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COMMEMORATIVE ISSUE  
HUMAN RIGHTS IN MOTION



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HUMAN RIGHTS

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# INTRODUCTION



## HUMAN RIGHTS IN MOTION: A MAP TO A MOVEMENT'S FUTURE

Lucia Nader (Executive Director, Conectas)  
Juana Kweitel (Program Director, Conectas)  
Marcos Fuchs (Associate Director, Conectas)

**Sur Journal** was created ten years ago as a vehicle to deepen and strengthen bonds between academics and activists from the Global South concerned with human rights, in order to magnify their voices and their participation before international organizations and academia. Our main motivation was the fact that, particularly in the Southern hemisphere, academics were working alone and there was very little exchange between researchers from different countries. The journal's aim has been to provide individuals and organizations working to defend human rights with research, analyses and case studies that combine academic rigor and practical interest. In many ways, these lofty ambitions have been met with success: in the past decade, we have published articles from dozens of countries on issues as diverse as health and access to treatment, transitional justice, regional mechanisms and information and human rights, to name a few. Published in three languages and available online and in print for free, our project also remains unique in terms of geographical reach, critical perspective and its Southern 'accent'. In honour of the founding editor of this journal, **Pedro Paulo Poppovic**, the 20<sup>th</sup> issue opens with a biography (by João Paulo Charleaux) of this sociologist who has been one of the main contributors to this publication's success.

This past decade has also been, in many ways, a successful one for the human rights movement as a whole. The Universal Declaration of Human Rights has recently turned 60, new international treaties have been adopted and the old but good global and regional monitoring systems are in full operation, despite criticisms regarding their effectiveness and attempts by States to curb their authority. From a strategic perspective, we continue to use, with more or less success, advocacy, litigation and naming-and-shaming as our main tools for change. In addition, we continue to nurture partnerships between what we categorize as local, national and international organizations within our movement.

Nevertheless, the **political and geographic coordinates** under which the global human

rights movement has operated have undergone profound changes. Over the past decade, we have witnessed hundreds of thousands of people take to the streets to protest against social and political injustices. We have also seen emerging powers from the South play an increasingly influential role in the definition of the global human rights agenda. Additionally, the past ten years have seen the rapid growth of social networks as a tool of mobilization and as a privileged forum for sharing political information between users. In other words, the journal is publishing its 20<sup>th</sup> issue against a backdrop that is very different from that of ten years ago. The protests that recently filled the streets of many countries around the globe, for example, were not organized by traditional social movements nor by unions or human rights NGOs, and people's grievances, more often than not, were expressed in terms of social justice and not as rights. Does this mean that human rights are no longer seen as an effective language for producing social change? Or that human rights organizations have lost some of their ability to represent wronged citizens? Emerging powers themselves, despite their newly-acquired international influence, have hardly been able – or willing – to assume stances departing greatly from those of “traditional” powers. How and where can human rights organizations advocate for change? Are Southern-based NGOs in a privileged position to do this? Are NGOs from emerging powers also gaining influence in international forums?

It was precisely to reflect upon these and other pressing issues that, for this 20<sup>th</sup> issue, SUR's editors decided to enlist the help of over 50 leading human rights activists and academics from 18 countries, from Ecuador to Nepal, from China to the US. We asked them to ponder on what we saw as some of the most urgent and relevant questions facing the global human rights movement today: 1. Who do we represent? 2. How do we combine urgent issues with long-term impacts? 3. Are human rights still an effective language for producing social change? 4. How have new information and communication technologies influenced activism? 5. What are the challenges of working internationally from the South?

