

1-1-2009

# Global Conventions Go Local: A Human Rights Movement in New York City

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GLOBAL CONVENTIONS GO LOCAL:  
A HUMAN RIGHTS MOVEMENT IN  
NEW YORK CITY

by

Yalidy M. Matos

Senior Honors Thesis  
Submitted in partial fulfillment  
of requirements for the Degree of Bachelors of Arts with Honors in  
Gender & Women's Studies

Connecticut College  
New London, CT

May 2009

# GLOBAL CONVENTIONS

GO LOCAL:

A HUMAN RIGHTS CAMPAIGN IN  
NEW YORK CITY

## **ABSTRACT**

The United Nations (UN) has a multitude of global conventions and treaties in which its members states can choose to sign and ratify. Two of those treaties are CERD, the International Convention on the Elimination of Racial Discrimination, adopted in 1966; and CEDAW, the Convention on the Elimination of all forms of Discrimination Against Women, adopted in 1979. Throughout the world, almost all UN member states have ratified CERD; however, all but a few minority states have ratified CEDAW. Amongst those few minorities is the United States. Although the U.S. has decided not to ratify CEDAW, there are various localities, such as San Francisco, that have taken the task to implement CEDAW at the municipal level. The task has not been an easy one, but San Francisco has successfully been able to pass a CEDAW Ordinance. The Human Rights Project at the Urban Justice Center, along with other organizations who are part of the New York City Human Rights Initiative (NYCHRI) coalition, has worked diligently to pass a legislation with principles and language from both CEDAW and CERD in New York City. The legislation has yet to pass, but this thesis analyzes the ways in which an organization can simultaneously be positioned in a country that does not consider economic, social and cultural rights as rights, and try to pass a legislation that deals with these very rights. Through field observation, interviews, and research, my thesis concludes that US-based human rights or women's rights organizations can simultaneously exist in the United States—a country whose actions do not follow their human rights rhetoric—and follow through with a radical and sometimes even revolutionary agenda. The information gathered during research will hopefully be applied to other cities across the United States, and serve as evidence that human rights are needed in the United States.

**This thesis is dedicated to Mab Segrest.**

There are always people in an individual's world meant to be there, because without those people that individual will not succeed in becoming the best person s/he can be. Mab Segrest has been that person for me. This is for Mab, for all that she has taught me; learning that goes beyond the classroom.

## ACKNOWLEDGMENTS

Thank you to:

Mab Segrest, for her time, commitment, love and dedication. Mab is my mentor and friend. She took me under her wings freshmen year of college, never let go, and I am eternally grateful for that.

MaryAnn Borrelli, for her amazing ability to plan and structure, and for her commitment to me and my thesis. Borrelli believed in me from the very beginning and has been a great advisor.

Tristan Borer, for her inspirational strength, and for her expertise in human rights.

Sylvanna Falcón, for mentioning what the Human Rights Project was doing in New York City and for her email to Ejim Dike, Director of Human Rights Project, on my behalf.

Ashley Hanson, for her support throughout my college years. Ashley was always there ready to help or talk.

William Rose, for his invaluable help getting me into the Ralph Bunche Summer Institute. For his belief in my ability to do well.

CELS, the career office at Connecticut College, for their financial support. Special thanks to Julia Browne, my CELS Counselor, for her support and kindness.

\*\*\*

Ejim Dike, for not letting society dictate who she is and what she does, for being real. For giving me her time, and for her passion and knowledge of race, gender and human rights, amongst many other things.

Tatiana Bejar, for her commitment and dedication to human rights.

Doug Lasdon and Council Member Tony Avella for their time and their integral contributions to this thesis.

The Ralph Bunche Summer Institute, for furthering my knowledge on race and US politics.

\*\*\*

Mami y Papi, por todo su apoyo y amor durante mi vida.

Bill Klann, for being the best teacher in high school. For challenging me and making me a better student.

Kim Edwards, for her love and genuine personality.

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# 1

## **The Gap Between Rhetoric and Reality: The United States Discourse on Human Rights**

Each year the President of the United States of America addresses the General Assembly at the United Nations headquarters in New York City. On September 25, 2007, President Bush elucidated the United States' commitment to international human rights. He not only praised human rights, but placed the United States at the forefront of a world led by a human rights vision. In the following pages in italics are excerpts of President Bush's speech.

*With the commitment and courage of this chamber, we can build a world where people are free to speak, assemble, and worship as they wish; a world where children in every nation grow up healthy, get a decent education, and look to the future with hope; a world where opportunity crosses every border. America will lead toward this vision where all are created equal, and free to pursue their dreams. This is the founding conviction of my country. It is the promise that established this body. And with our determination, it can be the future of our world.<sup>1</sup>*

According to President Bush, the United States has been and will continue to be a global human rights leader. However, in the midst of US advocacy for human rights, the numbers offer a poignant juxtaposition to the rhetoric of President Bush. Michael Ignatieff argues, "If America wants to be a human rights leader, the argument goes, it must obey the rules it seeks to champion. Leadership depends on legitimacy, and

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<sup>1</sup> George W. Bush. (2007). "President Bush Addresses the United Nations General Assembly." *The White House*. <http://www.whitehouse.gov/news/releases/2007/09/20070925-4.html>. September. (Accessed September 8, 2008); Italics hereinafter represent parts of President Bush's speech.



legitimacy requires consistency.”<sup>2</sup> Legitimacy and consistency require proof in numbers, not in discourse.

*The mission of the United Nations requires liberating people from poverty and despair. Article 23 of the Universal Declaration states: "Everyone has the right to work, to free choice of employment, [and] to just and favorable conditions of work."*

In 2007, 13 percent or 37.3 million people lived in poverty in the United States.<sup>3</sup>

Hispanics of any race constituted 21.5 percent, Blacks made up 24.5 percent, and Asians comprised 10.2 percent.<sup>4</sup> In sum, racial minorities in the United States make up 20.4 million people (almost 55%) out of 37.3 living below the poverty level. In addition, over half of the 37.3 million living in poverty are women. Women are poorer than men in all racial and ethnic groups. Furthermore women of color are disproportionately worse than any other category. Over a quarter of black women and almost a quarter of Latina women are poor. They are at least twice as likely as white women to be living in poverty.<sup>5</sup>

In New York City, which had a population of 8.1 million in 2007, 18.5 percent or 1.5 million lived below the poverty line. Among those in poverty, racial minorities make up the largest percentage. Blacks make up 20.8 percent, Hispanics of any race constitute 27 percent, while Asians comprise of 17.1 percent. Racial minorities in New York City

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<sup>2</sup> Michael Ignatieff. (2003). “No Exception? The United States’ Pick-and-Choose Approach to Human Rights.” In R. Claude and B. Weston, eds, (2006 ) *Human Rights in the World Community: Issues and Action* (p. 383-389). 3<sup>rd</sup> Edition. Pennsylvania: University of Pennsylvania Press. p. 386.

<sup>3</sup> US Census Bureau. 2007 American Community Survey.  
[http://factfinder.census.gov/servlet/ADPTable?\\_bm=y&-geo\\_id=01000US&-qr\\_name=ACS\\_2007\\_1YR\\_G00\\_DP3&-ds\\_name=ACS\\_2007\\_1YR\\_G00\\_-&-\\_lang=en&-\\_caller=geoselect&-state=adp&-format=](http://factfinder.census.gov/servlet/ADPTable?_bm=y&-geo_id=01000US&-qr_name=ACS_2007_1YR_G00_DP3&-ds_name=ACS_2007_1YR_G00_-&-_lang=en&-_caller=geoselect&-state=adp&-format=). (Accessed April 28, 2009).

<sup>4</sup>C. Walt-DeNavas, B. Proctor, J. Smith. (August 2008). Income, Poverty, and Health Insurance Coverage in the United States: 2007. *US Department of Commerce & US Census Bureau*.  
<http://www.census.gov/prod/2008pubs/p60-235.pdf>. (Accessed April 28, 2009).

<sup>5</sup> Alexandra Cawthorne. (2008). The Straight Facts on Women in Poverty. *Center for American Progress*.  
[http://www.americanprogress.org/issues/2008/10/pdf/women\\_poverty.pdf](http://www.americanprogress.org/issues/2008/10/pdf/women_poverty.pdf). (Accessed April 28, 2009).

make up an estimated 1 million people of those below the poverty line.<sup>6</sup> Moreover, poor New Yorkers bear a disproportionate burden of death.

*The mission of the United Nations requires liberating people from hunger and disease. Article 25 of the Universal Declaration states: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food and clothing and housing and medical care."*

According to the 2007 Census Bureau report on health insurance coverage, 45.7 million people are uninsured in the United States. The percentage of children under 18 years old is 11 percent or 8.1 million. In addition, although the rate of uninsured children living in poverty decreased from 19.3 percent in 2006 to 17.6 percent in 2007, children living in poverty are more likely to be uninsured.<sup>7</sup> Lack of health coverage lead many Americans to their death beds simply because they are unable to seek medical attention.

Furthermore, between 2001 and 2005, there were 952, 629 estimated people in the United States diagnosed with of AIDS,<sup>8</sup> many of whom are uninsured.

In New York City more than 100,000 New Yorkers are living with HIV. HIV is also the health problem with the largest racial disparity; 80 percent of new AIDS diagnoses and deaths are among African Americans and Hispanics.<sup>9</sup> Life expectancy is a measure of a communities' health. In New York City, "life expectancy in 2001, in the

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<sup>6</sup> US Census Bureau. 2007 American Community Survey.

<sup>7</sup> Walt-DeNavas, C. Proctor, B., Smith, J. (August 2008)

<sup>8</sup> Health, United States, 2007. (2007). Table 52: Acquired immunodeficiency syndrome (AIDS) cases, by year of diagnosis and selected characteristics: United States, 2001-2005. *US Department of Health and Human Services*. <http://www.cdc.gov/nchs/data/hus/hus07.pdf#052>. (Accessed April 28, 2009).

<sup>9</sup> New York City Commission on HIV/AIDS. (Oct 2005). Report on the New York City Commission on HIV/AIDS. <http://nyc.gov/html/doh/downloads/pdf/ah/ah-nychivreport.pdf>. (Accessed April 28, 2009).

poorest neighborhoods was 8 years shorter than in the wealthiest neighborhoods.”<sup>10</sup> In addition, poor New Yorkers have more difficulty accessing health care.

*The mission of the United Nations requires liberating people from the chains of illiteracy and ignorance. Article 26 of the Universal Declaration states: "Everyone has the right to education." And when nations make the investments needed to educate their people, the whole world benefits. Better education unleashes the talent and potential of its citizens, and adds to the prosperity of all of us.*

According to the National Center for Education Statistics 2003 report on adult literacy, 30 million adults or 14 percent in the United States are below basic prose level, which means they have the most *simple* and *concrete* literacy skills.<sup>11</sup>

In 2004, over 1.5 million adults in New York City had inadequate literacy skills. These adults “may be able to sign their names or read street signs, but they may not be able to respond to a help-wanted ad, read a subway map, or calculate the proper dosage for over-the-counter medications.”<sup>12</sup> The parents’ education level is the strongest single predictor of whether a child will be raised in poverty. Moreover, in New York City, only 41 percent of elementary and middle school students performed at or above grade level on the 2003 reading exams.<sup>13</sup>

*Sixty years ago, representatives from 16 nations gathered to begin deliberations on a new international bill of rights. The document they produced is called the Universal Declaration of Human Rights -- and it stands as a landmark achievement in the history of human liberty. It opens by recognizing "the inherent dignity" and the "equal and inalienable rights of all members of the human family" as "the foundation of freedom, justice, and peace in the world."*

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<sup>10</sup> New York City Department on Health and Mental Hygiene. (2004). Health Disparities in New York City. [http://www.commonwealthfund.org/usr\\_doc/Karpati\\_disparities.pdf?section=4039](http://www.commonwealthfund.org/usr_doc/Karpati_disparities.pdf?section=4039). (Accessed April 28, 2009).

<sup>11</sup> National Center Education Statistics. (2003). The Health Literacy of American Adults. *US Department of Education*. <http://nces.ed.gov/Pubs2007/2007480.pdf>. (Accessed April 28, 2009).

<sup>12</sup> Literacy Assistance Center. (2004).

<sup>13</sup> Ibid.

Despite President Bush's rhetoric in these passages, the *reality* is that the United States has refused to ratify eight out of twelve human rights treaties.<sup>14</sup> Most notably, the United States has not ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) or the International Covenant on Economic, Social and Cultural Rights (ICESCR).

