Globalisation

Human Rights Amidst Risk and Regression

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1 Developmentalism, Violence, and Human Rights

We, the post-Second World War South-born, the now transient generation of Midnight's Children (to generalise Salman Rushdie's metaphor) have been there *before*.

The signposts assume different names ('Westernisation,' 'Socialism,' 'Modernisation', 'Development' and now 'Globalisation') but the direction is always the one constructed by 'progressive Eurocentrism' (when not entirely an oxymoron).

In a world enrapt with proclamations of endings (*endology*), worship of icons of endings (*endolatry*) and *endomania* (the resilience of a Fukuyama genre that survives even a Derridian deconstruction) one flame never flickers, one metanarrative whose monopoly never ends: the Idea of Progress, or the never-ending story of the utopia of reason and science in service of world capitalism. That Idea, in its manifold *avatars*, is at the same time a material force.

The way we tell stories about the signposts and the direction also matters a great deal. These phrase-regimes describing historical processes of Western-isation, Socialism, Modernisation, Development, present (to momentarily imitate Habermas) whole continents of contested conceptions. Each phrase regime carries its own images of the law as a means of development. These images form the very stuff of what Lenin once named the 'world juridical outlook' (Baxi 1993:133–62).[1]

When the stories about development emplot the *subjects* of development as the *developees* (to use legalese), the *objects* of development, the dominant 'development' discourse manifests most fully its inherent violence. The developees emerge as 'different and inferior, as having a limited humanity' (Escobar 1995:54) in relation to the 'developers', whether Euroamerican or indigene, rarely perplexed by their 'manifest destiny'.

Contemporary critiques of development theory and practice have just begun to address fully the histories of the foundational and reiterative violence of developmentalism (e.g. Escobar 1995; Esteva and Suri Prakash 1998; Spivak 1999.)

Perhaps, we need to device a Global Truth Commission on Development, calling the masters and managers of 'development' theory and practice to account for the social suffering generated in the name of development. Hopefully, such a tribunal will also bring to a fuller view the inner torments and terrors of the practitioners of development theories.[2]

The violence of developmentalism, of all genres, lies in the material practices of knowledge and power, which condone and legitimate both the means and ends of production of structures of social suffering. Dominant notions about human, social and global development often entail justifications for practices of politics of fierce cruelty, as was the case during the early, middle and late phases of the Cold War. Not wholly, but in a just measure we now know who are the prime winners and losers of the development discourse, policies and planning everywhere.

In the post-Cold War era, dominated by a solitary 'superpower', political theorists have begun to address the issue of *principled* hegemony (Brilmayer 1994:22.3). The enunciation of principles turns out to be very problematic indeed, especially when we pose the conflict between imperatives of global justice and duties owed by governments of developed societies to their co-nationals.[3] John Rawls has recently addressed the problem differently through the remarkable invention of the 'law of peoples', a notion that generates five types of society: societies of liberal peoples ('well-ordered' societies) and of decent peoples; outlaw societies; societies that are 'benevolent absolutisms' and societies burdened by unfavourable conditions (1999:63). The well-ordered societies owe duties of assistance, in some form or other, to all others save the outlaw states, which simply ought *not* be tolerated because these 'aggressive and dangerous states, denying human rights altogether, threaten the structural principles of the law of the peoples' and 'deeply affect the international climate of power and violence' (1999:81).

One need not endorse Rawls' position in order to note the complexity and contradiction involved in attempts at ethical grounding of the post-Cold War superpower hegemony. Models of human and social development thus emergent are significantly more reflexive than those writ large on the Cold War

developmentalism. Perhaps this movement from dominance without hegemony (to borrow Ranajit Guha's notion: Guha (1997)) to principled hegemony suggests, at the very least, the normative potential of comparatively less coercive as well as less violent constructions of development.