The result, which you now hold in your hands, is a **roadmap for the global human rights movement** in the 21<sup>st</sup> century – it offers a vantage point from which it is possible to observe where the movement stands today and where it is heading. The first stop is a reflection on these issues by the founding directors of Conectas Human Rights, **Oscar Vilhena Vieira** and **Malak El-Chichini Poppovic**. The roadmap then goes on to include **interviews** and **articles**, both providing in-depth analyses of human rights issues, as well as **notes from the field**, more personalized accounts of experiences working with human rights, which we have organized into **six categories**, although most of them could arguably be allocated to more than one category:

**Language.** In this section, we have included articles that ponder the question of whether human rights – as a utopia, as norms and as institutions – are still effective for producing social change. Here, the contributions range from analyses on human rights as a language for change (**Stephen Hoggood** and **Paulo Sérgio Pinheiro**), empirical research on the use of the language of human rights for articulating grievances in recent mass protests (**Sara Burke**), to reflections on the standard-setting role and effectiveness of international human rights institutions (**Raquel Rolnik**, **Vinodh Jaichand** and **Emílio**

**Álvarez Icaza**). It also includes studies on the movement's global trends (**David Petrasek**), challenges to the movement's emphasis on protecting the rule of law (**Kumi Naidoo**), and strategic proposals to better ensure a compromise between utopianism and realism in relation to human rights (**Samuel Moyn**).

**Themes.** Here we have included contributions that address specific human rights topics from an original and critical standpoint. Four themes were analysed: economic power and corporate accountability for human rights violations (**Phil Bloomer, Janet Love and Gonzalo Berrón**); sexual politics and LGBTI rights (**Sonia Corrêa, Gloria Careaga Pérez and Arvind Narrain**); migration (**Diego Lorente Pérez de Eulate**); and, finally, transitional justice (**Clara Sandoval**).

**Perspectives.** This section encompasses country-specific accounts, mostly field notes from human rights activists on the ground. Those contributions come from places as diverse as Angola (**Maria Lúcia da Silveira**), Brazil (**Ana Valéria Araújo**), Cuba (**María-Ileana Faguaga Iglesias**), Indonesia (**Haris Azhar**), Mozambique (**Salvador Nkamate**) and Nepal (**Mandira Sharma**). But they all share a critical perspective on human rights, including for instance a sceptical perspective on the relation between litigation and public opinion in Southern Africa (**Nicole Fritz**), a provocative view of the democratic future of China and its relation to labour rights (**Han Dongfang**), and a thoughtful analysis of the North-South duality from Northern Ireland (**Maggie Beirne**).

**Voices.** Here the articles go to the core of the question of whom the global human rights movement represents. **Adrian Gurza Lavalle** and **Juana Kweitel** take note of the pluralisation of representation and innovative forms of accountability adopted by human rights NGOs. Others study the pressure for more representation or a louder voice in international human rights mechanisms (such as in the Inter-American system, as reported by **Mario Melo**) and in representative institutions such as national legislatures (as analysed by **Pedro Abramovay and Heloisa Griggs**). Finally, **Chris Grove**, as well as **James Ron, David Crow and Shannon Golden** emphasize, in their contributions, the need for a link between human rights NGOs and grassroots groups, including economically disadvantaged populations. As a counter-argument, **Fateh Azzam** questions the need of human rights activists to represent anyone, taking issue with the critique of NGOs as being overly dependent on donors. Finally, **Mary Lawlor and Andrew Anderson** provide an account of a Northern organization's efforts to attend to the needs of local human rights defenders as they, and only they, define them.

**Tools.** In this section, the editors included contributions that focus on the instruments used by the global human rights movement to do its work. This includes a debate on the role of technology in promoting change (**Mallika Dutt and Nadia Rasul**, as well as **Sopheap Chak and Miguel Pulido Jiménez**) and perspectives on the challenges of human rights campaigning, analysed provocatively by **Martin Kirk** and **Fernand Alphen** in their respective contributions. Other articles point to the need of organizations to be more grounded in local contexts, as noted by **Ana Paula Hernández** in relation to Mexico, by **Louis Bickford** in what he sees as a convergence towards the global middle, and finally by **Rochelle Jones, Sarah Rosenhek and Anna Turley** in their movement-support model. In addition, it is noted by **Mary Kaldor** that NGOs are not the same as civil society,

properly understood. Furthermore, litigation and international work are cast in a critical light by **Sandra Carvalho and Eduardo Baker** in relation to the dilemma between long and short term strategies in the Inter-American system. Finally, **Gastón Chillier and Pétalla Brandão Timo** analyse South-South cooperation from the viewpoint of a national human rights NGO in Argentina.