These two treaties are especially significant because they provide the most vulnerable and marginalized people (i.e. women and people of color) with protection of their economic, social and cultural rights. The ICESCR includes the right to adequate food, clothing and housing; education; and “the prevention, treatment and control of epidemic, endemic, occupational and other diseases,”<sup>15</sup> just to name a few. They represent the “second generation rights” included in the UDHR by Communist and socialist countries and vehemently opposed by “free market” capitalists in the Cold War. Consequently, the United States has not only refused to ratify these two treaties, but does not consider economic, social and cultural rights as rights. The Reagan administration—followed by the subsequent administrations—rejected the concept of economic, social and cultural rights. “Human rights were to be explicitly defined for the purposes of future U.S. policy as ‘meaning political and civil liberties.’”<sup>16</sup>

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<sup>14</sup> Among these are the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966); International Convention on the Suppression and Punishment of the Crime of Apartheid (1976); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979); International Convention against Apartheid in Sports (1988); Convention on the Rights of the Child (CRC, 1990); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW, 1990); International Convention for the Protection of All Persons from Enforced Disappearance (2006); Convention on the Rights of Persons with Disabilities (ICRPD, 2006). Information available at: <http://www2.ohchr.org/english/law/index.htm#core>

<sup>15</sup> International Covenant on Economic, Social, and Cultural Rights. [http://www.unhchr.ch/html/menu3/b/a\\_ceschr.htm](http://www.unhchr.ch/html/menu3/b/a_ceschr.htm).

<sup>16</sup> Vratislav Pechota. The Development of the Covenant on Civil And Political Rights. In Henkin et al., eds, *Human Rights* (p.1107-1115). New York: Foundation Press, 1999.

It is not surprising, then, that US realities illustrate a lack economic, social and cultural rights; realities which are reflected in the gaps between President Bush's rhetoric and US statistics. It is true that the United States has ratified four human rights treaties, including the International Convention on the Elimination of Racial Discrimination (CERD); however, even with ratification, it often fails to adequately protect racial minorities. As Ignatieff notes, "Even when the United States does sign and ratify agreements, it fails to pass the legislation that would give them the force of law. Or the United States imposes so many caveats about particular provisions that the treaties' effect on American law is nil."<sup>17</sup> According to Ignatieff, "the global ascendancy of human rights would not have happened without American leadership, yet the United States refuses to comply with important international rights covenants."<sup>18</sup> The United States *was* seen as one of the major leaders of human rights by some, mainly due to superficial human rights rhetoric—annual presidential speeches at the UN—and distorted uses of human rights. Today, the United States has left six human rights treaties without legal standing. Consequently, it has left vulnerable groups such as women, persons with disabilities, migrant workers and their families, and children, without protection afforded to them by international law.

Given the growing conservatism of the Reagan-Bush-Bush era, the local implementation of global conventions has become a way for activists working in and through nonprofit organizations to take matters into their own hands. Women and human rights organizations have organized and advocated for the ratification of CEDAW at the

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The UDHR emphasized both civil and political rights (articles 1-21) and economic, social, and cultural rights (articles 23-27). However, the United States has only chosen to consider civil and political rights. However, both rights are needed; they are interrelated.

<sup>17</sup> Michael Ignatieff. p.384.

<sup>18</sup> Ibid. p. 383.

national level; however, their demands have not been met. Consequently, certain organizations have managed to implement global human rights principles locally. In other words, municipalities such as San Francisco have taken language and principles from CEDAW, for example the definition of discrimination, and drafted legislation for city government to vote and make into law. (Similarly, environmental activists sought ratification of the Kyoto Protocols at the state and local level with the failure of the Bush administration to ratify them nationally.)

In the following thesis, I will be focusing on how the Human Rights Project (and NYCHRI) strategizes in order to pass legislation based on principles of two of the international human rights treaties, CERD and CEDAW, locally in New York City. The question then arises, how does an organization in the United States use the system in a way that both provides the organization with entry points, as a result of their positionality in this country's liberal democratic system, and simultaneously push for a legislation that is clearly beyond a liberal democracy's reach to create change in economic, social and cultural spheres?

In 1998 San Francisco became the first city to pass a local ordinance on the principles outlined in CEDAW:

It shall be the goal of the City to implement the principles underlying CEDAW...by addressing discrimination against women and girls in areas including economic development, violence against women and girls and health care...The City shall ensure that the City does not discriminate against women in areas including employment practices, allocation of funding and delivery of direct and indirect services.<sup>19</sup>

Since then, there have been a myriad of cities trying to pass similar ordinances and legislation. In Los Angeles a CEDAW Ordinance was passed in 2003; in Chicago a

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<sup>19</sup> San Francisco CEDAW Ordinance. (1998). [http://www.sfgov.org/site/cosw\\_page.asp?id=10849](http://www.sfgov.org/site/cosw_page.asp?id=10849).

CEDAW resolution was passed; in Massachusetts, the Massachusetts CEDAW Project is drafting legislation.

In New York City, the New York City Human Rights Initiative (NYCHRI) is working to pass the principles of both CEDAW and CERD at the local level. This initiative is led by the Urban Justice Center's Human Rights Project. According to its web site, NYCHRI is a

citywide coalition of community-based organizations, service providers, advocacy groups, policymakers, labor unions and human rights activists and educators working to strengthen human rights standards in the United States, particularly in New York City.<sup>20</sup>

Considering the inequalities in New York City, human rights are a vital necessity; hence, NYCHRI's emphasis on human rights, especially economic, social and cultural rights—the very rights of the UDHR most opposed by the United States.

New York City as a location for a human rights movement and campaign is significant. In a recent *New York Times* article, New York City is depicted as one of the most diverse cities in the United States. The article looks at a December 2007 American Community Survey that shows that since 2000, people from the Dominican Republic, China and Mexico have immigrated in the largest numbers to New York: 81,000, 77,000 and 69,000 people, respectively. Moreover, “first- and second-generation Africans and Caribbean immigrants now account for about 4 in 10 of the city's black residents.”<sup>21</sup> Furthermore, the Chinese, Mexican and Puerto Rican population in New York City make up 433,749, 266,211, and 785,849, respectively. New York City is, indeed, a global city. Within the city there are a multitude of diverse cultures, races,

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<sup>20</sup> New York City Human Rights Initiative. “About Us.” <http://www.nychri.org/>.

<sup>21</sup> Sam Roberts. (December 9, 2008). “Census Shows Growing Diversity in New York City.” *New York Times*.

ethnicities, sexualities, and nationalities. However, the different cultures, races and ethnicities are concentrated in particular parts within New York City. According to the Center for Latin American, Caribbean and Latino Studies (CLACLS), in 2005, 73 percent or 154, 855 out of 211, 884 of the population in Washington Heights/Inwood are Latinos. Furthermore, out of 154, 855 Latinos, 112, 632 are Dominicans, over 70 percent. Hence, New York City becomes one of the most segregated metropolitan areas as well. The diversity of New York City, along with its strong mayoral influence, makes it a true global city and an excellent location from which to analyze and understand human rights as they relate to women and racial minorities.

The Urban Justice Center (UJC) houses nine projects, which include community development, domestic violence, homelessness outreach and prevention, human rights, mental health, LGBT community, sex workers, street vendors, and veterans and service members projects. Originally known as the Legal Action Center for the Homeless, the UJC was started by Doug Lasdon in 1984.<sup>22</sup> “The Urban Justice Center serves New York City's most vulnerable residents through a combination of direct legal service, systemic advocacy, community education and political organizing.”<sup>23</sup> The UJC’s mission is to “defend the rights of people who are [often] overlooked or turned away by other organizations.”<sup>24</sup> Hence, from the very beginning UJC was an organization that based their work around vulnerable and marginalized populations who the federal, state and local governments ignored. HRP, in particular, uses strategies that are both within

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<sup>22</sup> Doug Lasdon. Executive Director of the Urban Justice Center. Interview Conducted by Yalidy M. Matos. 12 Feb 2009.

<sup>23</sup> Urban Justice Center. <http://www.urbanjustice.org/ujc/index.html>.

<sup>24</sup> Ibid.



and outside the liberal democratic system in order to provide for their constituency. As its web site explains:

Human rights standards provide an avenue of response to social injustice when national, state, and local laws and processes fail. The Human Rights Project attempts to situate domestic poverty and discrimination issues within a human rights framework.<sup>25</sup>

A human rights framework works as a powerful tool for five main reasons. First, it is inclusive. It advocates for the rights of *all*, so that a movement or any sort of organizing does not run the risk of discriminating against any particular group. This point is particularly important, because it shifts the focus from the rights of women, to human rights. This makes for a more powerful argument, and less criticism. Second, human rights have global proponents, making it harder for people or governments to oppose human rights. Third, under human rights, governments are accountable. At the end of the day, it is governments who serve as the guarantors of human rights. Fourth, individuals are encouraged to participate in the decision-making process. Most of what happens, for example, in New York City Council, is far from transparent; City Council members do not always consider their constituents' need, and often times go against their needs. Human rights allow people to have a say in issues that affect them personally. Fifth, human rights not only provide ordinary people with basic human rights, but they also expand people's mentality about their rights and the rights of others. However, these five reasons exist in theory and are rarely practiced, precisely because states do not prioritize human rights. When prioritized, human rights framework can help to build a human rights culture in urban areas like New York City, where individuals are not used to thinking of the services the city provides as basic human rights. Human rights advocates

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<sup>25</sup> Urban Justice Center. "Projects." <http://www.urbanjustice.org/ujc/projects/human.html>.

promote a higher standard than domestic laws that just tend to “fix” the problem, but do not address the root causes, often economic and based in disparities of a capitalist economy.

By means of a human rights framework, HRP is pushing for a human rights legislation, the Human Rights Government Operations Audit Law, introduced in city council in March 2008. The ground-breaking legislation of NYCHRI proposes to incorporate principles of both CERD and CEDAW, addressing race and gender discrimination, respectively. The legislation provides “a foundation for ensuring comprehensive protection against, and pro-active measures to prevent, all forms of unlawful discrimination including discrimination against groups protected by New York City's Human Rights Law.”<sup>26</sup> Although New York City has a human rights law—which is later explained in Chapter Four, the New York City Human Rights Law (NYCHRL)—HR GOAL expands on it by equipping

the City government with the practical tools it needs to accurately assess its policies' impacts upon different populations of New Yorkers; promote equality by enabling the City to stop discrimination before it happens; and give residents a greater say in solving the problems facing their communities.<sup>27</sup>

The legislation calls for reform of the NYCHRL, and the city agencies' roles. However, the content of the HR GOAL is truly transformative and revolutionary in that it calls for the city to acknowledge economic, social and cultural rights which the United States as a nation does not.

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<sup>26</sup> New York City Human Rights Initiative. <http://www.nychri.org>.

New York City Human Rights Law protected groups are race, color, creed, ages, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, partnership status, any lawful source of income, status as a victim of domestic violence, status as a victim of sex offenses or stalking, lawful occupation, whether children are, may be or would be residing with a person or conviction or arrest record.

<sup>27</sup> New York City Human Rights Initiative.

This thesis analyzes, through interviews, research and primary and secondary documents, the current situation in New York City as HRP is attempting to implement human rights principles at the local level through municipal law. Interviews were conducted with the director of the Human Rights Project, Ejim Dike; the Program Coordinator, Tatiana Bejar; and Doug Lasdon, the Founder and Executive Director of the Urban Justice Center. An interview with City Council Member Tony Avella (Democrat-District 19) helped elucidate the governmental perspective. Furthermore, transnational feminist theory helps explain the nature of international human rights, its role and limitations, and how it is being used and applied by HRP.

Chapter Two establishes transnational feminist theory as the most useful lens through which to look at human rights in New York City. It argues that transnational feminist theory serves as the broadest and most applicable frame by which to understand the complexities of universal human rights and local application and implementation. Transnational feminism works to end the subordination of women through local and global means; a means that is also applied to human rights law. Furthermore, human rights law is supposed to go beyond and across national borders, precisely what “transnational” exemplifies. Chapter Two also provides historical background on gender and race and the UN in order to acquaint the reader with the similar but also different trajectories of the rights of women and of racialized peoples within UN and human rights processes as a background to how these issues are being joined in the New York campaign. It then looks at the inherent conflict between the global and the local, transnational feminists’ critiques of universal human rights and possible transnational solutions that may or may not play out in New York City.