In an important sense, contemporary human rights discourse has contributed a great deal to the radical critique of developmentalism, even as it in turn also unmasks the politics *of* human rights as an integral aspect of global domination (Baxi: 2000). Even in the midst of this critique, we need at least to acknowledge the ways in which human rights languages and logics have de-legitimated many a conception of development. Rights to self-determination of peoples have discredited centuries-old notions of human development justifying a Divine Right to the Empire. No longer legitimate are conceptions of development that justify 'equal but separate' treatment resulting in institutionalised social apartheid. No programme, policy, or enterprise resting upon gender-based discrimination or aggression will today be recognised as 'developmental'. The gradual conversion of basic human needs into human rights standards provides important benchmarks by which any regime of development is now being increasingly measured.

The endless proliferation of contemporary human rights norms and standards provides worthwhile indicators of the millennial 'losers.' International human rights standards create at least a normative consensus on *naming* the constituencies of human populations who have been deprived, dispossessed and disadvantaged by the violence of development paradigms and practice.

This act of naming helps fashion rights strategies that seek to reverse their development-laden profile. The United Nations Declaration on the Right to Development, adopted in 1986, seeks a reversal of the violence of developmentalism by reconfiguring the very notion of 'development.' Its *leitmotif* is that the 'human person is the central subject of development' and, therefore, an 'active participant and beneficiary' of development. States have a duty to formulate 'appropriate development policies which aim at the constant improvement and well-being of the entire population and all

individuals' in ways, which foster 'active, free and meaningful participation' by all. Popular participation is to be 'encouraged in all spheres' because it is both an 'important factor in development' and essential to 'full realisation of all human rights'. The logic animating participatory human rights leads to the abandonment of the 'one-dimensional concept of the public interest of which the Government [and one may add the developmental expert] is the sole judge' (Lucas 1976:243.) Indeed, Amartya Sen's recent provocative monograph *Development as Freedom* (1999) may be read as a massive footnote to the Declaration's reconstruction of 'development'. His notion of development as 'the removal of substantive unfreedoms'(1999:xii) finds an exact parallel in the Declaration's insistence on the removal of all 'obstacles' in the realisation and the enjoyment of human rights.

Human rights discursivity provides more than a register of the politics of inter-governmental desire. Rather, human rights arise and grow out of the power of social protest and movement. The anonymous multitudinous authors of human rights are peoples exposed to suffering caused by the dominant paradigms of development, which stand challenged and combated, in real life, by communities of resistance (Baxi 1999, 2000). Howsoever flawed, and distant from the original intention of these authors, human rights enunciations make sense only when read as resonating 'with a suffered injustice, that is negated word by word, as it were' (Habermas 1996:389.) Dissociated from the matrix of human suffering and the powers of resistance, human rights discourse assumes forms of alienated knowledges leading only to what has been termed poignantly as 'democratisation of disempowerment' (Ake 1995).

2 Globalisation: Putting Human Rights to Work

Some normative theories about globalisation carry the potential for non-violent models of development, despite the fact that these proselytise, rather vigorously, the values and virtues of the free market.

For example, Amartya Sen maintains that we analytically separate the issue of 'culmination

outcomes of markets … in terms of incomes, utilities and so on' from that of '*reasons* for wanting markets' in the first place. Sen, of course, does not deny the plenitude of our grounds of anxiety concerning the market *outcomes*. However, he posits the 'freedom to transact' (1999:113), a freedom to 'buy and sell, to exchange, to seek lives that can flourish on the basis of transactions' (p.112). He insists that 'to deny that freedom will be in itself a major failing of a society'. Invoking an accurately convenient contribution of Marx, Sen illustrates how the free market in labour has in recent times been a force for liberty, progressively combating substantial unfreedoms (pp.113–16). He insists that 'public discussion and participatory political decisions' will cure market outcome distortions against the strength of 'vested' interests: 'in the test of open democracy, public interest may well have excellent prospects of winning against the spirited advocacy of small coterie of vested interests', though Sen is here, uncharacteristically, short of illustrations. 'Political freedom' thus helps realise 'the freedom of other kinds (particularly, that of economic openness)' (p.123). To summarise somewhat crudely, at both the analytical levels, there is no *inherent* reason why markets may not be human rights friendly, or capabilities/human flourishing or whatever friendly.

