



**SEMI-ANNUAL CONFERENCE
SAN FRANCISCO
JANUARY 28-29, 2014**

**Opening Plenary
When Rights Collide: Human Rights at Odds with Itself**

January 28, 2014
10:00 am – 12:00 pm

Session Organizers:

- Ireen Dubel, Senior Advisor, Women's Rights, Hivos
- Geetanjali Misra, Executive Director, Creating Resources for Empowerment in Action (CREA)
- Florence Tercier Holst-Roness, Director, Issues Affecting Women Programme, Oak Foundation
- Katrin Wilde, Executive Director, Channel Foundation
- Alice M. Miller, Co-Director, Global Health Justice Partnership of the Yale Law School and the School of Public Health

Facilitator:

- Ireen Dubel, Senior Advisor, Women's Rights, Hivos

Panelists:

- Alice M. Miller, Co-Director, Global Health Justice Partnership of the Yale Law School and the School of Public Health
- Geetanjali Misra, Executive Director, Creating Resources for Empowerment in Action (CREA)
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Sponsors:

- Hivos
- Oak Foundation
- Channel Foundation

Ireen Dubel, Senior Advisor, Women's Rights, Hivos, began the session by explaining that its goal was to bring about reflection and rethinking of funders' work and the work of their grantees around the globe. The following questions guided the tone of the plenary:

- Where do human rights clash?
- What types of funding may contribute to these clashes?

Following this introduction, the members of the plenary asked the public to give examples of human rights in conflict. One attendee pointed to the collision between women's rights to choose and

communities with disabilities' right to life. Someone else in the audience stated that a conflict between basic human rights and cultural/societal traditions exist, especially for women in cultures with rigidly defined gender roles.

Geetanjali Misra, Executive Director, CREA introduced these challenges with a slideshow depicting rights in conflict.

Alice M. Miller, Co-Director of the Global Health Justice Partnership of the Yale Law School and the School of Public Health, shared her experience with conflict and tensions amongst human rights movements. She cited the activism of human rights groups against death penalty, while on the other hand, a number of human rights groups in South Asia are requesting the death penalty for rapists. With two film clips, Alice exemplified the tension created among advocates working with the tools and resources available to them.

Continuing with the plenary session, Geetanjali discussed the issues facing human rights activists in the context of India. Donor education has become something CREA is fond of doing. Her presentation drew on the Indian context with three case studies of hierarchies of human rights, competition between human rights, and essentialism: sex selection and abortion, violence against women, and LGBT rights in India:

Case #1: Sex Selection in India: In 1971, abortion became legal in India. However, this was guided by a population control perspective, and did not consider women's human rights. Despite abortion being legal, abortions are still very unsafe. Since 1982, India has seen a rise in sex selection abortions, which led to an increasing child gender ratio difference in India. Current strategies are increasingly focusing on sex selection abortion, which contain negative implications concerning women's right to abortion. These strategies place the prevention of abortion of unborn women higher in the hierarchy of rights than the right of living women to full autonomy over their bodies. Thus, anti-sex selection advocacy in India is making the promotion of safe abortions more difficult. In 2012, the Indian government tried to reduce the term for abortion to 10 weeks based on these campaigns. In some states, there were attempts to monitor women who had an abortion, irrespective of the reason for having an abortion.

Case #2: Violence Against Women: On December 16, 2012 the gang rape, and subsequent death, of a physiotherapy student in Delhi brought new attention to violence against women locally and globally. Geetanjali declared that sexual violence is a complex conversation, one in which many hierarchies are at play and many human rights collide. She cited theorist Gayle Rubin's argument about the hierarchical attitude of society towards sex acts, in which marital, monogamy, heterosexual, reproductive and non-commercial sex are at the top. As a result, these types of sex become rewarded with mental health, respectability, legality, and other institutional and material benefits. Other kinds of sex, such as that of sex workers, people with disabilities, transgender, LGBTQ, are not seen as worthy of protection. The conversation about sexual violence, Geetanjali said, needs to broaden to include more women, LGBTQ groups, disabled groups, and sex worker groups; and it needs to be deeper to include other forms of violence apart of sexual violence. Disruptive violence of poverty and social insecurity don't have the same sensational value as sexual violence in today's society, yet they are equally acute and pressing. Sexual violence receives disproportionate attention, because women's sexuality is not normalized, because they are seen as the ultimate measure of purity. Thus, one part of the conflict comes from why we place sexual violence on top.