**Multipolarity.** Here, the articles challenge our ways of thinking about power in the multipolar world we currently live in, with contributions from the heads of some of the world's largest international human rights organizations based in the North (**Kenneth Roth** and **Salil Shetty**) and in the South (**Lucia Nader, César Rodríguez-Garavito, Dhananjayan Sriskandarajah** and **Mandeep Tiwana**). This section also debates what multipolarity means in relation to States (**Emilie M. Hafner-Burton**), international organizations and civil society (**Louise Arbour**) and businesses (**Mark Malloch-Brown**).

Conectas hopes this issue will foster debate on the future of the global human rights movement in the 21<sup>st</sup> century, enabling it to reinvent itself as necessary to offer better protection of human rights on the ground.

Finally, we would like to emphasize that this issue of Sur Journal was made possible by the support of the Ford Foundation, Open Society Foundations, the Oak Foundation, the Sigrid Rausing Trust, the International Development Research Centre (IDRC) and the Swedish International Development Cooperation Agency (SIDA). Additionally, Conectas Human Rights is especially grateful for the collaboration of the authors and the hard work of the Journal's editorial team. We are also extremely thankful for the work of Maria Brant and Manoela Miklos for conceiving this Issue and for conducting most of the interviews, and for Thiago Amparo for joining the editorial team and making this Issue possible. We are also tremendously thankful for Luz González's tireless work with editing the contributions received, and for Ana Cernov for coordinating the overall editorial process.



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## **Human Rights in Motion**

# **Voices**

**FATEH AZZAM**

Why Should We Have to "Represent" Anyone?

**MARIO MELO**

Voices from the Jungle on the Witness Stand of the Inter-American Court of Human Rights

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NGOs, Human Rights and Representation

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Experimentation and Innovation in the Accountability of Human Rights Organizations in Latin America

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**JAMES RON, DAVID CROW AND SHANNON GOLDEN**

Human Rights Familiarity and Socio-Economic Status:  
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**CHRIS GROVE**

To Build a Global Movement to Make Human Rights and Social Justice a Reality for All

**INTERVIEW WITH MARY LAWLOR AND ANDREW ANDERSON**

"Role of International Organizations Should Be to Support Local Defenders"



#### ADRIAN GURZA LAVALLE

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#### ABSTRACT

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The debate on the conditions of legitimacy of the work of human rights NGOs has garnered an increasing amount of attention in recent years. Speaking out on behalf of groups that cannot delegate or constitute their own representation is an old dilemma, but coming up with contemporary answers requires a starting point that does *not* assume a synonymy between political representation and representative government. Broader criteria now exist for determining the legitimacy or illegitimacy of the work of these actors. There are no easy answers, and this article analytically clarifies the challenges to be faced by any attempt to provide an answer, while also shedding light on the historical circumstances that give meaning to this issue.

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#### KEYWORDS

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ARTICLE

## NGOS, HUMAN RIGHTS AND REPRESENTATION\*

Adrian Gurza Lavalle

Non-governmental organisations (NGOs) that work in the defence of human rights have been pondering – more often in recent years – on the conditions of their work legitimacy, and have sometimes been asked to justify it to donors or sceptical or critical voices. Something has changed in the perspective of these actors, which have been confronted with more demanding legitimacy requirements. After all, advocacy has been a common practice at least since the 19th century, but demands over the fundamental legitimacy of the work of those who advocate have gained prominence in more recent years. What has changed exceeds the boundaries of the sphere of defending human rights and relates to the growing debate on the pluralisation of extra-parliamentary and non-state forms of representation. Therefore, this discussion is a rich source for finding answers to the demands of legitimacy of civil organisations in the field of human rights.

