad writing at the end of the 19th century:

“The conquest of the earth, which mostly means the taking it away from those who have a different complexion or slightly flatter noses than ourselves, is not a pretty thing when you look at it too much. What redeems it is the idea only. An idea at the back of it.”

The idea at the back of it, or rather, the ideas at the back of colonialism, are of course notorious. But perhaps none bring out the close relationship between colonialism and human rights as the pretensions of the Berlin Conference to link the pursuit of commerce by colonial powers with the supposed benefits of such commerce to the well-being of colonised peoples. As Anthony Anghie summarises the point in his provocative study of thirteen years ago:

“In his opening speech at the conference, Prince Bismarck noted that ‘all the governments invited share the wish to bring the natives of Africa within the pale of civilisation by opening up the interior of the continent to commerce’ ... Trade was not what it had been earlier, a means of simply maximising profit and increasing national power. Rather, trade was an indispensable part of the civilising mission itself; the expansion of commerce was the means by which the backward natives could be civilised.”

Against this backdrop, colonialism and early, modern-day human rights fed upon each other. Indeed, the development and flourishing of the institution of international law itself – with its definition and consolidation of the notions of sovereignty, statehood, trusteeship, and protection – became inextricably linked to the colonial project.

No wonder, then, that in Africa, Makau Mutua could express his horror at the way modern human rights struggles seem to echo rather too loudly the annoying portrait of “savages, victims and saviours”. In Asia, Nicholas Dirks could demonstrate how British domination did not invent caste but shaped it in enduring ways. In Latin America, Ricardo Salvatore in his discussions of coloniality reminds us that while we must challenge the homogenising narrative of a supposedly singular, long-term colonial heritage across the region, colonialism itself interacted closely with notions such as barbarism, and salvation from barbarism.

Fast forward to this current moment in history. It is clear that the early symbiotic relationship that I have sketched out between colonialism and human rights still casts a long shadow over current understandings of human rights.

That is clear when we hear governing elites resisting international justice because they say it is a neo-colonial project, when we see the doctrine of Responsibility to Protect being dismissed by some as nothing but disguised imperial intervention, and when we touch the unclothed skin of malnourished children to find that the medicine, food, and clothes that they should have received has been diverted into private coffers by States – the same States which then prevent effective scrutiny and review by human rights treaty bodies at the United Nations behind the façade of sovereignty.

So, that's the backdrop, and that's the current legacy of colonialism and coloniality on human rights. Yet I would argue that it is a limited and misleading narrative. I believe that understanding the colonial aspect of the institution of human rights does offer some insights, but is no way nearly the most important part of the story.

Ultimately, as I said earlier, human rights are about the ongoing struggle of marginalised and oppressed peoples and individuals against abuse, distortion, and excess of power.

It has long been fashionable to look at human rights in terms of North versus South, or East versus West – emphasising the Northern or Southern philosophical underpinnings, or focusing on the Cold War dynamic between the USA and USSR.

But what these analyses tend to miss is the historical connection between the human rights system and the element of people's struggles against oppression. The whole purpose of human rights demands that our vantage point is not top-down, but bottom-up.

Historically, many of those struggles were of course decolonisation struggles. But then – in many cases – they became the struggles of ordinary people whose European colonisers were replaced by domestic leaders cut from very similar cloth. These were ordinary people for whom decolonisation did not mean dignity, a share in decision-making, and the promise of access to wealth for all.

Here it is important to mention the role of Latin American states in framing the human rights system, drawing from their history of colonialism and domination by European states. This was the arena in which many of the basic concepts of an international system to protect human rights were being drawn up, before World War Two – something which Kathryn Sikkink expounds in detail in her recent book, *Evidence for Hope*.

In pushing this agenda, these states had to struggle against resistance from dominant powers, especially the USA and UK. And ultimately countries from the South prevailed on a number of issues. Chief among them were women's rights. At the 1945 San Francisco Conference – convened to set up a new post-war international organisation – the US and UK delegates were actively opposed to the women's rights

agenda being pushed by champions such as Bertha Lutz from Brazil, and Hansa Mehta from India. We have Mehta to thank for the fact that the Universal Declaration of Human Rights does not extol the freedom and equality of all men, but all human beings. Or, in other words, that it is universal.

There are plenty of other examples of countries and peoples immersed in or emerging from decolonisation struggles bringing that experience to the process of international norm-setting. In a speech earlier this year, UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein rightly highlighted the important role of the Philippines pushing for strong language on torture; and countries such as Costa Rica, Ghana, Jamaica, Lebanon and Liberia on the dignity of the human person.