Similarly, it has been suggested that the processes of globalisation secure a more worthwhile future for human rights. This argument takes general as well specific forms. At a general level, it is suggested that the 'global institutionalisation of human rights' is, in some way or the other, integral to processes of contemporary globalisation (Robertson 1992). New social movements derive astonishing levels of campaign solidarity in cyberspace (Castells 1997). This achievement is not diminished by the fact that forces hostile to human rights cultures may also use information technology to serve their own ends; indeed, it remains arguable that, despite the rights disparaging, damaging, or denying potential, information technology helps create a Habermasian 'public sphere', enabling historically unthinkable forms of transgressions of the authority of the nation-state. Spectacular success stories about cyber-solidarity (such as that achieved by Zapatistas or the recent triumph over the unreason of globalisation manifest in the MAI) enable us to think that the adversial power marshalling

cyberspace paves the way relatively for a more secure future for human rights.

The Will to Power of the community of states and of supranational systems now stands matched by an astonishing accretion of power of NGO communities, often led by organisations whose capacity for mobilisation of loyalty, and resources, far exceeds the power of many a nation-state and the networks of global power, and every so often disorganises it.

At more specific levels, it is maintained that the new forces of production (mainly digitalisation and biotechnology) create conditions for fulfilment of many an economic and social right. Thus, the right to food is served by inaugural circumstances of the First and Second Green Revolutions; the right to health by astonishing developments in pharmaceutical biotech industry; the right to freedom of movement and association by transformations of transport and communication technology; gender rights by developments of reproductive technologies (Baxi 2000), and now even the probability of human cloning well on the horizon; the rights to literacy and education by advances in information and educational technology; the rights to environment by technological 'sustainable development' fixes. The list of specifics is endless (to add yet another example: the global tourism industry may well enunciate a human right to global tourism as facilitating meaningful realisation of human right to leisure!).

In complete plain words, the combination of the ideology of economic rationalism, new forces of production, ever-expanding global middle-class networks of interest, aggregation of humane development interests through international (and supranational) civil servants (manifest in the 'voice' recently affirmed to the NGOs in the dispute-settling mechanisms of the WTO or the World Bank), the fraternity of transnationals CEOs, the formation of international civil society, all name the ways of globalisation that put human rights to work. The message is simple in its clarity and cogency: *globalisation is benign for the future of human rights.* The silver lining in the dark clouds of globalisation distinguishing it from the earlier formations is the availability of forms of human rights discursivity, which enable and empower the critique.

3 Globalisation: Human Rights at Risk

Critics of globalisation, however, believe that its processes, overall, periclate, rather than nurture, human rights futures. Most human rights-pertinent criticism emerges from experiences of, or empathy with, struggle against human, and human rights, violations caused by policies of contemporary economic rationalism, promoted in particular by the international financial institutions, global trade treaty regimes and regional economic arrangements. These, acting in diverse combination, produce, for societies unevenly facing the circumstances of globality, a veritable encyclopaedia of human deprivation and suffering, matched only by the vicious forms of state mercantilism constitutive of colonial/ imperial formation.

Of necessity, critics of globalisation, offer a *situated* critique. They avail new forces of information technology in just the same way that critics of industrial capitalism put to use its earlier forms (printing, telegraph, radio and television, for example.) They acknowledge the social action facilitative roles of digitalisation and biotechnologies. But they contest the notion that the forces of globalisation are *inherently human-rights friendly*. In the main, the critics contest the claim that globalisation creates circumstances and capabilities of governance (whether national, regional, or global) for progressive realisation of economic, social and cultural rights. They have demonstrated, for example, that:

- The human right to food, or immunity from hunger, far from being served by advances in agricultural technologies, has furthered the interests of global agribusiness, indeed to a point of creating the potential for 'food dictatorship' by five leading Northern agribusiness multinationals.