This article addresses the discussion on the legitimacy of practices of representation without consent. The first section demonstrates that these practices still confront an old dilemma: representing the silenced. It draws on the formulation of this dilemma made by Joaquim Nabuco, in the 19th century, and the answer that he gave: the oxymoron “unconscious delegation”. Based on this analysis, it is considered more productive, instead of resorting to a new oxymoron, to analytically clarify the challenges to be faced by any attempt at an answer, while also shedding light on the historical circumstances that give meaning to the question surrounding the legitimacy of representation practices. This is the intention of the second and third sections.

The second section focuses on the conceptual aspect, using, as a convenient argument, the model of acting in someone’s interests developed by Hanna Pitkin. The convenience lies in the fact that it is not only a model that is well-known and influential in the field of theories of representation, but also one of the few

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widely recognised models that does *not* assume a synonymy between political representation and representative government – centred in electoral representation. The assumption of this synonymy would result in a judgment of extra-parliamentary forms of representation with criteria that are suited to the assessment of the actions of political parties. We know, *a priori*, that civil organisations are not functional or institutional equivalents of political parties, thus any assessment of the political representation of the former based on parameters suited to the latter leads to predictable and sometimes trivial conclusions.

The third section examines some of the implications of the Pitkin model for the defence of fundamental rights and its perspective in the national and international arenas. In conclusion, it is noted that the debate on the pluralisation of political representation constitutes a good starting point for analysing representation by human rights organisations.

## 1 An old dilemma: representing the silenced

Speaking out in public to protect the fundamental interests of someone who cannot raise their voice to defend themselves – but who, if they could, hypothetically, would do so – is both a noble and disconcertingly dilemmatic occupation. Civil society organisations committed to the defence of human rights sometimes find themselves in the uncomfortable position of having made this choice.<sup>1</sup> The dilemma precedes them and, in Brazil, it was given a dramatic formulation more than a century ago, in one of the most notable political texts to come to light in the 19th century: *O Abolicionismo* (Abolitionism), written in its entirety in London and published in 1883. In order to publicly justify the political mission of the abolitionist party, and based on respect for liberal principles, Joaquim Nabuco undertook the difficult task of identifying the real source of the authority that allowed him to advocate on behalf of others: on the one hand, universal values confer dignity to a humanitarian discourse; but, on the other, political action requires, on the part of the “represented”, the knowledge and the express acceptance of these values and the rights derived from them, as well as some mechanism of delegation – even though hypothetical. The response he offered is remarkable: “The abolitionist mandate is a two-fold delegation [by slaves and their children], unconscious on the part of those who do it, but in both respects interpreted by those who accept it as a mandate that cannot be renounced” (NABUCO, 2000 [1883]). Even in defence of the realisation of the practical imperatives of modern universalist ideas – act in defence of freedom and equality – the abolitionist is required to resort to ingenious methods to demonstrate the legitimacy of his purpose and to escape the perverse paradox of representing silenced men, without public opinion that can be mobilised to legitimise any delegation of interests – much less substantiate processes of authorising representation.

The concept of “unconscious delegation”, whereby the slaves and their children – the *ingênuos* (ingenuous) – presumptively vested the advocates of the abolitionist cause with irrevocable powers, encompasses all the elements that make the work of human rights organisations a dilemma in the contemporary world. In certain circumstances, working with noble purposes can attract hostility, even by

the beneficiaries of these purposes. However, keeping quiet is not an empathetic option in relation to those who have been silenced or who, hypothetically, would condemn their own situation if they had the real conditions to do so.

There are at least three elements contained in this concept that are of interest here. First, and unlike the direct defence of interests that can genuinely be said to be private, advocating on behalf of others in public requires the use of public reason, i.e. arguments that are factually sustainable and morally reasonable.<sup>2</sup> *O Abolicionismo* examines the deleterious consequences of slavery – facts – and condemns its immorality; however, the concept of “unconscious delegation” is proposed with a different purpose, namely dealing with the question of legitimacy.