Chapter Three then applies the theories laid out in chapter one to the Human Rights Project, the actors behind the campaign, and the campaign's strategies to pass HR GOAL locally in City Council. Chapter Three further explains the history of the Urban Justice Center, and the strategies of the Human Rights Project, including using universal human rights as a framework. This allows for an analysis of the ways in which HRP uses human rights within a liberal democracy such as the United States. Moreover, the chapter utilizes the interviews with Ejim Dike and Tatiana Bejar to analyze HRP, their goals and strategies taking into consideration the theoretical innovations outlined in Chapter Two; innovations in which transnational feminist theorists Chandra Talpade Mohanty and Chela Sandoval provide us. Furthermore, intersectionality as both a theory and practical tool serves as a concept applicable to HRP.

Chapter Four hones in on the actual human rights legislations: HR GOAL and the NYCHRL. The chapter accesses, analyzes and compares them. Furthermore, Chapter Four looks at the relationship between the structure and procedures of New York City government, and the passing of HR GOAL. Additionally, the chapter analyzes city council's role and its limits, and the consequences those limits have on the future of HR GOAL.

Chapter five concludes the thesis by summarizing each chapter and re-stating the purpose of each. In addition, Chapter Five contextualizes the thesis and asks what, if any, changes happen in the conversation and debate about human rights with a new Obama Administration in the White House. The Chapter ends with next steps, for both human- and women rights organizations in the United States, but also for the average American

who has been socialized not to think of the US federal, state and local government as a human rights violator.

For many activists and scholars, international human rights law serves as a tool to enhance, expand, or make better their claims. For other activists and scholars, international human rights law does not provide the necessary remedy to the various human rights violations around the world, precisely because the discourse of human rights is a Western one. In the following chapter this debate is undertaken via transnational feminist theory as a basis to a more full understanding of the challenges and possibilities of the New York campaign.

## 2

### **The Local and the Global:** **Transnational Feminist Theory and Human Rights**

This chapter lays the basis for my study of the New York City campaign to implement both gender- and race-based human rights initiated by the Urban Justice Center’s Human Rights Project. It lays out transnational feminist theory and praxis and traces the history of efforts of women’s- and civil rights organizations—via the United Nations—to establish laws, treaties and campaigns to protect women and racial minorities from human rights abuses. This background suggests how HRP’s human rights campaign in New York City both draws from and contributes to the efforts to bring “global” principles of human rights into play at the local level.

Transnational feminist theory and praxis provides the broadest and most applicable framework by which to understand gendered and raced applications of human rights in a locality like New York City. Chandra Mohanty’s methodology of a feminist solidarity model in her essay *Under Western Eyes Revisited*, explains the relationship of the local and the global within the transnational in a way that is useful to this project, which examines the local application of a human rights framework in the New York City. Mohanty’s model “is based on the premise that the local and the global are not defined in terms of physical geography or territory but exist simultaneously and constitute each other.”<sup>28</sup> It is the relationship and links between the local and the global that need to be at the forefront. This methodology “assumes both distance and proximity

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<sup>28</sup> Chandra Talpade Mohanty. (2003). *Feminism Without Borders*. Durham: Duke University Press. p.242.

(specific/universal) as its analytic strategy.”<sup>29</sup> This chapter uses this model as a way to theorize the current human rights struggle in New York City. The struggle to pass a human rights legislation is in and of itself both a local struggle and one that uses international human rights treaties, which are global. In addition, New York City’s diverse population makes the local nature of the global particularly apparent. The links between the local and the global in New York City are “conceptual, material, temporal, [and] contextual,”<sup>30</sup> not defined solely by geography. NYCHRI, a local New York City coalition, furthers human rights legislation by using global principles of human rights, as they travel between and across borders.

Transnational refers to “movements of goods, bodies, and ideas across national boundaries such that the strict distinctions among nations become altered or more flexible.”<sup>31</sup> As Inderpal Grewal and Caren Kaplan explain, transnational feminism works to end the subordination of women through local and global means by “pay[ing] attention to the inequalities and differences that arise from new forms of globalization as well as from colonialism and racism.” It “refers to new forms of international alliances and networks across national boundaries” that work on ending women’s subordination and looks at gender, patriarchy and women's experiences as complicated by and part of powers such as, race, sexuality, class, nationality, and ethnicity. Transnational feminism does not reduce all women to a single category of “woman,” which means that it does not use western women and systems as a model of feminism, womanhood, or civilization.<sup>32</sup>

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<sup>29</sup> Ibid. p.242.

<sup>30</sup> Ibid. p.242.

<sup>31</sup>Jan Jindy Pettman. “Women, Gender, And the State” In I. Grewal and C. Kaplan, eds, (2006) *An Introduction to Women’s Studies: Gender in a Transnational World*. (p.174-180). 2<sup>nd</sup> edition. Boston: McGraw-Hill. p.180.

<sup>32</sup> All quotes come from: Inderpal Grewal and Caren Kaplan. (2006). *An Introduction to Women’s Studies: Gender in a Transnational World*. New York: McGraw-Hill. p.xxii.

For feminist scholar Chandra Mohanty, “feminism without borders” or transnational feminism, is “not the same as ‘border-less’ feminism.” She stresses that transnational feminism “acknowledges fault lines, conflicts, differences, fears, and containment that borders represent.”<sup>33</sup> Transnational feminism allows space to recognize how sexism, racism and heterosexism are within, among, between and across all national borders. However, it does not assume that each of these processes affect all women in the same manner.

New York City is indeed a global city shaped by transnational history and forces—a city deemed a significant place in the global economic system. Globalization cannot be understood without pinpoint locales that (re)produce images and ideologies and enact direct and tangible effects on global affairs. New York City is one of the major international and financial business centers. It is inevitably a city interconnected worldwide. People from cultures from around the world immigrate to New York City and bring to its localities the influences of other places.

For instance, through immigration a proliferation of originally highly localized cultures now have become presences in many large cities...An immense array of cultures from around the world, each rooted in a particular country or village, now are reterritorialized in a few single places, places such as New York...<sup>34</sup>

Hence, New York City becomes the local in the global and the global in the local. One cannot exist without the other, they both exist simultaneously.

The United Nations is another form of local-global organization, constructed to be a place where cultures and ideas are constantly exchanged. However, the local and the global work quite differently within an international institution such as the UN than in a

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<sup>33</sup> Chandra Talpade Mohanty. (2003). *Feminism Without Borders*. Durham: Duke University Press. p.2.

<sup>34</sup> Saskia Sassen. (2001). “The Global City: Strategic Site/New Frontier.” <http://www.india-seminar.com/2001/503/503%20saskia%20sassen.htm>. (Accessed April 28, 2009).



diverse city such as New York, or in a NGO, or a coalition like NYCHRI. The human rights system under the United Nations is entirely international, as it applies to all UN member states, not to localities such as cities. Exemplified in the UN Charter Article 2 Clause 7, the United Nations cannot “intervene in matters which are essentially within the domestic jurisdiction of any state.” The UN Security Council is only mandated to intervene when matters pertain to the international community. However, by definition human rights violations happen in the “domestic jurisdiction” of states. According to Sally Engle Merry, “In order for human rights ideas to be effective...they need to be translated into local terms and situated within local contexts of power and meaning.”<sup>35</sup>

Therefore, transnationalism is crucial to a human rights system, because in order for human rights to be effective their “international” and “universal” principles need to move beyond and across borders. “In fact, the entire UN human rights system would quite simply cease to function without the NGOs.”<sup>36</sup> Non-governmental organizations (NGOs) such as women’s- and human rights organizations have led the way in articulating and normalizing human rights and protesting human rights abuses, which are often perpetrated by nation-states. In most cases, NGOs, often work through UN structures and processes and serve as the bridge between the global and the local. Some of these organizations, such as Amnesty International (AI) or Human Rights Watch (HRW) act as a national link, bridging gaps between nation-states. Others are bridges between the international community, nations and localities, such as municipalities. HRP in New York City is one such local non-governmental, transnational organization—a

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<sup>35</sup> Sally E. Merry (2006). *Human Rights & Gender Violence: Translating International Law Into Local Justice*. Chicago: The University of Chicago Press. p.1.

<sup>36</sup>Rachel Brett. (1995). “The Role and Limits of Human Rights NGOs at the United Nations.” In *Political Studies*, XLIII: 96-110. p. 100.

local organization that constitute one part of a global process. Thus local organizations like HRP that have consultative status at the UN are both international and local actors.

The history of how human rights principles emerged and were articulated to protect the rights of women and racial minorities helps provide the background for both the opportunities and challenges of the New York City campaign to implement principles and language of CEDAW and CERD in a local law. This particular history of gender and race, human rights, and the UN sheds light on the historical difficulty both women and people of color, or racialized people, have had for protection of their human rights. In addition, it explains the trajectory of human rights globally, and in the United States, as further explanation of why human rights are not well-received in the United States. Finally, the histories a foundational to talk about gender, race and human rights, as it depicts the struggles of women, and people of color to attain full human rights.

### **The History of Women, Human Rights, and the UN**

The campaign in New York City to incorporate CEDAW and CERD through municipal law is only one of many campaigns for gendered human rights. Women, women's organizations, and human rights organizations have been at the forefront of the evolution of human rights over the past sixty years, to formulate "women's rights as human rights." What follows is a history of women, human rights, and the United Nations in order to provide a historical context for my examination of the role and influence CEDAW in the human rights campaign in New York City.

Human rights law and praxis rose in the first half of the 20<sup>th</sup> century from Europe's violent modern history of conflict and imperialism. The Great War, or World War I, was the reason for the founding of the League of Nations. However, it was this

particular human rights discourse that led to the aftermath of the Second World War, to the founding of the United Nations, and the drafting of the UDHR. The causes of the First World War are traced back to conflicts within and between European nation-states such as the unification of Germany in 1871; French resentment due to loss of land to Germany; unequal balance of power between the Great Powers, which included the United Kingdom, Prussia, Austria, Russia and France; economic, military and colonial competition between Britain and Germany; and finally Austro-Hungarian rule in the Balkans. On June 28, 1914, a Bosnian Serb assassinated the heir to the Austro-Hungarian throne, Archduke Franz Ferdinand, sparking conflict. The aftermath of WWI ended four empires, the German, Russian, Ottoman and Austro-Hungarian empires, reshaping the map and setting the stage for future conflicts. The warring parties met in France to draft and sign a peace treaty. In June 28, 1919, the signing of the Treaty of Versailles officially ended the state of war between Germany and the Allied Powers. Part I of the Treaty of Versailles was the Covenant of the League of Nations which provided the creation for the League of Nations. The League's primary goal was to prevent another world war, which it failed to do.<sup>37</sup> However, due to women activists, the League of Nations became a space for women's issues.

Women had organized to oppose the conditions that led to world war and then for peace. The Women's International League for Peace and Freedom and the War Resisters' International, were among many organizations that chose an agenda for peace as opposed to an agenda for patriotism. It was these women activists who created the space for women's issues to become part of the international agenda of the League of

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<sup>37</sup> World Wars: World War One. BBC Online. <http://www.bbc.co.uk/history/worldwars/wwone/>. (Accessed January 2, 2009).

Nations, and they also created a model for cooperation between NGOs and intergovernmental organizations. Women's international organizations in the 1920s and 1930s collaborated with the League of Nations. Women activists realized the potential of the League of Nations as an international organization with goals of peace and security. They also saw the League of Nations as a space that would advance the status of women through governmental policies. Representatives of women's international organizations attended the 1919 Paris Peace Conference in order to make sure women were not left out from the provisions and decisions, but these women did not impact the Treaty of Versailles. It was in this context that women founded conferences and commissions such as the Inter-Allied Suffrage Conference. As Hilikka Pietila explains, "Issues related to the status of women became international issues, not purely domestic concerns...at a time when women in many Member States did not even enjoy political rights, and when women were not accepted as diplomats"<sup>38</sup> After the founding of the League and the International Labour Organization, representatives from women's organization met frequently in order to observe the work of the League. The bulk of the organizations included women's organizations mainly from Europe and the United States. "These organizations were estimated to represent 45 million women, but 'a leadership cohort of middle and upper-class British, Scandinavian and American women."<sup>39</sup>

However, Latin American women played crucial leadership roles as well, namely through the International Conference of American States' decision to create the International Commission of Women (IACW) in 1928. The IACW was the "first

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<sup>38</sup> Hilikka Pietila. (2002). *Engendering The Global Agenda: The Story of Women and the United Nations*. Geneva: UN Non-Governmental Liaison Service (NGLS). p.7

<sup>39</sup> Ibid. p.4.

intergovernmental body to address issues related to the status of women.”<sup>40</sup> The Commission prepared the Montevideo Convention on the Nationality of Married Women, providing men and women with equal rights regarding nationality. The League approved the convention and motivated member states to sign it. Thus women, of both First and Third Worlds, organized transnationally for peace and gender inclusiveness and formed a space for themselves and a language in which women were and continue to be included in the international sphere.