- The differential spread of information technology, despite some of its manifest civil and political rights-promoting advantages, has resulted in a new order of international iniquity, so much so that mass impoverishment ('conditions of extreme poverty,' to put the matter in the prose of the United Nations system!) is now being measured in terms of cyber-deprivation, altering profoundly in the

process the face of public policies of yesteryear that addressed, one way or the other, the 'real' rather than the 'virtual', orders of disadvantage, deprivation and dispossession.

● The advances in transport and communications technology assume an ineradicable dark side, manifest in sex tourism, mail order brides, manifold deprivation of the rights of the urban and rural impoverished in many a forced urbanisation policy that eliminates their access to livelihood.

● The advances in reproductive technologies, while no doubt advantaging women's claims over reproductive choice, have also medicalised their bodies as unredressable experimental sites for multinational plunder, profit and power (Baxi 2000).

● The advances in educational technologies have added a new twist to the destruction of organic knowledges, which stand harvested by pharmaceutical multinationals by way of biopiracy, wholly subordinating in the process the orders of millennially formed 'peoples' knowledges.

● The technological sustainable development fixes mystify, and thus render unaccountable, the unsustainable patterns of commoditisation of nature (and human/nature relationship) in ways that create new markets for pollution (as through the Kyoto Convention on Climate Change creating a regime of transactions where developed nations can 'buy' environmental protection by internationally sanctioned sale transactions enabling the South to pollute their own citizens).

● The ways of globalisation make associational rights of the working classes a fable of an earlier millennium.

I desist from expanding this description of the gravamen, in conformity with the canons of global knowledge production. But this much must be said: these specific criticisms of globalisation powers and processes do not as yet amount to *critique*. The virtues, values and valour of the activist mode of an engaged and anguished understanding are commendable. But also necessary is a Marx-like grasp of an entirely new mode of production now upon us, and the ways in which it alters understanding of governance, resistance, rights and justice. Its emergent *episteme* discredits labours of thought that dare imagine alternatives to global capitalism (e.g. Anderson 2000) and is marked by a steady funeral procession of many a language of social justice.

Thus, for example, all that seems to remain possible is a cognitive political economy that, as with Amartya Sen, impels labours of thought only within the prison-house of the languages of economic rationalism, celebrating the distinction between the rationale and outcomes of free markets, and therefore disarticulating narrative voices that seek to lay bare, and contest, the power of concentrations of technoscientific aggregations (or the New World Order Inc., as Donna Haraway names it; see also Kelsey (1999)) The violence of globalisation no doubt features as a guest artist in his narrative of development as freedom but, at the end of the day, Sen's universe of discourse re-installs the Pantheon of classical and neo-classical economist icons as determinative of *all* that is worth saying.

No activist understanding of globalisation processes and their management, as far as I know, contests Sen's privileging of human freedom to transact. And most activists resonate well with his specific narratives of connectivity of free labour market archiving the elimination of 'substantial unfreedoms', *howsoever*, in a careful public policy mix of intended and unintended effects.

Critics of globalisation remain unable to grasp Sen's faith in a progressive or human-rights friendly state, confronted by the New World (Dis) Order.[5] The crude and rude fact generated by globalisation processes is that the imperatives of global trade and commerce, of the institutional vested interests of the Eurocrats and Ecocrats, and the unimaginable powers of networks of technoscientific powers, render the Southern states *relatively powerless* for the creation of authentic citizen empowerment that Sen, in the long haul, regards worthy of performance even by the debilitated formations of the nation-state sovereignties.