To that list we could add even more. Today, a pioneering region in the abolition of the death penalty is Africa, where in 1981, only one country, Cape Verde, had abolished it for all crimes. Yet at the end of 2017 the number had risen to 20. A key motivation for nationalist governments that abolished the death penalty in Africa was their memory of how this cruel punishment had been used against their comrades in their struggles against colonialism. The South African and Indian courts have pioneered creative and robust jurisprudence on economic, social and cultural rights. You only need to read the reasoning of the judges in path-breaking cases such as Francis Coralie Mullin to be left in no doubt that a concept of human dignity that challenges colonial ideas of humanity is at play here.

And in this context, we remember too the struggles which long predated the international human rights system – like that against the transatlantic slave trade. The struggles within struggles in the context of decolonisation, as disempowered groups such as the “untouchables” in India fought for a voice. Later, the civil rights movement in the US, whose legacy and influence remains important today. And the popular struggles for civic freedoms in the Soviet Union which are an important part of the background to the Helsinki Accords.

Fundamentally, then, human rights arise from the experience of people's struggles against injustice, against oppression, and against the abusive use of power. It is in this context that we can locate human rights not as the accoutrements of the commerce of Bismarck and other colonial plunderers, and not as Cold War football between East and West, but as ongoing markers of struggle and solidarity.

Misappropriation and instrumentalisation

Now to my second major point. Just as the modern human rights system was born from a particular political context, it has been misappropriated and instrumentalised in many different ways since 1948. Or to put it another way, there have always been multiple levels of colonisation in the story of human rights.

Partly this is down to the fact that human rights – which are fundamentally a set of tools for struggle – are conceived as a set of state obligations, consensual and binding but without sufficiently effective means for enforcement. They are structurally prone to capture, instrumentalisation and distortion.

I want to mention four ways that this kind of re-colonisation has happened and continues to happen.

The first: we have long seen the domination of the human rights infrastructure by the elites. That goes right back to its earliest days.

Just because the human rights system was forged in the furnace of decolonisation – at least in part – does not mean that it automatically served the cause of the have-nots. It is clear that this was a project of the elites. Bertha Lutz, while a feminist of great standing, enjoyed the patronage of Brazilian dictator Getúlio Vargas who cracked down on political organising by the non-elites in the country. Mohandas Gandhi espoused lofty ideals on untouchability, while essentially supporting a caste system that kept tens of millions in servile conditions in India.

Decolonisation may have liberated millions from oppressive imperial rule. But for so many of those whom Frantz Fanon classified as the “wretched of the earth”, one colonialism was replaced by another – the nationalist leaders in thrall to former colonial powers who set the economic rules. For human rights to work another decolonisation was needed – to put these tools in the hands of people to stand up against oppressive power, with genuine agency. Yet the emphasis on human rights as law, and armchair debates about East versus West, have done little to place human rights tools into the hands of those who need them most.

The second way is the appropriation and domination of human rights by Western powers, often for neo-colonialist projects. We are all familiar with this story.

The idea gained currency that Northern or Western powers were the guardians and guarantors of human rights in the world. Human rights were somehow an accessory of the Pax Americana. And human rights – or to be specific, civil and political rights – became associated with the dominant political and economic models promoted by powerful western countries, a blend of electoral democracy and the market economy.

But the Western hypocrisy around rights found its absurd apotheosis in Guantánamo Bay – a human rights vacuum created explicitly in the service of a “war on terror” being fought in the name of freedom, and the values underpinning human rights. This is where it all unravels. And we see further evidence of that hypocrisy and selectiveness today in the brazen violation of the rights of refugees, and rampant Islamophobia.

The third way: we cannot forget the role of the Northern-based human rights “sector” itself. In this I include mainly non-governmental actors, including Amnesty

International. For too long, many of us have had an over-reliance on American and European guardianship of human rights. When our power, money and decision-making comes from the North, we send a message about the moral authority of the North; and we lose our organic connection with struggles in other parts of the world.

This problem has long afflicted NGOs and the UN system – which is regarded by some as synonymous with human rights. I do not want to be critical of the whole edifice. Some NGOs and some parts of the UN are more in touch than others. But this does not happen automatically; it has to be underpinned by a real commitment to remain connected.

The fourth way: there is no shortage of new initiatives to recast or reframe human rights in a way that suits powerful countries and leaders and neuters human rights.

China is at the forefront of this, with many allies and collaborators, in emphasising national sovereignty and the need for human rights to be adapted to “national conditions” – in other words, undermining the premise of universality while half-heartedly playing along. It is not all disengagement and bad news – China was the first permanent member of the UN Security Council to join calls for a ban on autonomous weapons systems, for example, and China’s focus on economic transformation for the poorest sectors of society is an important corrective to the Western or Northern over-emphasis on civil and political rights.

But China’s is an approach which is unapologetic about picking and choosing, with a view to neutralising human rights as a set of tools for struggles against the abuse of its own power. The idea that economic development can be achieved only at the cost of suppressing people’s voices and dissent is hard to accept. The new assertive Chinese foreign policy and the recent meeting convened by the Chinese government of many emerging economies to redefine human rights with Chinese characteristics is a space that needs to be closely watched.