The Second World War emerged from the failure of the peace processes in World War I. The 1919 Paris Peace Conference accords hardly fulfilled Woodrow Wilson’s *Fourteen Points*, and “the proposals exceeded the worst fears of the direst of pessimists.”<sup>41</sup> The punitive content of the Treaty of Versailles resulted in bitterness among the German people, bitterness the Nazis exploited for their rise to power. In the midst of World War II allied leaders saw that a new framework was necessary if yet another world war was to be avoided. Hence, the founding of the United Nations.

These three decades of women activists’ experience was a vital asset at the founding conference of the United Nations in the incorporation of gender into the drafting of the Universal Declaration of Human Rights. Due to women’s active role, four Latin American women were appointed to government delegations participating in the conference: Minerva Bernadino (Dominican Republic), Amália Caballero de Castillo (Mexico), Bertha Lutz (Brazil), and Isabel P. de Vidal (Uruguay). Four of the women delegates—Minerva Bernardino, Bertha Lutz, Wu Yi-Fang (China) and Virginia

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<sup>40</sup> Ibid. p.5.

<sup>41</sup>Martin Kitchen (2003, Apr 03). “The Ending of World War One, and the Legacy of Peace.” World Wars: World War Two. BBC Online. <http://www.bbc.co.uk/history/worldwars/wwone/>. (Accessed January 2, 2009 ). p.6.

Gildersleeve (US) — were among 160 signers of the UN Charter, representing their governments. Amália Caballero de Castillo as the chair of the Inter-American Commission, along with Bertha Lutz and Minerva Bernardino, worked to get the language of “equal rights of men and women”<sup>42</sup> in the preamble of the UN Charter.

In addition, crucial changes that happened within the new United Nations led to expansion of women’s issues. Concerning human rights, Article 55c legitimated the promoting of universal respect of human rights and “fundamental freedoms for all without distinction as to race, sex, language or religion.”<sup>43</sup> Legitimization of collaborations between NGOs and the UN was an important principle for women activists and organizers so that they could continue to lobby for particular issues and women’s human rights through NGOs. The sub-commission on the Status of Women (CSW) under the Economic and Social Council (ECOSOC) was set up in 1945 during the San Francisco conference. However, this was not what the women at the conference wanted, because “women did not want to be dependent on the pace of another commission.”<sup>44</sup> In 1947, at the second ECOSOC session, Bodil Begtrup, President of the Danish National Council of Women and a former delegate to the League of Nations, got a resolution that established the Commission on the Status of Women (CSW) as a separate entity. As a separate commission the CSW was able to prioritize women’s issues, set its own agenda, and report and make proposals directly to ECOSOC, as opposed to the Commission of Human Rights. Women worked as transnational agents regarding women’s issues and human rights. The CSW had a decisive role in drafting the Universal Declaration of Human Rights (UDHR) between 1946 and 1948.

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<sup>42</sup> Pietila. p.9-10.

<sup>43</sup> UN Charter Article 55c. <http://www.un.org/aboutun/charter/>.

<sup>44</sup> Pietila. p.14.

The Universal Declaration of Human Rights (UDHR) implemented on December 10, 1948, is regarded as one of the most important UN documents. It provides an inclusive language that protects all human beings. The language would not have been possible without the active role a selective number of women played. Women monitored the drafting of the Declaration in order to prevent sexist phrases. The word “man” was replaced with “everyone” and “all human beings.” Women argued that “man” regarded a gender and not the entire human species.<sup>45</sup> The language made a huge impact on women’s lives as the UDHR serves as the main human rights declaration from which all other human rights treaties continue to be formed. As a tool, the UDHR offers women an inclusive language and a document that overtly provides them with equal rights. The UDHR’s structure is also of importance. Articles 1 and 2 serve as the foundational articles. Articles 1-21 set out civil and political rights, whereas articles 22-27 set out social, economic and cultural rights. Hence, when countries became members of the United Nations, they also agreed to the promoting civil, political, social, economic and cultural rights. The UDHR provided the basis for conventions such as the International Convention on the Elimination of all forms of Racial Discrimination (CERD, 1966), and the Convention on the Elimination of Discrimination Against Women (CEDAW, 1979).

The UDHR integrates positive elements of divergent economic and political rights. However, as part of the United States (and allies) push to separate first (capitalist) and second (communist/socialist) generation rights, the United States pushed for two separate treaties. The UN Commission on Human Rights proceeded to draft two treaties, as mechanisms to enforce the UDHR: the International Covenant on Civil and Political Rights (ICCPR 1966) and the International Covenant on Economic, Social and Cultural

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<sup>45</sup> Ibid. p.17.

Rights (ICESCR 1966). Together with the Universal Declaration, they make up the International Bill of Human Rights. First generation civil and political rights are thought of as negative rights because they prohibit governments from infringing on people's rights. Second generation social, economic and cultural rights are positive rights which governments have to actively provide and ensure its citizens. The low ranking of these positive second-generation economic and social rights led Third World women to redirect their focus toward development, which is closely linked to social, economic and cultural rights. "As early as the 1960s, developing countries began attempting to shift the focus of debate in the UN from political and security issues to development issues."

Consequently,

These problems made the UN system realize that women were the key factor...unless the situation of women was addressed their status and conditions improved, there would be no hope for alleviating food and population problems.<sup>46</sup>

Subsequently, the UN declared 1975 as the International Women's Year, followed by the UN Decade for Women (1976 – 1985), key events in the development of a gendered understanding and practice of human rights.

The UN Decade for Women turned out to be a decade of development for women even as development as a concept came under scrutiny from the point of view of some women. The 1975 World Conference of the International Women's Year in Mexico City was the first global inter-governmental conference specifically about women's issues from women's perspectives. Seventy-three percent of the 1,200 delegates were women. Out of the Mexico City Conference two other important institutions emerged, the United Nations Development Fund for Women (UNIFEM), a fund to give support to "the

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<sup>46</sup> Ibid. p.29.



poorest women in the poorest countries,”<sup>47</sup> and an International Research and Training Institute for the Advancement of Women (INSTRAW).

A second UN women’s conference was held at Copenhagen in 1980 and a third one in Nairobi, Kenya in 1985 to continue to specify objectives for women’s development and advancement. The Fourth World Conference on Women was held in Beijing in 1995. Themes included the advancement of women’s human rights, women and poverty, women and decision-making, women and education, the girl child, and violence against women. The resulting documents of the conference include The Beijing Declaration and the Platform for Action (PFA). The PFA provides an assessment of global situation through women’s point of view. It also specifies twelve areas of concern including, poverty, education, health, violence against women, economy, power and decision making, human rights and the environment. The mission of the PFA is to empower women. Finally, the PFA consolidates and expands on all other prior decisions from preceding world conferences on the environment, population, human rights and social developments. The conferences provided women from around the world with the opportunity to converse with each other about differences and commonalities, strengthen transnational networks, and crucial documentation on women’s equality, empowerment and justice. The final Beijing PFA encompasses women’s trajectory within the United Nations, starting from concepts derived from within the League of Nations.

Women activists and NGOs since World War I have been the champions of women’s advancement and human rights. While women from all over the world lobbied and fought for women’s human rights, there was another struggle: that of race and human rights.

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<sup>47</sup> Ibid. p.35-38.

## **The History of Race, Human Rights, and the UN**<sup>48</sup>

The UDHR specifically states that “everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>49</sup> The issue of race and racism was one of the first issues dealt by the United Nations. The explicit language was needed as a result of the genocide that happened in Germany against Jews and other minorities such as homosexuals and gypsies. Moreover, the UN needed to affirm a stronger stance on racial discrimination because the plight of Jews and other minorities was long ignored by the rest of the world. In addition to the UDHR, the Convention on the Prevention and Punishment of the Crime of Genocide was also adopted December of 1948. Adolf Hitler’s use of racism against anyone who was not of the Aryan race—the master race—led to language and discourse of race and racism within the UN. Furthermore, the processes of white supremacy embedded within colonialism and imperialism provided yet another context for the discourse of race and racism.<sup>50</sup> Imperialism, the driving force of colonialism, deemed other countries and people inferior and in need of “civilization”. Civilization sometimes meant the genocide of indigenous people. However, as imperial countries deemed Other countries uncivilized, these same “uncivilized” countries and lands were being exploited. Imperial countries extracted, used and sold natural resources, as well as human beings (slaves) in order to become advanced industrialized countries while the colonies became

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<sup>48</sup> The history I have decided to shed light on is positioned in the United States. It is the struggle of Blacks in the United States to use the UN and human rights as tools for full equality.

<sup>49</sup> Universal Declaration of Human Rights Preamble. (1948). United Nations.  
<http://www.un.org/Overview/rights.html>.

<sup>50</sup> Peter Jackson and Mathieu Faupin. (2007). “The Long Road to Durban: The United Nations Role in Fighting Racism and Racial Discrimination.” In *The Solidarity of Peoples, UN Chronicle* XLIV(3).  
<http://www.un.org/Pubs/chronicle/2007/issue3/0307cont.htm>. (Accessed April 28, 2009).

underdeveloped. Thus, industrialized countries furthered their development through the underdevelopment of countries deemed developing and Third World.

In the United States, the Southern states were ruled by Jim Crow laws that continued discrimination and sub-human treatment against African Americans freed from slavery. In 1912, Europe controlled 80% of the world's territory. Hence, the discourse of race and racial discrimination was a crucial part of the UN since its founding in 1945.

As Anderson notes, representatives from the United States due to its legacy of racism, pushed to keep the race question under control. In 1945, the United States came up with a "domestic jurisdiction" clause (Article 2, Clause 7) that would prevent the UN from looking into the domestic matters of any UN member state. The clause was opposed by countries such as Panama, Chile and Australia. The Australian delegation commented, "As it stood, the UN had zero authority to censure human rights violations that were 'essentially' within the domestic sphere."<sup>51</sup> However, the United States pushed for the clause, and even "made it abundantly clear that the domestic jurisdiction clause was America's price for allowing human rights to seep into the UN Charter."<sup>52</sup> Former Secretary of State, John Foster Dulles made sure to clarify this position. Consequently, the debate stopped and the other nations agreed to accept the clause. Hence, the history of racism and racial discrimination in the United States was an issue untouched by the UN. Moreover, the United States' clause severely limited the UN to respond to human rights violations anywhere else in the world. As Carol Anderson notes in *Eyes Off the Prize*:

Given the congressional power of Southern Democrats and the pervasiveness of Jim Crow throughout America, Cohen [President Roosevelt's personal liaison] was well aware that the United States could

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<sup>51</sup> As quoted in Carol Anderson (2003) *Eyes Off the Prize: The United Nations and the African American Struggle for Human Rights, 1944-1955*. Cambridge: Cambridge University Press. p.49.

<sup>52</sup> Carol Anderson. p.50.

not be overtly strident about human rights. But he also recognized that without at least an acknowledgement of human rights, especially in light of the Holocaust, the proposed UN would appear to be nothing than a façade for power politics as usual.<sup>53</sup>

It was not just the US domestic sphere the UN could not intervene with, but all UN member states.

In light of the founding of the UN, the Holocaust, and the UN emphasis on race and racial discrimination, the National Association for the Advancement of Colored People (NAACP), a US-based organization, took the window of opportunity to shed light on racism and racial segregation and inequality in America, and to further anti-racist strategies. The opportunity appeared when the world finally opened its eyes to the horrors in Nazi Germany by white supremacists. The prize that NAACP leaders sought was not civil rights, but human rights. Full equality for NAACP leaders meant civil, political, economic, social and cultural rights.

Toward the end of World War II, the NAACP had decided that human rights, “especially as articulated by the United Nations,”<sup>54</sup> was the only viable tool to help repair the damage that centuries of slavery, Jim Crow, and racism had done to African Americans in the United States. Yet, the NAACP could not fight the struggle on its own. The leaders of the NAACP sought Eleanor Roosevelt and Harry S. Truman for support. Harry S. Truman made it clear that he was not fighting for social equality for African American, only “justice.” However, his sense of justice was only of the symbolic kind. Likewise, Eleanor Roosevelt was, as Anderson observes, “one of the masters of symbolic equality.”<sup>55</sup> Although Eleanor Roosevelt was considered “a friend of the Negro”<sup>56</sup> in her

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<sup>53</sup> Ibid. p.36.