Second, it follows that the use of public reason is insufficient when the sphere in which the facts presented and the moral persuasion proposed requires a legitimacy that cannot be justified only because the empirical diagnosis is correct or because the causes or the interests being defended are morally right. In other words, there are crucial differences between advocacy and representation, since only the latter requires a form of legitimacy derived from the consent of the represented. The dissatisfaction aroused by “unconscious delegation” derives precisely from the fact that consent without the awareness of the consenting party constitutes an oxymoron.

Third and last, although advocacy and representation both employ public reason in the defence of causes and interests, the perspective differs in each of these cases; in the latter one, it is more institutionally structured and by definition directed at formal public spheres – notably, but not only, legislative houses.

There are no easy answers to settle the problem of the legitimacy of representation without consent. However, instead of resorting to a new oxymoron – even though it may be ingenious – it is analytically and politically more worthwhile to clarify the terms that seem better suited to find plausible answers, as well as the historical circumstances that make the search for these answers a pressing one. The next section analyses the model of acting in someone’s interests developed by Hanna Pitkin, one of the most widely used theoretical formulations in the literature for contemplating political representation and also one that demonstrates the inherent limits of political representation – regardless of whether it is provided by political parties or other actors, such as human rights organisations. Finally, the third section examines some of the implications of the Pitkin model for the defence of fundamental rights by civil organisations in the field of human rights at the national and international levels, as a result of the scenario of pluralisation of political representation.

## 2 Acting on someone’s behalf

International non-governmental organisations committed to the defence of human rights have been active promoters of the defence of minority rights, broadly recommending the institutionalisation of mechanisms for representing these social groups – as groups – in their respective societies, although they themselves could not claim an identity-based legitimacy for their work – like women or blacks can when they publicly defend gender equality or their opposition to racial discrimination.

They embody the figure of an agent that acts on behalf of or in the best interests of someone, within the moulds of political representation examined by Pitkin (1967) in her seminal book *The concept of representation*. Claiming affinity, solidarity or a commitment to the cause of human rights could be a persuasive argument to justify the exercise of advocacy activities, but, even though they might very well be genuine, these motives are insufficient when advocacy becomes representation. As already mentioned, something changed in the perspective of the civil organisations and, as a result, it is vital to come up with other answers. This “something”, the pluralisation of political representation, shall be addressed in the next section, but first we need to explain the requirements and challenges of political representation.

Pitkin categorises the different notions and manifestations of representation into three main models – ‘formalistic’, ‘standing for’ and ‘acting for’ – each containing several visions and theories of representation. The greatest diversity of notions is contained in the ‘acting for’ model – the most complex of the three – to the extent that the author offers five families of metaphors,<sup>3</sup> while she only systematically lays out two theories of representation as acting in someone’s interests, both developed in the 18th century and antagonistic in nature, and present in the work of Edmund Burke and the Federalists.

The internal elements shared by the various notions of representation present in the third model of ‘acting for’ can be clarified through the characterisation of what I call the *correspondence regime* inherent to the model. This regime consists of the criteria that govern the relationship between the representation and the represented, and make representation an admissible expression of the represented, conferring it representativeness. In other words, this set of criteria defines the terms in which representation is expected to correspond, explicitly or implicitly, to the represented, establishing what may or what may not be properly considered representation. For Pitkin, the correspondence regime is characterised as the balance of the comparison between manifestations, linguistic uses and metaphors of representation in search of clues to judge in what terms the action of one party – human rights NGOs, in this case – can be plausibly considered an act of representation.

The metaphors and notions of representation that refer to someone acting on behalf of an agent or in the care of a patient are characterised by Pitkin as active and substantive forms of representation, since what makes them specific is the attention to both the practice and the actions expected from it, and the substance or content that should be realised – namely, acting in the best interests of the represented. This is what characterises political representation – that the representation, clearly exerted through the intermediation of a representative, considers the well-being of the represented and their preferences. The commitment to acting in the best interests of the represented specifies a canon regarding the content, and, as a result, political representation in Pitkin is substantive.