4 The Emergence of a Trade-Related, Market-Friendly Human Rights Paradigm

I believe that the paradigm of the Universal Declaration of Human Rights (UDHR) is steadily but surely being replaced by that of trade-related, market-friendly human rights (TRMF\HR). The latter seeks to reverse the notion that universal human rights norms and standards are designed for the attainment of the dignity and well-being of human beings and for enhancing the security of socially, economically and civilizationally vulnerable peoples. Instead, the TRMF\HR paradigm insists on the promotion and protection of the collective rights of global capital, whose ways justify corporate well-being and dignity even when these entail gross, continuing and flagrant violations of human rights of human beings to be and to remain human. Indeed, it seeks to redefine the 'human', consistent with the new forces of production in an era of globalisation (Baxi:2001).

I present below some enumeration as well as description of the rights claimed by global capital. Surely, questions may be raised concerning the ascription of *human* rights to corporations. I deal with these in some detail elsewhere (Baxi 2001). However, there is enough evidence that corporate actors affirm and assert these as species of natural rights, inherent to entrepreneurship, innovation and economic progress. They also justify these rights as, in some way or the other, creating essential conditions (as noted earlier) for better realisation of social and economic human rights. Above all, globalisation constantly enhances the scope and content of TRMF\HR, even to the point of drawing up as detailed a charter of rights of the foreign investor as the draft MAI, which explicitly projected many a hard-won formation of human rights (rights of workers, environmental rights, for example) as obstacles to be overcome by state action.

This stands accomplished, with all its violation and violence, by the life sciences' reconstruction of the meaning of life as no more than coded information, to be prized open for mega-profits by hi-tech strategic biotech multinationals. Genetic information becomes a commodity, the new storehouse of surplus value, at the disposal of fractions of global capital. The human body becomes private, corporate property as illustrated by the notorious *Moore Case*, where the California Supreme Court denies, on the one hand, any order of property rights in the plaintiff's body tissues, this being sacrilegious, while allowing full patent rights exploitation by a pharmaceutical multinational, holding a joint patent with the University of California! The possibilities of human cloning have inaugurated a constitutional and law and economics-type theoretical discourse in the United States justifying TRMF\HR in wholesome terms of the right to scientific research as an aspect of the inviolable First Amendment and as servicing the much needed genetic trafficking, so essential to enhance the progressive realisation of human right to health (Nussbaum and Sunstein 1998.)

Similarly, the processes of digitalisation redefine human beings as human-machine network, or as 'cyborgs'. The Brave New Worlds already stand constituted by the regimes of e-commerce, e-social solidarity, e-governance e-epistemic, and e-development moral and social entrepreneurship. Empowering in part (for example, the much vaunted distribution of access to cell-phones 'empowering' women in the Grameen Bank movement), digital capitalism enacts a new global order of violent social exclusion. The cyber-poor stand redefined as denizens of 'dead' or' wild' zones (typically prefigured by a dependent social welfare mother in the Chicago ghettos: Lash and Urry (1994)). In the new wasteland of global capitalism, the cyber-poor emerge as sub-humans, without voice, without face, without a recognisable capacity to suffer.

In sum, our labours at redemption of the world are already, and of necessity, situated in the political economy of the new forces of production constitutive of globalisation, affirming the new paradigm of human rights of global capital. At the same time, we remain duty-bound (at least some of us) to pit against it the residues of contemporary human rights cultures and visions.

This confrontational endeavour (a Gramscian War of Position?) entails myriad tasks of understanding and epistemic reversal. We need to grasp the nature and content of TRMF human rights paradigm.[7] Structurally, this paradigm re-invents (in E. P. Thompson's memorable phrase) the *secret state*, the state necessarily beyond the Habermasian 'public

sphere' and of Rawlsian models of 'overlapping consensus,' the *Pentagon State* in the so-called post-Cold War era, always conflicted with the rhetoric of human rights to public participation and freedom of information, the latter even as allegedly reconstituted in cyberspace. No addressal of the role of law in development in low- and middle-income countries, the thematic of this Conference, remains sensible outside the *ever-increasing shrinking of the public sphere* thus constituted by the globalised secret state. (By the same token, if you were to indulge this performative act of political incorrectness, any project proposal to funding agencies will be still-born by courage that speaks to it!)