Other conflicts arise from the fact that gender based violence advocacy prioritizes violence against women and girls over violence against men and boys, specially gender non-conforming men, effeminate, gay and trans-men.

Case #3: LGBT Rights. Geetanjali began by asking, how we can use these conflicts to build solidarity across movements? Section 377 of Indian Law, which criminalizes sex “against the order of nature,” also interpreted as non-reproductive sex, is currently applied against homosexual and trans* people in India. In this case, groups working on HIV/AIDS issues began legal activism for the repeal of this law on the grounds that it deters HIV prevention. Many other groups came together to form a coalition to oppose this law, including mental health professionals, children’s, women’s and disability rights groups, requesting not to criminalize adult consensual sex in private. This strategy brought together other stakeholders such as women’s rights groups fighting marital rape, children’s rights groups fighting sexual abuse of children, parents of LGBTQ, teachers, legal scholars, filmmakers, and prominent citizens. Because this issue was made as broad as possible, in 2009, Section 377 was decided as unconstitutional by the court in the basis that a law could not be applied against consent between adults in private. Unfortunately last month this last judgment was set aside and the Supreme Court dismissed the petition for a review today. On January 26th, India’s Republic Day, many human rights groups mobilized for a march organized by the people, for the people and with the people, seeking to have protection for all minorities in India.

Next, Alice highlighted that the examples brought to the table by Geetanjali made clear the fact that it takes time and space to identify shared core values across groups in order to prevent or reduce conflict. She posed the question: How can advocates and funders find, help create, and support the spaces that allow different human rights groups to work together for a common goal? She stated that, in practice, almost all of the tensions are about strategies and the role of government in mediating rights. As a feminist, lawyer, and public defender, she argues the existence of a bigger problem: Work is being created in silos, and is not allowing room for other people’s work in human rights. Moreover, using the example of the court’s decision on regulating the use of religious head’s scarves in France and Turkey, she pointed at the difficulty human rights groups have to confront when it is unclear which human rights are being protected by a legislation. Some questions arise in cases like this, she said: How should human rights groups react if they think an international court is wrong, especially when they rely on these courts for many other parts of their work at global levels? How do funders decide to support groups who are simultaneously working in religious freedom and women’s rights? How should funders and human rights group support state regulation when people in general are suspicious of state regulation?

According to Alice, there is a rights conflict around prostitution law and sex work. There is no international standard about how a state can regulate sex work and protect human rights. Currently, groups are working against each other, making it harder to reach a solution. In other places the conflict is produced by separation into silos. As an example of this work in silos, Alice showed a clip regarding sexual violence against men. According to Alice, the logic of sexual violence campaigns leaves men out because gender violence is currently understood only as violence by men against women. There is a need to rethink this logic. In a collaborative project within areas of conflict, it was found that higher rates of HIV were found among sexual assault victims, both male and female, and nearly 20% of male victims of rape were also forced to rape. These men are victims and perpetrators, and represent the place where conflict arises within human rights work and legislation. These are the cases that show a need for logic of analysis and communication.

A question was posed to Alice regarding the difference between a perpetrator and a man that is forced to rape: Isn't a man who is forced to rape still a victim? Alice clarified that because this man is taken into custody, he is legally classified as a perpetrator until enough evidence is presented to show he was forced.

Ireen spoke about the role of donors. Parts of civil society have been out of touch with their constituencies and, and not all civil society organizations have been contributing to systemic change. According to Ireen, a number of NGOs have lost their cutting edge risk-taking attitude, and donors are partly responsible for this. Donors need new funding strategies, new modalities that are more open ended, more questioning, and new approaches. The two lessons she desired to share in this session were: (1) the question of silos and (2) the short cuts on advocacy work.