The “substance of the activity of representing”, observes Pitkin (1967, p. 155), seems to suppose the action of a representative who acts independently, with discretion and judgment, but also responsively and making the action coincide with the wishes of the represented, who, meanwhile, is also considered independent and capable of judging the action of the representative and, in some cases, disagreeing

with and objecting to it (PITKIN, 1967, p. 155, 209). Although this dual independence is a potential source of conflict, it cannot be permanent or, more precisely, “conflict must not normally take place [...] or if it does occur, an explanation is called for. He [the representative] must not be found persistently at odds with the wishes of the represented without good reason in terms of their interests” (PITKIN, 1967, p. 209).

The model of political representation that rests on a potential source of conflict – dual independence – comes with a correspondence regime that is explicit and demanding, but complex to enforce. After all, it seeks to reconcile the wishes of the represented with the discretion of the representative in a relationship that preserves the autonomy of both. A definition of representation conceived in this mould presents two serious limitations quickly identified by Pitkin: the corrosive effects of the conflict and its overly permissive character concerning what counts as representation – which simultaneously implies a weak capacity to establish that which may or may not be considered representation.

First, this model makes representation a particularly fragile phenomenon that is always close to breaking down as a result of the conflict, unless some reconciliation is possible between the wishes of the represented, which are always volatile, and some more solid manifestation of well-being – typically, interests – that can serve as a yardstick for the considerations of the representative. Second, even if the reconciliation between the wishes of the represented and the actions of the representative are deemed plausible, the definition only widens the boundaries within which political representation can occur, by embracing more varied concepts, including some that are antagonistic or incompatible from a normative point of view – such as conceptions that are surrogate or paternalistic, technical or scientific, democratic or plebeian. In other words, the correspondence regime of political representation lacks parameters to separate the undesirable forms from the desirable. Note that this situation is inherent to political representation, and not to the group of actors that provide it – whether they are political parties or not.

### **3 Acting in defence of fundamental rights and the perspective of the actors in the national and international arenas**

As Pitkin herself rightly understood, the boundaries of political representation are wide and cover various forms of representation. The variety of these forms can abide by, as Pitkin points out (1967, pp. 210-215), what appear to be secondary aspects from the point of view of the abstract definition of the concept, but by no means trivial considering their consequences on the quality of the representation. This is the understanding embraced by a number of different authors and actors of three crucial aspects: what is or should be represented, the alleged qualities of the representative and the represented, and the characteristics of the class of decisions taken by the representatives. Therefore, despite being forms of political representation, certain perceptions that emphasise “objective” or general interests – “the nation”, for example – credits to the representative a wisdom or some distinctive superior quality, or else they consider that the nature of the decisions to be taken is essentially technical or scientific. As a result, they are more likely to encourage or provide surrogate or

paternalistic forms of representation, in which the representative believes that he knows the interests of the represented better than they do and, therefore, that he does not need to consult them, only take care of them.

The work of NGOs that defend human rights differs in regard to these three aspects, on account of the prominence and priority unconditionally given to fundamental rights. The logical reconciliation between representative and represented follows this prominence and priority. The parameter of well-being of the represented, therefore, acquires a remarkably solid footing – indeed, almost cast-iron, since human rights are considered inherent to human dignity, regardless of contextual and contingent considerations, such as the country of origin or the culture of a given community. However, although the existence of an “objective” parameter tends to loosen the relationship of consultation and the need for the consent of the represented – as Pitkin points out – the focus on fundamental rights subordinates the actions of the representative, severely limiting them from making arbitrary choices. Subordinating the actions of the representation to the promotion and defence of human rights introduces criteria of a demanding correspondence regime. It limits the discretion of choice, on account of a ‘hard’ definition of what is being represented, minimising the role of any alleged virtues on the part of the representative or the alleged lack of them on the part of the represented. Human rights, obviously, can broaden the range of choices of the represented, but from the representative’s point of view, it limits the range of possible choices. Respect for the right to life, for example, implies opposing the death of civilians during wartime, regardless of the assessment of the merit of the warring parties. Neither is there any leeway, for the same reason, for technical or scientific interpretations of the decisions to be taken; first, the defence of human rights is associated with a constant thematisation and politicisation in the public sphere and in various institutional arenas. Moreover, Pitkin herself (1967, pp. 156-166) assumes that, without any formulation like the understanding of the “true interest” in question by the representative, the balance between them and the represented may only follow the path of the wishes and opinions of the latter.<sup>4</sup>