The nature and content of theTRMF paradigm of human rights need to be more fully described. But the following human rights stand asserted by global corporations, as aspects of a new global *lex mercatoria:*

● *The Right to Organised Irresponsibility and Impunity.* To invoke Ulrich Beck's phrase regime (1992), global corporations assert the powers, privileges and immunities that place them beyond the pale of law and other means of accountability. Victims from Bhopal to Ogoniland and beyond embody the lived reality of these orders of irresponsibility and impunity.

● *The Corporate Right to Honour, Dignity and Privacy.* The claims of corporate rights to honour, dignity and privacy stand constitutionally and legally asserted and protected, even as against the rights of freedom and speech of individual human beings and public interest groups. The 'chilling effects' of SLAPPS (Strategic Lawsuits Against Public Participation: Pring and Cannon (1996)) remain wholly at odds with Sen's triumphal notions concerning the prowess of democratic political participation.

● *The Right to Privatise the Genetic Commons.* This set of enforceable claims protects the rights and powers of hi-tech global corporate industries to own (via the pathway of intellectual property rights) biodiversity as well human genetic materials. In particular, the TRIPS, and its cousin

TRIMS, encourage the excesses of privatisation of human futures.

● *The Right to Corporate Public Participation.* Often emerging as powers to *cajole, corrupt and coerce public policy makers and making.* Corporate public participation rights signify an increasing appropriation of the public sphere The exercise of corporate right to free speech and association has furthered whole patterns of violations of human rights norms and standards. 'Lobbying,' campaign and party funding, bribery and corruption of public officials, 'secret' deals and at times outright appropriation of law- or rule-making power are practices that emerge from the protection of the right of corporations to exist and their right to claim co-equal rights with citizens and other natural persons.

5 Towards a Conclusion

The gathering strength of the trade-related market-friendly human rights is already being presented as a progress narrative. In this, globalisation incarnates itself as a more adequate model of transformation, best mirrored by Amartya Sen in his pioneering notion of development as freedom. Globalisation avoids, in this view, the dark side of Westernisation, modernisation and development theory and practice. Its present ills can be met (to *invert* Gramsci) only though optimism of collective reason. On this narrative, recipe knowledges of how to plan social and economic change are already and abundantly at hand.

A generation ago, I drew attention to the notion of *regression* (Baxi 1982). It had *no* takers then and, I suspect, will have none today. I will, therefore, spare you the enunciation of this notion. But I see regression at work in the spectacular ascendancy of trade-related, market-friendly human rights. I also see some merit in recalling my view that the world would be a very different place if it were to produce at least *one* theorist of regression per *thousand* theorists of development. I may say now that it might even be a happier place, if taking the notion of taking regression seriously were to enable some of us to combat the growing erosion of the languages of human rights and social justice.

Notes

1. To illustrate, by way of a rather long note, how the itineraries of Westernisation vary from the induced reformation of tradition by voluntary reception of the 'Western' law (as in epochs of Kemal Ataturk or the Meiji restoration) to the ways of formation of colonially imposed Westernisation. Elite experiments at self-induced Westernisation of law offer a radically different order of experience than those of colonially enforced processes, resulting in hybrid colonial legal pluralism. Underlying the imposed/received legality are both intrinsic and instrumental notions about the historic superiority of the forms and content of the legal–rational Western legal traditions. In its languages, ideologies and institutional arrangements, these traditions were represented as constituting the best path to 'progress'. This path is epitomised, in different germinal ways, by comparative jurisprudence that traces, in an evolutionary paradigm, the movement from 'status' to 'contract,' 'mechanical' to 'organic' solidarity, marking the pre-eminence of restitutive over repressive sanctions, and from charismatic law creation, and traditional or patrimonial domination to a legal–rational one. Thus stood invented, to evoke contemporary hi-tech idiom, a human juridical genome project.