<sup>54</sup> Ibid. p.2.

<sup>55</sup> Ibid. p.3.

role as the chair of the UN Commission on Human Rights and although she sympathized with the struggle of African-Americans, “she was even more responsive to the public relations exigencies of the Cold War, which called for sanitizing and camouflaging the reality of America’s Jim Crow democracy.”<sup>57</sup> Mrs. Roosevelt fought for a federal-state clause in the Covenant for Human Rights that allowed states that were in a federal system to disregard UN treaties altogether. The clause “assured the Dixiecrats that the sacred troika of lynching, Southern justice, and Jim Crow schools would remain untouched,”<sup>58</sup> even with an international human rights treaty against racism.

The struggle was ultimately destroyed by the Cold War communist frenzy. The definition of human rights was distorted and deemed “communist,” in other words what America was fighting against. The Cold War hardened US position on second generation rights and made it difficult for anyone to assert them as rights. As the United States fought “a war for freedom” in the international arena, it simultaneously denied African-Americans their freedom. However, for the NAACP to push for human rights was to entertain the idea that it was a communist organization. The NAACP had to retreat to a narrower agenda, Anderson argues, and take their “eyes off the prize.”<sup>59</sup> The NAACP leaders knew that “as wholly inadequate as civil rights may have been, however, they carried the protection of being firmly rooted in American tradition and the Bill of Rights.”<sup>60</sup> Hence, civil and political rights were deemed “American,” meanwhile social, economic and cultural rights were “anti-American,” and unnecessary. The struggle of the

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<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid. p.4.

<sup>59</sup> Carol Anderson. (2003). Title.

<sup>60</sup> Ibid. p.6.

Human Rights Project is to make economic, social and cultural rights qualify as rights in the United States.

During the Cold War, the United States maintained a facade of a human rights champion. The United States strategized to manage and control racial reformers, such as the NAACP, in order to minimize any public provocation of white supremacists, meanwhile encouraging gradual change regarding human rights.<sup>61</sup> For example, the United States pushed for the Subcommittee on Freedom of Information and of the Press under the UN Commission on Human Rights (CHR). In the minds of US leaders, there was no obvious doubt that America symbolized democracy and freedom of speech. The USSR recognized that the commission intended to highlight what the First World viewed as lack of civil and political rights, and thus argued for two additional subcommittees—one dealing with protection of minorities and the other for the prevention of discrimination. The United States, of course, did not champion minority protection, and decided that instead of rejecting the subcommittees that it would neutralize it. “The [State] Department agreed to the formation of the Subcommittee on the Protection of Minorities, but then filleted the definition of ‘minority’ so finely that it automatically excluded African Americans from the subcommittee’s purview.”<sup>62</sup> Hence, the Black struggle for human rights was destroyed from various fronts, but their struggle for civil rights was successful.

Yet, despite various civil rights victories—*Brown v. Board of Education* 347 US 483 (1954), 24<sup>th</sup> amendment, Civil Rights Act of 1964, Voting Rights Act of 1965, Executive Order 11246, *Loving v. Virginia* 388 US 1 (1967), and the Civil Rights Act of

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<sup>61</sup> Thomas Borstelmann. (2001). “The Cold War and The Color Line” Cambridge: Harvard University Press.

<sup>62</sup> Carol Anderson. p.74.

1968—African Americans, Anderson concludes, faced “the reality of stunted opportunities and abridged human rights [that] continues to haunt the daily lives of African Americans and the United States.”<sup>63</sup> Legal reform of political rights was not enough to fully better the lives of African Americans, given the legacy of slavery in the nation’s economic system, and it is not enough now. Human rights were the prize the NAACP among other Black leaders sought for as a way to articulate and organize for a broader range of demands and issues.

With powerful countries such as the United States and the United Kingdom as members of the Security Council’s permanent five, UN attention was of course elsewhere. The UN was under pressure by countries such as India to study the situation in Apartheid South Africa. On December 2, 1950, the Assembly declared apartheid as being based on racial discrimination. The Assembly recognized that firmer action was needed and asked the Commission on Human Rights to draft a declaration and a convention on the elimination of racial discrimination. Subsequently, the 1963 Declaration on the Elimination of All Forms of Racial Discrimination was adopted by the General Assembly. Moreover, on December 21, 1965, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) was unanimously adopted by the Assembly. On December 11, 1969, the General Assembly named 1971, the International Year for Action to Combat Racism and Racial Discrimination, and 1973-1983, the Decade for Action to Combat Racism and Racial Discrimination. In 1973, the Assembly designated apartheid as a crime and adopted the International Convention on the Suppression and Punishment of the Crime of Apartheid.

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<sup>63</sup> Ibid. p.271.

Alongside the issue of apartheid, Zionism was one of the most controversial issues at the UN regarding race. In 1975, with resolution 3379 (XXX), the Assembly designated Zionism as a form of racial discrimination.<sup>64</sup> The resolution passed with a vote of 72 to 36, with 32 abstentions. Among those against the resolution were the United Kingdom of Great Britain and Northern Ireland, Israel, and United States. The First World Conference to Combat Racism and Racial Discrimination held in Geneva in August of 1978 followed the agenda of opposing apartheid and Zionism, and condemned the treatment of Palestinians by the state of Israel. However, those UN member states that were against Resolution 3379 quickly said such language was unacceptable. Zionism was also one of the most hotly debated topics at the 1975 UN Conference on Women. In 1983, the Second World Conference on race occurred, in order to evaluate the work done during the First Decade. The Conference adopted a Declaration and Programme of Action, along with naming 1983-1993, the Second Decade. The Programme of Action laid out measures and actions to be taken against Nazi fascist and neo-fascist activities, as well as other ideologies based on racial discrimination. However, little was accomplished at the end of the Second Decade due to lack of financial resources. Consequently, the assembly named 1993-2003, the Third Decade. Absent from the agenda was the issue of Zionism and the Israeli-Palestinian conflict—due to the lack of financial resources some of the members caused by refusing to finance such an agenda. In December 1991, Resolution 46/86 revoked the decision to name Zionism a form of racism. South Africa and apartheid continued to be on the agenda, and in 1994 with the end of apartheid the UN claimed victory. The UN had focused on South Africa for 43 years, ignoring racial

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<sup>64</sup> United Nations 24<sup>th</sup> Plenary Meeting. (1975, Nov 10). Resolution 3379: Elimination of All Forms of Racial Discrimination. Resolution reads: “*Determines* that zionism is a form of racism and racial discrimination.” <http://www.un.org/documents/ga/res/30/ares30.htm>.



discrimination in the United States.<sup>65</sup> The history of race, human rights and the UN are evident of President Bush's superficial human rights rhetoric.

The end of apartheid did not end racial discrimination; it worked to shed light on other more subtle ways race and racism work to undermine the lives of racial minorities. In 1998, the General Assembly proclaimed 2001 the International Year of Mobilization against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Consequently, in 2001 the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was held in Durban, South Africa. The Durban Declaration and Programme of Action became a stronger and more solid foundation for combating racism. However, similarly to the preceding conference, most of the conference focused on Israel's treatment of Palestinians. Countries such as Australia and Canada condemned the conference. Meanwhile, the United States and Israel pulled their delegates out of the conference. "The US Secretary of State, Colin Powell... called for the withdrawal of the United States delegation, saying that it had been prompted by the Zionist issue."<sup>66</sup> The conference ended in September 2001; the terrorist attacks on the World Trade Center and the Pentagon delayed the return of many US delegates and changed the terrain on which they would organize. The history of race and racism within the UN is particular to issues of apartheid, genocide and Zionism. The permanent members of the Security Council used their veto and economic power to push for agendas that did not undermine their role and served their national interests.

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<sup>65</sup> History of the UN comes from: Peter Jackson and Mathieu Faupin. (2007).

<sup>66</sup> Alex D. Smith (2001, Sep 04). Durban Conference: US Really Feared Slave Reparations, Say Diplomats; American Walkout Order Disguises Deep Tensions Between Former Slave-Trade Countries and Campaign For Compensation. *The Independent (London)*, Section: Foreign News. p.10

But would human rights have provided full equality for African Americans and other minorities concentrated in particular cities and counties? In the following section, transnational feminists critique just how useful human rights is, raising issues later used to explore the vision, goals and strategies of the Human Rights Project in New York City.

### **Transnational Feminist Critique of Universal Human Rights**

Human rights provide organizers with a powerful tool. However, there is an inherent conflict between local organizations such as the Human Rights Project and the establishment of global principles. The understanding of this contradiction is important to the conceptualization of the human rights campaign in New York City. Two things can happen. First, local particularities and nuances are ignored in order to establish global/international law. Second, global/international law and principles are ignored in order to focus on the specific needs of the locality including its legal system (in other words, the laws of New York City, the state of New York, and the United States). Inderpal Grewal in a 1999 article “‘Women’s Rights as Human Rights’: Feminist Practices, Global Feminism and Human Rights Regimes Transnationally” provides a full version of this critique.

According to Inderpal Grewal, human rights discourse has become normative language that simplifies the lives of women globally. Grewal posits that the catch phrase resulting from the 1993 UN World Conference on Human Rights in Vienna, “women’s rights are human rights,” is an offshoot of what she calls the “human rights regimes,” which she refers to “the networks of knowledge and power that have inserted such discourses into geopolitics.”<sup>67</sup> For Grewal a feminist critique and intervention of these

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<sup>67</sup> Inderpal Grewal. (1999). ‘Women’s Rights as Human Rights’: Feminist Practices, Global Feminism, and Human Rights Regimes in Transnationality. *Citizenship Studies*. 3(3): 337-352.

universalist regimes of knowledge is imperative. Grewal makes four arguments against the “women’s rights as human rights” paradigm.

First, human rights are part of the dominant knowledge of the North, namely the United States and the United Kingdom (UK). This knowledge is “based on linear notions of progress by relying on notions of the South as Other and utilizing North-South inequalities to claim that the North has human rights (with a few aberrations) and the South needs to achieve them.”<sup>68</sup> As permanent members of the UN Security Council, both these countries continue to influence the rhetoric and language of human rights.

Second, international human rights law is grounded on liberal democratic thought that does not apply to all countries. So, for Grewal “it is not clear that these laws, in their national or international manifestations, can bring justice to all women.”<sup>69</sup> Grewal argues that international human rights law is focused on civil and political liberties ignoring the economic and social conditions of women, resulting in further marginalization of poor and socially subordinate women, whether due to race, sexuality, and/or religion, among many other social factors that multiply women’s subordination.

Third, the term “woman” also implies “the notion of an autonomous individual” inherent in Western liberal thought. Yet not all women are autonomous individuals able to exert individual agency and choice. “It is important to ask whether women in many parts of the world can be seen as autonomous individuals (outside of the structure of the family) or whether their oppression in the family can be addressed by asserting their autonomy from it.”<sup>70</sup> Consequently, human rights create the illusion that women’s rights are collective rights, which all women want and need. However, the idea of collective

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<sup>68</sup> Ibid. p.338.

<sup>69</sup> Ibid. p.339.

<sup>70</sup> Ibid. p.341.

rights is problematic as it negates women's intersectional identities. "It is not possible, as Alarcon (1990) reveals, to assume that the subjectivity of those persons termed 'women' are constructed solely by gender."<sup>71</sup> Hence, the difference that is acknowledged is simply one of location, women are located around the world, but their needs remain the same.

Fourth, and consequently, this paradigm results in broad campaigns, such as those against rape and domestic violence, two issues that transcend national boundaries. However, even when focused on rape and domestic violence, very often multiply marginalized women are left outside of the knowledge discourse. (For example, Black women in the United States struggle with the broad perspective of domestic violence without consideration of how race hinders their ability to report cases that incriminate men of their own race.) These broad anti-rape campaigns, Grewal argues, also often obscure issues of class difference.

In essence, Grewal calls for a more "localized and transnational"<sup>72</sup> analysis of the problems and issues women encounter. However, she does not provide such analysis. Grewal leaves the reader disappointed because her argument that "policy and action require addressing localized and transnational specificities" through "concepts of economic and social justice rather than rights" does not come to fruition. She does not prescribe actions in order to alleviate the problems of universal human rights. Hence, looking elsewhere for feminist transnational solutions is needed.