Reclaiming struggle

So, to my third main point. Given the tendency of the powerful towards instrumentalising human rights for other ends, how can we reclaim the foundational element of struggle? How can we be true to the heart of human rights, and set ourselves up for success? How can we truly decolonise human rights?

This is a timely question in a season of growing intellectual contestation on the relevance, efficacy, and future viability of the international human rights system. We have all noted the challenge posed by Eric Posner in *The Twilight of Human Rights*, where he expresses the concern that what he sees as purposefully unenforceable human rights treaties are presumably causing system failures in international human rights. We have seen Stephen Hopgood, in *The Endtimes of Human Rights*, bemoaning the onslaught against human rights by “conservative nationalist and

religious forces”. More recently, we saw Samuel Moyn in the New York Times challenging those who care about human rights not only to wag a finger in the face of abusers, but “to take seriously the forces that lead so many people to vote in majoritarian strongmen in the first place”. And so on.

All these are important contributions into the conversation about the present state of human rights, and their future. I suggest they have two limitations, however. Firstly, we could be more systematic about whether and how the system is working or not working – are all treaties failing, and are they failing in the same way? Scholars including Kathryn Sikkink and Ryan Goodman have shown in granular way how some treaties have been effective.

But the second point of critique is more relevant to my discussion today: the current crop of sceptical scholarship seems to be based on certain assumptions about what human rights are, and when they emerged. But, I would like to reiterate my preference to understand human rights as the affirmation of ongoing struggles against abuse, overreach, and the violence of power, in all times and climes.

In that context, let’s circle back to our topic and consider the specific question of how then we decolonise human rights.

Working from my proposition that human rights exist for the struggles against the abuse of power in all its forms, I would like to suggest three important directions of travel that are essential.

Firstly, we have to set out a compelling vision for humanity which resonates with ordinary people, which enables human rights to be a powerful vehicle for their struggles.

We have a serious problem on our hands in many parts of the world, from Philippines to Turkey and from India to the USA, where human rights advocates who have always seen themselves as the voice of the poor and marginalised, are now being painted as the elite and enemies of endogenous development. Even in the UK’s Brexit debate, human rights activists who support immigration and refugee rights, just as in the US or Hungary, are portrayed as being removed from the masses whose identity or jobs are being taken away.

In India, if you support diversity and respect all religions, and are in favour of treating all human beings are equal, including Kashmiri Muslims, you could be called anti-national. In this sense, human rights advocates are themselves portrayed by their antagonists as colonisers. They are presented as fighting for the rights of minorities and bad guys. Samuel Moyn has argued that human rights are the vehicle for our utopian dreams. But we cannot take it for granted that people articulate their utopias in human rights terms.

Part of the answer is to go back to basics of why human rights for all matter. At Amnesty International, we are making a big push to ensure access to human rights education, and building rights-respecting societies in many parts of the world. In the last year, we have had over a million people who have been part of this education process, including through online MOOCs and a recently-established online Human Rights Academy in the Middle East.

And new ethical questions are on the horizon, to which we need to supply answers. There are many new colonisers from the corporate world, many in Silicon Valley. Some are colonising the internet, others want to occupy other planets and outer space. Exponential technologies are raising fresh questions about what it means to be human. If we arrive at a situation when a supreme caste of humankind is enhanced by machines to maintain extreme dominance, while other humans are pre-emptively removed from society because they are judged likely to commit certain crimes, will we even pay lip service to an ideal of human equality?

As we see this challenge on the horizon, as we see a boom in artificial intelligence today, as we see growing automation stripping away jobs and raising questions about the fitness of our social security models, as we see ever more clearly the effect of opaque algorithms on our tribalism and collective decision-making, the need for an ethical framework is abundantly clear. Human rights champions need to rise to this challenge and articulate answers.

Secondly, it is very important to go beyond talking about indivisibility of rights to fundamentally challenging the distinction between civil and political rights on one hand, and economic and social rights on the other. People do not experience their lives in these terms. What is political is economic, what is civil is social.

It is important to say that this distinction has never made sense in the South. It is a luxury afforded to those who enjoy economic prosperity. Neither was it baked into the early conceptions of human rights: Roosevelt's Four Freedoms speech is clear on that point. Rather, the inter-relationship is clear. People need a voice in the decision-making about their economic and social future. As I said at a talk at the LSE in 2012, those who have no voice are poor and those who are poor have no voice.