   Critiques of the Westernisation of law, as a process and heritage, whether cultural or nationalist, had to fall back on versions of *Volksgeist*, an impulse towards 'revivalism,' a politics of nostalgia that consists, necessarily, in the reinvention of tradition as also on the pathologies of received /imposed Western legal traditions and cultures. This assumed myriad forms, pitting, at the end of the day, the virtues and values of traditions of communitarian legality that transcended, at least in cosmological vision, the new Kantian / Hegelian ways of drawing limit between the finite and the infinite (Beardsworth 1996:46-74). Westernisation thus stands posed, at deeply problematic levels, as *Westoxification*, and not just in contemporary constructions of political Islam.

   At a level of *materiality*, what gets transacted in these discourses are negotiations of competing, and at times deeply troubled and conflicted, interests between and among cross-sections of elites, who as far as possible, also seek to transfer transaction costs or externalities to different forms of subjugation. A fuller post-Pasukhanis history of the transaction between the commodity form and the legal form constituting these many sites of Westernised legality has yet to be written. When it is, we all will stand progressively empowered to narrate different stories concerning 'fundamentalist'/'revivalist' critiques of the 'modern' law.

2. Some of us shelter ourselves in the sanitised policy science habitus. Some of us cross boundaries, commit valuable trespasses, by constituting cross, even trans, disciplinary practices shaping reflexive knowledges. Some of us simply reconcile ourselves to belong to epistemic communities justly nameable as post-Marxist, postmodern community of knowledge production. Some others take their positions in the academe by combining virtues and values of activists ('public citizens' of yesteryear), and locate ourselves within knowledge/power grids, now led by post-Fordist philanthropic movements in the market for human rights, under the auspices of the World Bank or a Bill Gates or George Sorroes. Those who foster epistemic practices as a mode of fully fledged emancipative human praxis run the risk of being annihilated by regimes of terror, or choose to live in the diasporic communities of exile.

   This is how things are. And we, as individual human beings, with finite scholarly lifetimes, try our damnest (my computer suggests replacement by 'dumbest', how cyber-unkind) best to live within the contradictions of late global capitalism.

3. See Charles Jones (1999) 'Patriotism, Morality, and Global Justice', in XLI Nomos: Global Justice 125.

4. I have addressed elsewhere (Baxi 1998) the full import of this Declaration.

5. While they would applaud Sen's critique of the Lee Doctrine concerning the costs that human rights observance is said to impose on economic development, they would remain perplexed by a Nobel Laureate narrative that concedes, at the same time, that illiberal governance (China, the East Asian economies) fosters a spread of social opportunities (such as health, or education) relative to South liberal democracies (like India, though with the exception of Kerala), even when the latter handle more humanely the mass 'famine' syndrome. Carried to its logical end, it is clear that the denial of human rights is paradoxically consistent with their 'eventual' affirmation. Implicit in all this is Sen's concern with reaping the whirlwind of globalisation. Illiberal regimes seem to have developed a wider spread of social opportunities and human capital that now somehow assures for *the future* of their peoples a more human rights-oriented democratic governance. In the meantime, vibrant liberal South democratic systems must also reinvent a progressive, interventionist state!

6. To say all this is not to diminish his Nobel Prize-winning endeavour at humanistic economic analyses. Nor does one gainsay his noble departures from thought experiments constituted by a Rawls or a Nozick. The activist globalisation critique seeks to add a dangerous supplement to Sen's Real Utopia project, namely the dimension of dynamic inner contradiction that renders eligible, as well as legible the analogy between globalisation scripts and *rape scripts* (Gibson-Graham 1996; Baxi 1998.)

7. I address these tasks in some detail in my *The Future of Human Rights* (2001; in press.)

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