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<sup>71</sup> Ibid.

<sup>72</sup> Ibid. p.337.

**Transnational Solutions:**  
**Solidarity, Differential Consciousness, and Intersectionality**

So how do feminist and transnational actors use the inclusiveness of human rights as a way to simultaneously minimize the negative consequences and maximize the positive results? Chandra Mohanty's concept of "solidarity" and Chela Sandoval's theory of "differential consciousness" provide transnational theoretical frameworks through which to understand the campaign for human rights in New York City conceived and led by women of color. Furthermore, intersectionality as articulated by Kimberlé Crenshaw, bell hooks, and Patricia Hill Collins provide a tool that can be used in order to combat the generality in language and practice of the UDHR, and human rights, respectively.

Chandra Mohanty not only critiques the universal discourse, but provides a theoretical praxis that enables feminist and transnational actors to use a human rights frame that analyzes differences as opposed to erasing them. Mohanty posits that the global/local question is not one of either/or. The local and the global are not polar extremes, but constitute each other. The Human Rights Project's approach to its local and global identity has been one of such transnational reciprocity. Moreover, how HRP works out this contradiction is part of the strategy of its organizers.

For Chandra Mohanty "the central issue, then, is not one of merely 'acknowledging' difference; rather, the most difficult question concerns the kind of difference that is acknowledged and engaged."<sup>73</sup> For Mohanty, as for Grewal, being able to acknowledge locational differences without analysis of hierarchal power leads to an over-simplification of understanding women's commonality. This oversimplification, instead of providing women with the resources and language needed, only serves to

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<sup>73</sup> Mohanty. p. 193.

marginalize already marginalized women, while others benefit. Mohanty states that “difference seen as benign variation (diversity), for instance, rather than conflict, struggle, or the threat of disruption, bypasses power as well as history to suggest a harmonious, empty pluralism.”<sup>74</sup>

How, then, do we move away from an international human rights framework that erases differences to one that pays attention to transnational and localized difference – what Audre Lorde calls “a fund of necessary polarities between which our creativities spark like a dialectic”?<sup>75</sup>

Chandra Mohanty’s insistence on solidarity and Chela Sandoval’s theory of differential consciousness provide transnational solutions to the feminist critiques of universal human rights. Mohanty argues for solidarity between and among first and third world women, in which both are co-implicated in their actions and responsibilities. Chela Sandoval theorizes a fifth oppositional consciousness (differential consciousness) that US feminist of color have long used in order to maximize their interests within a liberal democratic system. Following Sandoval’s differential consciousness, I argue that a myriad of solutions used either individually or together depending on the context, provide the best intervention of the negative consequences of universal human rights. In New York City, the Human Rights Project uses varying strategies in order to fulfill their goal to pass a human rights legislation at the municipal level.

Chandra Mohanty, like Grewal, argues “against a hastily derived notion of ‘universal sisterhood’ that assumes a commonality of gender experience across race and

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<sup>74</sup> Ibid. p.193.

<sup>75</sup> Audre Lorde. (1979). “The Personal and the Political Panel” at the Second Sex Conference. Published in C. Moraga and G. Anzaldúa, eds, *This Bridge Called my Back* (1984). 2<sup>nd</sup> Edition. New York: Kitchen Table-Women of Color Press.

national lines.” She suggests, instead: “Solidarity rather than sisterhood as the basis for mutually accountable and equitable relationships among different communities of women.” Solidarity does not assume that all women are sisters and share the same parents, hence the same problems. Instead, solidarity requires “coimplication,” which refers to the idea that all of us (First and Third World) share certain histories as well as responsibilities.”<sup>76</sup> Therefore, Mohanty’s solution to the universality of human rights, or any type of hegemonic knowledge, is for women, both First and Third World, to be in solidarity with each other and support each others causes, without having to resort to the broadest cause that only helps some rather than all women. Within this framework, solidarity with and for women struggling against poverty and economic exploitation is paramount.

Chela Sandoval provides yet another way in which women from different locations can use a system, such as human rights, that is both within the dominant mode of knowledge production and outside of it. Sandoval’s theory of oppositional consciousness is “the methodology and theory of US third world feminism that permits the following rearticulation of hegemonic feminism, on its own terms, and beyond them.”<sup>77</sup> According to Sandoval there are four oppositional modes of consciousness: equal rights, revolutionary, supremacist, and separatists. Equal rights, associated with liberal feminism, is when the subordinated group argues that their differences, those that deem them subordinate in the eyes of others, exist only in appearance, and have no true negative connotations, except those imposed by the majority group. Hence, the goal is to

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<sup>76</sup> Mohanty p.203.

<sup>77</sup> Chela Sandoval. (1991). “US Third World Feminism: The Theory and Method of Oppositional Consciousness in the Postmodern World.” In Kum-Kum Bhavnani, ed, (2001) *Feminism & ‘Race’* (p.261-280). New York: Oxford University Press. p.266.

erase the negative connotations of differences in order for everyone to be equal through legal action. The revolutionary mode of consciousness is when the subordinated group claims their differences and calls for a transformation of the social hierarchy, by force if necessary. Under this mode of consciousness—articulated by socialist or Marxist feminism—accommodation of traditional values and society is not enough; the goal is to produce a new social order, a new culture beyond the binary of domination/subordination. A supremacist mode of consciousness is when subordinated groups claim their differences and say that those same differences provide access to a superior level higher in ethical and moral standards. Hence, the goal is to substitute the standards of the superior group with that of the “subordinated”. Radical and cultural feminism are advocates of this mode. A separatist mode of consciousness, which is the most commonly used mode organized under capitalist development, is when the subordinated group recognizes that their differences are deemed inferior by the dominant culture. Although Sandoval does not spell out why the separatist mode of consciousness is most commonly used under capitalism, it has to do with the exploitive and destructive nature of capitalism, and the effects a capitalist society has on subordinated groups, such as the low-income and poor population. As political resistance they want to protect and nurture the differences that define the group through separation as much as possible from the dominant social order.

Sandoval theorizes a fifth, “postmodern” model of consciousness, differential consciousness, that can “weav[e] ‘between and among’ oppositional ideologies as conceived in this new topological space.”<sup>78</sup> Differential consciousness is the model enacted by US Third World women. Differential consciousness “has a mobile, retroactive

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<sup>78</sup> Ibid. p.270.



and transformative effect on the previous four forms setting them into new processual relationships.”<sup>79</sup> Hence, this fifth mode emerged from US feminist of color, who decided that they could switch between and among modes whenever it made strategic sense to do so. “The differential mode of consciousness operates like the clutch of an automobile: the mechanism that permits the driver to select, engage, and disengage gears in a system for the transmission of power.”<sup>80</sup> The differential mode of consciousness makes capable a strategy to work within the system and outside of it, in order to reach desired goals. In New York City, the NYCHRI coalition as an organization within the liberal democratic system of the United States struggles to pass a revolutionary legislation—one that focuses on principles that are outside United States law.

As a result of the universality of human rights, groups of people are often forgotten and erased by US law and by society due to their multi-dimensional identities, for example, women of color. The concept for- and theoretical framework of- intersectional identities is intersectionality. The term “intersectionality” was first introduced by Kimberlé Crenshaw in her 1989 article entitled *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*. Afterwards, Crenshaw was invited to Geneva in order to introduce the term and concept during the preparatory session to the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) in Durban, South Africa. Crenshaw declares that antidiscrimination law uses a single-axis framework that does not take into consideration the multidimensionality of women of color. According to Crenshaw, in race-based cases, the focus is on blacks, and

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<sup>79</sup> Ibid. p.268.

<sup>80</sup> Ibid. p.271.

in sex-based cases, the focus is on women.<sup>81</sup> However, prior to Crenshaw feminist theorist bell hooks described intersectionality, without actually using the term.

In her 1984 article, *Black Women: Shaping Feminist Theory*, hooks asserts that “race and class identity creates differences in quality of life, social status and lifestyle that take precedence over the common experience women share—differences which are rarely transcended.” Moreover, bell hooks explains that the assertion of “all women are oppressed” is not only false, but problematic, precisely because factors like class, race, religion, sexual orientation play a role in who is oppressed and who is not. bell hooks defines oppression as “the absence of choices.”<sup>82</sup> Part of what hooks tries to explain in her article is that those who are truly oppressed undergo multiple oppression, which are interconnected. For example, sexism, racism and classism are oppressions which women of color often face.

Similarly, Patricia Hill Collins in her book *Black Sexual Politics: African Americans, Gender, and the New Racism*, treats “race, class, gender, and sexuality as intersecting versus competing framework.”<sup>83</sup> Collins emphasizes that deeming one social factor to be more significant than another compromises the end result of social justice. Furthermore, Collins views social factors such as race, class, gender, age, sexuality as “mutually constructed systems of power.” In other words, it is no coincidence that those who are deemed deviant—i.e. people of color, poor people, women, the elderly, and the lesbian, gay, bisexual and transgender (LGBT) community—are also those who suffer

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<sup>81</sup> Kimberlé Crenshaw. (1989) “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics”. In Adrien Katherine Wing, ed, *Critical Race Feminism, A Reader*. (p.23-33). 2<sup>nd</sup> edition. New York: New York University Press.

<sup>82</sup> bell hooks. (1984). “Black Women: Shaping Feminist Theory.” In Kum-Kum Bhavnani, ed, (2001) *Feminism & ‘Race’* (p.33-39). New York: Oxford University Press. p.34.

<sup>83</sup> Patricia Hill Collins. (2005). *Black Sexual Politics: African Americans, Gender, and the New Racism*. New York: Routledge. p.10.

from multiple oppressions. Moreover, it is not by chance that individuals deemed “deviant” are more likely to share multiple subordinate identities. Intersectionality, as a result, becomes not only a theoretical frame, but a practical tool to overcome general terms such as “woman.”

As the feminist theorists in this chapter have illustrated, there are ways in which to get around the problems of the universality of human rights. So the question arises, how do “transnational women’s and human rights NGOs...which exist in and against the nation-states, promote new discourses”<sup>84</sup> that do not rely on universality and sisterhood? The following chapter is an analysis of how the Human Rights Project-Urban Justice Center has used human rights as a way to further their goals. I theorize the ways in which HRP as an organization strategizes within a liberal democratic government and outside of it as part of the continuing history of the struggle for not only political, but economic, cultural and social rights for all humans. I also examine how HRP deals with issues of universality and difference. The pertinent questions for my thesis are: does the Human Rights Project succeed in overcoming the problems of universal human rights? If so, how do they do it? What strategies do they use? Do Grewal, Mohanty, and Sandoval feminist interventions apply? Are any of the problems that the HRP organizers are encountering clarified by transnational feminist theories? In other words, how does HRP, a US-based organization, create change by using human rights as a strategy in the United States?

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<sup>84</sup> Grewal p.338.

### 3

#### **The Human Rights Project's Mission:** **Human Rights in a Global City**

“Behind the war of words,” wrote Juan Flores, “there lurks the real battle, which has to do with attitudes, interpretations, and positions.”<sup>85</sup> Chapter Three moves this thesis into this “real battle,” which has to do with praxis, the translation of an idea into action. The following chapter begins to answer some of the questions posed in Chapter Two: does the Human Rights Project deal with problematic issues of universality and difference raised by transnational feminist activists and scholars? If so, how? How do its organizers strategize within a liberal democratic government and outside of it for economic, social, and cultural rights all human beings can enjoy? This chapter summarizes the HRP human rights strategies and analyzes the ways in which the theoretical concepts of transnational feminism help to clarify them. As illustrated in this chapter the theoretical concepts clarify in several ways. First, they allow for a juxtaposition of the theories and their practical applications by HRP. Second, the concepts of Mohanty and Sandoval, specifically, provide a theoretical base for HRP’s mission, goals and strategies. Thus, HRP’s strategies can be theorized and analyzed through a transnational feminist lens, not available to before. Finally, the theoretical concepts remind us that “the movement from practice is itself a form of theory.”<sup>86</sup>

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<sup>85</sup> Juan Flores. (2003). “The Latino Imaginary: Meanings of Community and Identity.” In L. Alcoff & E. Mendieta (Ed.), *Identities: Race, Class, Gender, and Nationality* (p. 96-104). Malden, MA: Blackwell Publishing Ltd. p.96

<sup>86</sup> Raya Dunayevskaya. (Oct 1996). “Introduction and Overview.” In *Women's Liberation and the Dialectics of Revolution: Reaching for the Future*. Michigan: Wayne State University. p.1.