Often this predicament happens when people are at the mercy of powerful companies and governments working in tandem. There are few better examples in the world today than the child labourers working in the artisanal cobalt mines of the Democratic Republic of Congo, which account for around 10% of all the world's cobalt supply. Almost certainly some of it is in the pockets of those of us present in the room today. Although the tide is slowly beginning to turn thanks to concerted campaigning, companies are still doing too little to root out child labour from their supply chains, while the government is more interested in keeping problems hidden away than in

confronting them. In this context, it is totally artificial to separate out the civil and political elements of the struggle from the economic and social elements.

I would also like to point to the Convention on the Rights of Persons with Disabilities, dating from 2006. The normative emphases of the convention blend together both sets of rights, from political participation rights to health and habitation. Framed from the bottom up – that is, in the service of specific groups of people – human rights transcend the artificial frames of civil/political and economic/social which reflect a Cold War dichotomy. This kind of awareness and analysis is crucial for the future success of human rights.

Thirdly, those who believe in human rights need to connect and reconnect with the struggles at the local level.

All that I have said so far has formed the basis for Amnesty's big shifts over the past years, distributing our secretariat globally so that we are operating much closer to the ground. Because unless our posture is standing shoulder to shoulder with people in their struggles, unless our movement of people reflects the composition of societies we hope to influence, and unless we are calibrated for the dynamics of local struggles, we cannot truly hope to bring lasting change.

The global appetite for what Amnesty offers is clear as we have now established a strong national presence in key countries of the South, recruiting members and activists in Brazil, India, Nigeria, Indonesia, Mexico, Turkey, and Argentina. In the last year alone, about a million people have joined us as online members from countries like Egypt and Pakistan.

International *solidarity* was a powerful driver for Northern publics and organisations to support struggles in the global South. But this often became a substitute for *agency*. At the heart of the human rights "project" is the importance of power and agency remaining in the hands of those who are suffering oppression and injustice. This idea was perfectly captured in the slogan of the disabilities rights movement: "nothing about us without us". Seen through this lens, human rights are about the struggles of affected people and communities, and the solidarity that these struggles seek to garner. Strengthening and celebrating agency does not in any way take away from the importance and power of solidarity.

One of the ways we can reconnect with local struggles is through the partnerships we build. There is, for example, plenty of unexplored potential for human rights groups and faith communities to make common cause. Both speak about values, and both draw on the engagement of people who want to realise those values in the world. For example, in promoting welcoming attitudes towards refugees or minorities, human rights groups already tap into the moral resources that are often provided by religious faith. This could be developed into deeper partnerships, for example by placing

refugee families in the care of welcoming communities, which can set a positive example to others.

Conclusion

As I conclude, let me say that the threats of colonisation and instrumentalisation to the human rights project are not going to go away. And while in the past we saw the abuse of power through colonial domination, now instead we see how the human instinct to dominate is taking different forms. But the same dynamic holds true: those who wield power carry out abuses for which the rest pay.

So, the same old question remains for the contemporary human rights project: how do we place power in the hands of those left behind, to hold to account those who abuse their power?

Our quest to find the answers does not begin in the rarefied air of the UN buildings; it does not lie in the university lecture halls, or in courtrooms. It does not lie in the offices of Amnesty International or any other international NGO. All of those are important places for human rights, do not be mistaken. But our quest to decolonise rights begins in the struggles, the gatherings of people to challenge oppression.

Today the beating heart of human rights is in the growing number of people's movements across the world. Many of them powered by young people who are outraged by the abuse of power. We see that from the USA to Hong Kong. We see people standing up at huge cost to themselves – the popular protests in Venezuela and uprisings earlier this year in Iran. And across the African continent, seismic shifts in countries like Ethiopia, South Africa and Zimbabwe have followed peaceful protests.

One particular source of inspiration over the past year has been the movements of women and girls growing in stature and strength over the past year. #MeToo and the women's marches have lent massive new momentum to old struggles.

Dismantling patriarchy is perhaps the oldest struggle of them all; and of course, it is not an isolated one. Women's rights movements have for many years shown us the importance of the intersectional nature of struggles: black women, Dalit women, women with disabilities, and women with diverse sexualities are all fighting multi-layered battles. But at the end, it comes back to their pursuit of dignity and equality, in the face of historic oppression and injustice.

And across the world, some of the most potent advocates of human rights are the women in the heart of the struggles.

Let me finish with the story of Melchora, an Indigenous woman activist in Peru. It was my great honour to sit alongside her last November at a press conference in Lima

about her community and their fight for clean water in the face of industrial development. In the absence of clean water, many people – men, women and children alike – were falling sick and the children were unable to concentrate at school. Disadvantage piled upon disadvantage. But Melchora and others in her community took up their case and fought it at every level in pursuit of justice.

For me, Melchora is something of a lodestar for all human rights activism: her courageous battle against the most basic injustice in the face of a massive power differential, but with the dogged determination that the rightness of her demand will prevail.

And that, really, is where human rights begin and end.