When NGOs committed to the defence of human rights are questioned about the legitimacy of the representation they provide, it is not the general model of political representation that serves as analytical scrutiny, but representative government and, more specifically, electoral representation. This is a specific institutional framework that constitutes the most important form of political representation of the past two centuries. In it, the reconciliation of the dual independence of the represented and the representative is resolved through a single device with three functions: authorisation, mandate and sanction. Indeed, the vote performs this three-fold function, since it is the mechanism that permits the voter to choose a representative, express preferences for certain programs or policies, and also replace rulers when their performance or ability to deliver on campaign promises is unacceptable.

Judging the defence of human rights based on the responses established by electoral representation to address the harmonising of the dual independence and its potential conflicts is an ineffective analytical operation, since it ignores essential characteristics of the work of NGOs engaged in this defence. These organisations often promote causes against the majority. Mechanisms of authorisation in contexts

in which majorities exercise some form of oppression over minorities would be equivalent to condemning these causes. Meanwhile, as in Nabuco's case, there is an 'unrenounceable' mandate for those who are committed to the defence of human rights, although it resides in very widely accepted general principles. Undoubtedly, the 'narrative' of human rights can be criticised in genealogical, deconstructivist and postcolonialist terms (MUTUA, 2001), but it would be careless to overlook that it is a political grammar (with proven capacity to rationalise power) which has nowadays various institutions for its promotion – at the international and national levels – that are unavailable for other grammars with broad pretensions, such as postcolonialism. Finally, the absence of a vote and a clear constituency is accompanied by the absence of sanction by vote, but this does not mean a complete lack of control and sanction on the work of these NGOs. The debate on the accountability of civil society has explored various forms of control over the work of civil organisations.<sup>5</sup>

Another broader phenomenon underlies the issue on the legitimacy of the demands of human rights NGOs, that has changed the stand of these actors: their presence on the international stage as relevant agents in defining international norms, in monitoring compliance with these norms, in developing international mechanisms to encourage compliance and in activating sanction mechanisms has grown markedly since the 1990s (SMITH; PAGNUCCO; LOPEZ, 1998). Such growth is not the unilateral product of a 'unstoppable' activism; the United Nations system, the European Union and multilateral organisations have altered their position in relation to States, which are no longer viewed as the unified and *a priori* legitimate voices of the population living in their territories. As a result, the institutional arenas of the exercise of political representation on the international level have changed, attracting civil actors to more central positions. Meanwhile, and having both driven and capitalised the reconfiguration of the institutional arenas, human rights NGOs gradually professionalised their representation at the United Nations, leaving behind them the times when this type of representation was conducted on an honorary basis by volunteers in their free time, often associated with the image of "politicians on a downward slope" or "little old ladies in tennis shoes" (MARTENS, 2006).<sup>7</sup>

On the national level, the phenomenon is two-fold. On the one hand, the favourable international environment, the adherence of States to new norms, the democratic transitions and the creation of institutions to exorcise the horrors of the systematic human rights violations committed during the dictatorships has also prompted a rearrangement of the position of the actors committed to the cause of human rights in the domestic arenas. On the other, and on different scales in the two hemispheres, democracy itself has undergone a process of pluralisation of representation in which new functions, bodies and actors of representation acquire parallel and/or complementary functions to those of electoral representation, pluralising the very institutional repertoire of democracy (DALTON; SCARROW; CAIN, 2006; GURZA LAVALLE; HOUTZAGER; CASTELLO, 2006a).