To briefly summarize the transnational feminist critiques laid out in Chapter Two, Inderpal Grewal critiques universal human rights as being part of the dominant knowledge of the North (i.e. the United States and United Kingdom). Moreover, she argues that human rights is grounded on liberal democracy that is not inclusive to all countries and cultures, resulting in broad gender campaigns such as against domestic violence and rape, at the expense of local issues essential to the most marginalized women. Additionally, these broad campaigns directed by human rights organizations use the term “woman,” implying autonomy to all women, which is not the case. There are women worldwide who are not autonomous precisely because of women who are autonomous—i.e. middle/upper class- and First World women. Grewal also argues that human rights do not take into consideration social factors, particularly class.

However, feminist scholars Chandra Mohanty and Chela Sandoval provide us with specific solutions to the universality of human rights. Mohanty’s solidarity model argues that difference—women’s intersectional identities, culture, and religion—among First and Third world women do not have to be erased. It is precisely the erasure of differences among women that marginalize those women who are not part of the conversation and discourse. Mohanty’s solidarity model calls for a co-implication of actions and duties among First and Third world women. Grewal’s critique also calls for a kind of intersectional approach to gender and human rights pioneered by women of color. Finally, Sandoval’s fifth oppositional consciousness, differential consciousness, allows women, and more specifically, women of color to use a range of different strategies to achieve their desired goals. Furthermore, the differential consciousness allows women to work within and outside a liberal democratic system.

This chapter explores how HRP as a human rights organization moves beyond Grewal's critiques of human rights. How does it employ an intersectional strategy and deal with economic ("second generation") rights. This chapter asks: how do Mohanty's and Sandoval's solutions apply and make sense? Does HRP practice a solidarity model, and if so, how? Does HRP use different strategic methods and shift between them when they see fit – Sandoval's "oppositional consciousness"? In conclusion, I will assess whether or not HRP provides us with a different kind of human rights organization that follows international human rights as articulated by the UN, and still remains loyal to its local constituents, including *all* women, pays attention to factors such as race and class, and understands the importance of the local and the global.

### **Global to Local**

The following section analyzes the ways in which HRP uses global principles, events and conferences in order to advance and pursue their goals at the local level. The global UN events that most impacted HRP's formation and strategies were 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) in Durban, South Africa (hereinafter the Durban Conference), the CERD Committee Review of the United States in February 2008, and the passage of the CEDAW ordinance in San Francisco. All of these events have influenced HRP in their local struggles in New York City.

The Durban Conference in 2001 was highly controversial and political because of the content and results of the conference, as explained in Chapter Two. The conference's focus on Israel, and Zionism as a form of racism led both Israel and the United States to walk out midway. A lot of major newspapers, NGOs and organizations, and groups of

people all over the world articulated their opinions about the Durban Conference. Among those people and organizations impacted by the conference were Ejim Dike and the Human Rights Project. Dike has worked at HRP since 2002, and has been the Director since 2007. Dike declares that Durban “was the first time that [she] realized the potential power of the UN. First of all, it got so much press that there was a lot of discussion about it... You could see that governments took the process seriously, which is why the United States and Israel ended up walking out.”<sup>87</sup> Durban was a global conference that allowed both Director Dike and HRP to think about race, racism and race relations differently. For example, after the United States walked out HRP realized that a race discourse had to happen at the local level in order to inform the public. HRP quickly started to actively figure out a way to incorporate what they learned from the Durban Conference process.

Similarly, in 2008 the United States government was reviewed by the CERD Committee. HRP attended the review session as UJC has consultative status at the UN. HRP-UJC was one of 20 United States NGOs that were present, including ACLU, AI, and Human Rights Watch.<sup>88</sup> On February 21-22, 2008, the CERD Committee considered the fourth, fifth, and sixth periodic reports from the United States. In other words, the United States did not submit the fourth and fifth reports on time. The fourth report was due on November 2003, and the fifth on November 2005. Member states who are party to a convention are supposed to submit annual reports; however, the United States was behind various reports. According to Dike,

[Their] visit in February was energizing because so many NGOs went...it really showed the potential power of having an organized civil society

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<sup>87</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

<sup>88</sup> United Nations. Committee on the Elimination of Racial Discrimination. “NGO Information relating to United States of America.” <http://www2.ohchr.org/english/bodies/cerd/cerds72-ngos-usa.htm>.

present at these meetings...The CERD Committee was very impressed and you could see it reflected in the document that ended up coming out.<sup>89</sup>

The final document, the Concluding Observations, the Committee states that the United States needs to be in line with the definition of racial discrimination in the Convention.<sup>90</sup>

This was HRP's first recommendation in its *Race Realities* Shadow Report to the CERD Committee. Moreover, the Committee also requested to the United States "to collect statistical data on health disparities affecting persons belonging to racial, ethnic and national minorities, disaggregated by age, gender, race, ethnic or national origin, and to include it in its next periodic report."<sup>91</sup> This request is HRP's *Race Realities* second recommendation to the New York City and the United States.

These events, including the upcoming Durban Review in 2009, have influence HRP to take the global to the local. Their participation in the CERD Committee Review of the United States in 2008 was a catalyst for HRP's local Durban campaign. "HRP is organizing an effort to urge the State Department to engage the United States as a full participant in the Durban Review process, as well as to facilitate participation of domestic racial justice and human rights advocates in the process."<sup>92</sup> After HRP came back from Durban, Dike explains, they thought about campaigning around CERD. The global actions and events around CERD allowed HRP to learn from it, and more importantly network and build relationships with other organizations.

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<sup>89</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

<sup>90</sup> United Nations. "Concluding observations of the Committee on the Elimination of Racial Discrimination." (Feb 2008). CERD/C/USA/CO/6. <http://daccessdds.un.org/doc/UNDOC/GEN/G08/419/82/PDF/G0841982.pdf>.

<sup>91</sup> United Nations. "Concluding observations of the Committee on the Elimination of Racial Discrimination." (Feb 2008). CERD/C/USA/CO/6. p.11

<sup>92</sup> Human Rights Project, a Project of the Urban Justice Center. "Our Work." <http://hrpujc.org/projects.html>.



Finally, the implementation of a CEDAW ordinance in San Francisco provided HRP with a precedent of global to local strategies from organizations, such as WILD for Human Rights. Organizations there took global principles and applied them to the locality of San Francisco. However, the implementation of the ordinance did not overcome all of the problems with universal human rights. The organizers pushed to get CEDAW passed thinking that women of color are automatically included in CEDAW's category of "woman." According to Dike, "One of the lessons that the people from San Francisco learned was that by doing only CEDAW, women of color fell through the cracks and they [women of color] were the more vulnerable women that they were actually trying to reach."<sup>93</sup> Hence, one of the lessons learned and pursued by HRP is to make sure women of color do not fall by the sidelines. The strategy used by HRP is to consider and base their legislation on the intersection identities of not only women of color, but all people.

### **Intersectionality**

The following section focuses on intersectionality as a concept and feminist theory, and the ways in which HRP strategizes in order to make sure intersectional identities are not left out, or further marginalized by their actions. Intersectionality refers to the ways in which gender intersects with other social factors such as race/ethnicity, class, culture, nationality, religion, and immigration status and how those intersections implicate the lives of women who suffer double, triple and quadruple oppression because of their layered, complex and multiple identities. Intersectionality as a tool distinguishes

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<sup>93</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

HRP as a human rights organization that takes into consideration identities other than gender.

In February 2008, during the CERD Committee's review of the United States another topic came up: the topic of women of color and human rights. A report by WILD for Human Rights, Justice Now, and the Transgender, Gender Variant and Intersex Justice Project, entitled *Human Rights Violations Against Women of Color in the United States*, depicts three different ways in which women of color because of their intersectionality are invisible in the United States. The Report explains:

We focused on women of color to support the Committee's effort to explicitly recognize how gender shapes the way racial discrimination affects different people, and to make marginalized women of color more visible. In fact, these communities are so invisible that, except for women of color in prison, no accurate numbers exist to describe their situations. They need the international community's oversight and intervention to recognize the human rights that are being violated and provide recommendations for redress.<sup>94</sup>

The three issues the Report highlights are education and health rights for girl farm laborers, who are primarily Latinas; the right to work for transgender women of color; and the right to bodily security and health to women of color in prison.<sup>95</sup> These are not the only problems women of color face and HRP realizes that.

The Human Rights Project, along with the Urban Justice Center as a whole, has always made marginalized people's concerns and problems the center of their policy-making and strategies. Women of color, for HRP specifically, have always been a concern. Often times, women of color, because of their dual oppression, bear the burden disproportionately. It is precisely this fact that led HRP to coordinate a human rights

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<sup>94</sup> Alex Lee, Robin Levi, & Chivy Sok. Submitted to the UN CERD Committee in February of 2008. *Human Rights Violations Against Women of Color in the United States*. Executive Summary (p. 2). <http://www2.ohchr.org/english/bodies/cerd/cerds72-ngos-usa.htm>. (Accessed February 22, 2008).

<sup>95</sup> Ibid.

campaign that made women of color one of the center pieces. In the summer of 2008, during my time there as an intern, HRP had a “women of color coalition-building forum.” Many advocates (both people of color and white women) for women of color and for people of color in general met at the UN New York headquarters during the CEDAW Committee review of the United Kingdom. We watched the CEDAW Committee and then had a discussion afterwards about what the major issues for women of color are and how to start to work together to fix them. Focusing and being aware of intersectionality allows HRP to look at how other social factors impact the ways in which people experience oppression and privilege.

As important as intersectionality is, even the CEDAW Committee can forget the significance of it. For example, one of the white female members of the CEDAW Committee during a reception put on by a NYC organization, as articulated by Dike, declared that “black men got to vote before we did, they’re always putting the needs of black men ahead of women’s needs.” Dike points out that this statement is evident of the ways in which women of color can be erased from daily conversations, policies, and international bodies by white feminists. According to Dike, the statement was “[i]n some ways pitting race against gender, and never acknowledging that the loser in all of this would be women of color...but not even acknowledging that to me is reflective of a problem.”<sup>96</sup> Even a body that is supposed to look at *all* women can easily forget that not all women are the same. Furthermore, that women of color as constituents of both social constructs, race and gender, not only experience double the hardships, but also the difficulty to exist in a nation that has legally erased their complex realities. The persistent

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<sup>96</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

tendency to treat race and gender as mutually exclusive social factors leaves women of color in vulnerable and marginalized positions. The CEDAW Committee then becomes an example of Inderpal Grewal's critique of organizations that do not take into consideration localized identities.

These kinds of difficulties with organizing that is only gender-based, led the Human Rights Project to actively pursue a human rights legislation with an emphasis on both CEDAW and CERD. From the very beginning, HRP intended to pass CERD after their visit to Geneva in 2008. Hence, CERD, the issues of race, racism and racial discrimination has always directed their efforts. Dike explains, "If you look at the Urban Justice Center...all of our clients are poor, but they are also mostly people of color...women of color are the most likely to be living in poverty in New York City."<sup>97</sup> Thus, the strategy to draft legislation with principles and language from both global conventions is one that overcomes the critique of human rights as a regime that universalizes women. CEDAW and CERD, women and race, are not simply additive. "HRP realized [that] there is no way you could look at CEDAW without looking at CERD, so we proposed...that we do both..."<sup>98</sup> By looking at both, HRP acknowledges the interconnectivity of gender and race. In addition, HRP, unlike other US-based organizations, does not divide civil and political rights from economic, social, and cultural rights.

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<sup>97</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

<sup>98</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

## **Second Generation Rights: Economic, Social and Cultural**

Alongside the development of an intersectional approach, HRP has also worked to make second generation rights qualify as rights in the United States and New York City. Moreover, HRP, similar to and simultaneously different from the UDHR, merges all rights (first and second generation rights) as one. So, whereas the UDHR emphasizes first generation rights by devoting the first 21 articles to civil and political rights, HRP emphasizes second generation rights as necessary for people to fully enjoy a quality life.

As a brief overview, in the human rights field there are first, second and third generation rights. First generation rights consist of civil and political, for example, fairness in court of law, right to freedom of belief and speech, and right to political participation. Second generation rights—which the United States does not qualify as rights—consist of economic, social, and cultural rights, or societal rights, for example, fair wages and equal pay rights, the right to social security, and the right to an adequate standard of living, including housing and food. Finally, third generation rights are collective or “solidarity”<sup>99</sup> rights, which are rights that dependent on individual’s behavior, as well as negative and affirmative duties of the state—i.e. a right to a healthy environment, right to sustainability, right to social development, and indigenous peoples’ rights. Second and third generation rights often overlap. HRP’s work is contingent on first and second generation rights. The organization needs the base of civil and political rights, in order to move economic, social and cultural rights forward.