(1) Irene believes that despite their values and holistic view of transformative change, donors continue to work in silos. This can be the result of a combination of funding goals and internal organization arrangements. Although it is not easy to leave this behind, it is possible by creating alliances among groups working on different human rights. However building these alliances takes time. She cited different examples: in Uganda, a coalition formed against the anti-homosexuality bill in Uganda, whereas in Nicaragua, the decriminalization of homosexuality was possible whilst abortion was further decriminalized. Should funders place conditions to grantees? And, how should these conditions be defined and by whom?

(2) The second issue she discussed was the issue of the simplification of advocacy messages. The "overemphasis of victim" approach, for example, places more attention on violence against women while other issues that are equally harmful to them are left out. Another example of the simplification of advocacy messages is the current "efficiency approach" to bring some sectors onboard. Focusing on successful approaches to investment can lead to sharing conflicting messages about the reality. Funders need to confront the unintended effects of their advocacy, and rethink the strategies to avoid these conflicts.

Florence Tercier Holst-Roness, of the Oak Foundation, began her presentation with two questions: What can funders do about silo work? And, how can funders break these silos and promote coalition work between human rights? Mama Cash developed joint programs in India and Brazil to bridge silos. Additionally, in Russia, while visiting a group working on human rights, she confronted the reality that women's rights groups are working in isolation from the human rights work. The reality of women's rights in Russia is a paradox, she states. In the communist era, women had many benefits that still extend to the present. However, today they still face high levels of discrimination. Russia has some of the highest rates of violence against women and still lacks a domestic violence law. From her experience, she has concluded that the Russian human rights sector remains somewhat ignorant of the existing levels of oppression against women and other gender minorities.

As a different example of silo work, Florence shared her experience within the issue of human trafficking. According to Florence, often, the protection of victims is not considered from a human rights perspective. For example, if victims of trafficking can't call authorities and report abuse, they remain as only an undocumented immigrant and will be deported if found. The important questions to ask in this case are: Why are those people migrating? How do we offer legal protection to immigrants to prevent their exploitation? Moreover, infantilizing the victims by depriving them of their sense of agency and decision making power is not right. Also, because this field has been developed with gender at its base, it largely ignores men as victims of trafficking. As a consequence, human trafficking continues to ignore

labor trafficking as an issue – even though it is a larger and very serious issue—resulting in the separation of immigration and trafficking within human rights work. Anti-trafficking work is not being considered from an immigration perspective, forcing organizations to separate work that should be related.

Group Discussion in tables: Irene asked attendees to discuss the following questions for 20 minutes.

1. Have you experienced tensions between the following issues in your work?
 - Freedom of religion and gender equality
 - Freedom of expression and privacy in the context of technology
 - VAW and rights of criminal defendants
 - Sex selection and abortion rights
2. Imagine places and ways and with whom you can try to resolve these tensions?
3. Reflect on the donor practices. How and what should we change? Formulate at least one recommendation.

Some answers from participants:

- As funders we need to take more risks, have more patience. Find processes to move away from silos. Reflect on how we perpetrate the conflict between rights and take responsibility for the role we play while recognizing the existence of this tensions.
- How it is that certain people end up in certain silos? We should reflect deeply on our influence as funders.
- Funders need to be open and flexible with donors and grantees.
- Funders can break down of silos by working collaboratively with grantees.
- We can do this by participating in funding networks and convenings, and having conversations internally as funders about our own experiences can also help break downs these silos.
- Funders need to look for long-term strategies to break down silos.
- Dialoguing about different movements, supporting alliance building among movements and finding collective leadership can bring different movements and human rights work to find common goals.
- As funders, we approach ourselves in silos.
- A lot has to do with resources: funders heavily invest in certain issues and not in others.
- Funders need to focus more on reproductive rights and disability rights. Also, funders need to work towards providing support to families of disabled folks.
- Support dialogues, internal and across groups.
- Funders need to ask themselves: Who is included in the category of human rights?

Closing:

Some closing thoughts:

- Funders need to become intersectional in their work to approach these challenges.
- As funders, we have an undeniable responsibility in the shaping of these challenges.
- We must keep on with the critical thinking and reflection that began in this session.
- We should continue the journey of learning and unlearning.