The search for more appropriate ways to address the challenges of legitimacy raised by the multiplication of extra-parliamentary forms of representation in order to deal with this requirement is today at the heart of the leading edge analysis of the new generation of theories of representation. The challenge is two-fold: be attentive

to the emergence of new forms of representation through meticulous descriptive studies and, at the same time, shed light on the conditions of legitimacy of these forms, breaking loose from the strict paradigm prescribed by the canonical model of electoral representation and its leading actors – political parties.

As such, representation provided by *citizen representatives* (URBINATI; WARREN, 2007), such as the case with the British Columbia Citizens' Assembly (WARREN, 2008), not only assigned a body of citizens to review and express an opinion on important legislative bills, but it also observed a criterion of legitimacy other than electoral authorisation. In this case, representativeness follows a statistical correlation, i.e. the fact that citizens had been randomly chosen for the purpose of expressing the preferences and opinions of the average citizen.

Other cases have allowed developing concepts to explore possibilities of legitimacy in forms of representation that are neither authorised nor random, but self-authorised, in which the commitment of representatives, their position in a network of actors marked by strong affinities, the nature of the cause being represented, or other factors, ensure that the representative acts, to some extent, in the interests of the represented. The growing conceptual repertoire is symptomatic of both the emergence of new forms of representation and the difficulty of applying consensual criteria of legitimacy to them.<sup>9</sup> This does not mean, however, that the proposed criteria are arbitrary or trivial. After all, the rethinking of representation reflects the changes going on in the world, which constitute a scenario of pluralisation of representation.

#### 4 In conclusion

In more central positions in the domestic and international arenas, the cause of human rights and of the actors that promote it are no longer considered merely bona fide advocacy practices and have taken on implications in a larger institutional game, within which the question of legitimacy is more demanding and pluralistic. New concepts have emerged in order to understand and give meaning to the pluralisation of representation that is occurring in the domestic and transnational arenas – a pluralisation in which human rights NGOs are included. Therefore, in seeking to understand the conditions of the legitimacy of NGOs' stand, they are not alone, but in good company.

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## NOTES

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1. The first paragraph revisits arguments developed elsewhere and reformulates them to explore the relationship between human rights and representation (GURZA LAVALLE, 2004).
2. The idea of the use of public reason comes from Rawls (2005). It is used here loosely, but it preserves the emphasis between the people from whom the use of public reason is expected and the civil society governed by a particular collective logic.
3. The five groups of metaphors and notions may be summarized in the following terms: i) representation by agency, ii) representation by taking care of something or someone, iii) representation by substitution, iv) representation by mandate, and v) representation by expert decision (PITKIN, 1967, pp. 112-143).
4. The introduction of the "true interest" in Pitkin aims to assure the possibility of acting in someone else's best interests, even when the action contradicts their wishes or opinions. It is a classic question associated with the problem of the independence of the representative in theories of representation. To this independence corresponds the responsibility of representing the "true interest" of the voter, and not his opinions – much less his wishes (BURKE, 1942 [1774]).
5. See, for example, Jordan (2005), Alnoor & Weisband (2007), Gurza Lavalle & Isunza (2010). More specifically, for a review of the perception of human rights NGOs' accountability in Latin America, see Kweitel (2010).
6. Martens uses quotes taken from Archer (1983).
7. In this recent and growing semantic repertoire, the extra-parliamentary forms of representation have been characterized as being *surrogated* by Mansbridge (2003), *self-authorized* by Urbinati & Warren (2007), performed by *affinity*, according to Avritzer (2007), *virtual or assumed* by Gurza Lavalle, Houtzager & Castello (2006a, 2006b, respectively), as *mediated politics* by Peruzzotti (2006), as *non-electoral political representation* by Castiglione and Warren (2006), as performed by *citizen representatives* by Urbinati and Warren (2007) or simply as *advocacy* by Urbinati (2006a) or Sorj (2005). These terms are the result of a study on the analytical shifts in the concepts of representation and participation in the field of democratic theory – see Gurza Lavalle & Isunza (2011).

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