UJC was founded to organize around economic justice, and economic rights are at the forefront of their methodology. In 1996, HRP organized welfare recipients around

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<sup>99</sup>Oliver C. Ruppel. “Third-Generation Human Rights and the Protection of the Environment in Namibia.” (p.101-120). In ed. Horn & Anton Bösl, *Human Rights and the Rule of Law in Namibia* (March 2009). Available at <<http://www.kas.de/upload/auslandshomepages/namibia/HumanRights/ruppel1.pdf>>.

the welfare reform instituted by the Clinton administration. The welfare reform made it so that public assistance was no longer an entitlement, or a right. According to Dike, “people have a right to public assistance should they fall on hard times throughout their lives.”<sup>100</sup> Under welfare reform people could only claim public assistance for a period of five years throughout their lives, in addition, give something back in return by participating in some kind of government work program. Following the reform, Governor Giuliani’s administration instituted policies and tactics that discouraged people from claiming public assistance. People on welfare were and still are looked at as sub-human, as non-deserving of help, and as failures. Hence, HRP wanted to reestablish public assistance as a right, and make sure welfare recipients were not put off by the Giuliani administration.

HRP not only organized and helped welfare recipients, but also documented economic disparities, alongside other organizations, in New York City correlated to the violation of human rights in New York State and Federal welfare policies. The report entitled *Hunger is No Accident: New York and Federal Welfare Policies Violate the Human Right to Food*, was published in July of 2000 and written by Cybelle Fox, policy analyst of HRP at the time. The report focuses on the refusal of New York City government to guarantee Article 25 of the UDHR, the right to food, and its impact. One of the things that the report found was that “in December 1998, the United States Department of Agriculture (USDA) found that New York City welfare offices illegally denied needy applicants access to food stamps.” Another finding illustrated that women, immigrants and younger applicants were discriminated against by welfare workers. At the

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<sup>100</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

time “10 million people in the United States live in households that suffer from hunger, and 400,000 of them live in New York City alone.” As a result of shocking findings the report concluded by reiterating that welfare reform is not the answer. Even with welfare reform “at least three out of four families who leave welfare remain poor whether or not they work.” The report ends by issuing recommendations for New York City government, as well as the New York State and Federal governments. For example, one of the many recommendations to the City of New York was to “allow independent researchers to have access to all relevant case records in order to monitor the implementation and impact of welfare reform.”<sup>101</sup> Documenting economic disparities allows the public, as well as government personnel and organizations to know that economic rights are in fact rights, and that there are people suffering from the lack of economic rights in the United States. This demand for better documentation would become the core of the legislative goals of HRP.

Documentation continued to be crucial for HRP as their means to get the public, the government, and the international community to stop taking for granted the rhetoric of human rights in the United States, and start recognizing the realities of racial minorities in the United States, New York and New York City. HRP’s shadow report to the UN CERD Committee in 2008 documented all rights under the UDHR. The shadow report entitled, *Race Realities in New York City*, included many individual contributions and was edited by Ejim Dike. The Executive Summary starts off by saying that race disparities exist in New York City. “New Yorkers of color are less likely to graduate

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<sup>101</sup> All quotes in paragraph come from: Cybelle Fox. New York City Welfare Reform and Human Rights Documentation Project. (July 2000). “Hunger is No Accident: New York and Federal Welfare Policies Violate the Human Right to Food.” <http://www.hrpujc.org/publications.html>. p. 3-5

from high school, to have health care, or to own a home yet are more likely to live in poverty, to get arrested, to lack voting rights, or to live in foster care.”<sup>102</sup> Just in this sentence, HRP includes right to education, right to health care, right to adequate standard of living (housing and poverty), voting rights, and equal treatment rights. All of these fall under first and second generation rights. Additionally, six out of nine of the chapters explicitly deal with second generation rights. Some of the findings include: New York City schools disproportionate suspend poor and minority students, compared to their white counterparts; 80% of the City’s administrative and managerial jobs are held by whites; the infant mortality rate of African Americans (10.5) is almost twice as the city-wide rate (5.9); New York is the most segregated major metropolitan area for Latinos; Blacks and Latinos make up half of the general City population, but constitute 91 percent of the jail population; women of color are arrested more often than white women; 95 percent of domestic workers are people of color, 99 percent are foreign-born, and 93 percent are women.<sup>103</sup> The list can go on.

*Race Realities*, similar to the welfare report, developed recommendations for the City. Recommendations include, passage of HR GOAL, adoption of CERD’s definition of discrimination, gathering and disseminating disaggregate data, and development of a plan to comply with CERD.<sup>104</sup> Director of HRP Ejim Dike, when asked what the biggest obstacles for domestic human rights organizations are, states as the second obstacle the ingrained notion that economic and social rights do not qualify as rights. She says that,

When it comes to issues of work, the right to work, issues that have to do with your economic well-being in particular, there is this sense that we

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<sup>102</sup> The Human Rights Project-Urban Justice Center. (2007). “Race Realities in New York City.” Dike, ed. <http://www.urbanjustice.org/pdf/publications/racerealities.pdf>.

<sup>103</sup> *Race Realities in New York City*. p.6-9.

<sup>104</sup> *Race Realities in New York City*. p.9.



live in a society that there's equal opportunity for all, and we could all pull ourselves up from our boots straps, and if you're not doing well, it's because you don't work hard enough. So the problem is yours.<sup>105</sup>

Even though the liberal democracy that is the United States has neither signed the covenant on economic, social, and cultural, nor qualifies these rights as rights, HRP works to provide and guarantee New Yorkers with these rights.

### **Differential Consciousness**

*In a society where the good is defined in terms of profit rather than in terms of human need, there must always be a group of people who, through systematized oppression, can be made to feel surplus, to occupy the place of the dehumanized inferior. Within this society, that group is made up of Black and Third World people, working-class people, older people, and women.*<sup>106</sup>

As UJC recognized, one problem with liberal democracies is the lack of economic protection for masses of people. Chela Sandoval's differential consciousness helps to understand how HRP has responded to this challenge. This section asks how applicable her theory is to HRP. Sandoval's article *US Third World Feminism: The Theory and Method of Oppositional Consciousness in the Postmodern World* places US third world feminism and feminists at the center of her work. This allows her to theorize women-of-color strategies (which Sandoval was also a part of) in the United States, because these strategies formed a different conception of diversity and difference beyond neoliberalism. Sandoval's differential consciousness allows organizers to shift their strategies in order to be "reformist" at a particular moment, and more "revolutionary" at another moment.<sup>107</sup> Hence, differential consciousness is a strategy that allows organizations like HRP to be

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<sup>105</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

<sup>106</sup> Audre Lorde. (1984). "Age, Race, Class, and Sex: Women Redefining Difference." In *Sister Outsider* (p.114-123). New York: The Crossing Press. p.114.

<sup>107</sup> Chela Sandoval. (1991).

reformist and radical. However, being able to just reform a racial discrimination law does not mean that the broader picture is not transformative and radical. Moreover, Sandoval furthered articulated a social movement, a praxis “capable of speaking to, against, and through power.”<sup>108</sup> Sandoval’s work serves as an intervention to oppression, racism, class bias, and homophobia.

HRP, like US third world feminists, exists within and outside a liberal democracy. The former is due to its location in the United States, the latter to their use of a human rights framework. So, what exactly is liberal democracy and what makes it problematic? In its most formal definition liberal democracy is “a political system marked not only by free and fair elections, but also by the rule of law, a separation of powers, and the protection of basic liberties of speech, assembly, religion, and property.”<sup>109</sup> In addition, the United States concept and practice of liberal democracy and capitalism have become almost synonymous. Western, liberal notions of democracy are limited. Under so-called democracies, the people with capital and power are considered the most important citizens. Hence the construction of citizenship is based on

gender-, race-, class, and sexually specific contours. Because, during moments of crises under capitalism, citizenship is defined through figures of the (white) consumer and the taxpayer, and because this racialized, masculinized figure is the basis of a series of exclusions in relation to citizenship...understanding the deployment of these categories is crucial to rethinking democracy.<sup>110</sup>

Hence, a liberal democracy seemingly offers rights and equality, but a deeper and feminist lens sheds light on the fact that Western liberal democracies do in fact, as Audre

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<sup>108</sup> Chela Sandoval. (2000). *Methodology of the Oppressed*. Minneapolis, MN: University of Minnesota Press.

<sup>109</sup> Fareed Zakaria. (Nov/Dec 1997). “The Rise of Illiberal Democracy.” In *Foreign Affairs* 76(6): 22-43. p.22.

<sup>110</sup> M. Jacqui Alexander and Chandra T. Mohanty. (1997). In Kum-Kum Bhavnani, ed, (2001) *Feminism & ‘Race’* (p.492-515). New York: Oxford University Press. p.509.

Lorde asserts, care more about profit than human needs. “Together, these myths constitute a rhetoric of freedom and equality that consolidates the very oppressive practices and values of capitalist domination.”<sup>111</sup> Thus, liberal democracy becomes problematic for domestic human rights organizations advocating for substantive equality precisely for the “groups of people made surplus.”

What are HRP’s different strategies to attain substantive equality and human rights in New York City? The first thing HRP did was talk to advocates who worked with people of color, poverty and/or women’s rights. This strategy was used in order to learn what these constituents wanted, what they think the problem is, and how it can be remedied. This allowed HRP to listen to those most vulnerable and take into consideration what they think. As a result, people said that they needed more access to policy-making. “[I]f people most affected had more access to policy making, to analyzing policies and proposing solutions, they [government] would better craft policies that served people better, [served] New Yorkers better.”<sup>112</sup>

Second, HRP looked at CEDAW and CERD and pulled out principles and language from them, in order include them in a human rights legislation, eventually known as HR GOAL. HRP pulled the definition of discrimination from both conventions.

The definitions go as follows:

The term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has *the effect or purpose* of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of

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<sup>111</sup> Ibid.

<sup>112</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.<sup>113</sup>

The term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has *the purpose or effect* of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.<sup>114</sup>

HRP emphasizes the fact that discrimination on the basis of gender or race does not have to be on purpose. In other words, policies that are not intentionally discriminatory may still have the effect of being so. As Dike declares, the definitions “terms policies that have a disproportionate negative impact on a group as discriminatory.” She continues to say that “we have very few policies, if any, that are explicitly in their intention to discriminate...Actually what happens...is that policies have a negative impact on groups of people because those people weren’t at the table when those policies were designed.”<sup>115</sup> Hence, HRP also pulled accountability mechanisms from CEDAW and CERD, such as the collection of disaggregate data. Furthermore, HRP created avenues for public participation within the HR GOAL.

Third, HRP built a coalition of organizations in order to push the legislation in New York City Council. HRP knew that if they “proposed it [HR GOAL], we would have been laughed out of City Hall.”<sup>116</sup> Hence, a wide coalition of groups supporting the passage and implementation of HR GOAL, a base to push the legislation, was just one of HRP’s strategies. The New York City Human Rights Initiative (NYCHRI) was formed in

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<sup>113</sup> Convention on the Eliminations of All Forms of Discrimination Against Women. (Adopted 1979). Text available at: <<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article>>. *Emphasis mine.*

<sup>114</sup> International Convention on the Elimination of All Forms of Racial Discrimination. (Adopted 1965). [http://www.unhchr.ch/html/menu3/b/d\\_icerd.htm](http://www.unhchr.ch/html/menu3/b/d_icerd.htm). *Emphasis mine.*

<sup>115</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

<sup>116</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

mid-2002. NYCHRI now has over 100 coalition members, including coordinating organizations, the Women of Color Policy Network, the New York Civil Liberties Union, and the American Civil Liberties Union. HRP is the lead coordinating organization of NYCHRI.

As their fourth, final, and most current strategy, HRP is trying to redirect their energy to focus on inside-outside relations between city agencies staff and coalition members. For Dike, “in addition to building a strong base, we have to put in a little more work in getting the [attention of] and buy in of public officials...we need people on the inside to understand what we’re trying to do and advocate for [it].”<sup>117</sup> HRP realizes that their ultimate goal of substantive equality in New York City will not be accomplished until all members of the community realize themselves that substantive equality will actually create a more just affective and effective way of governing.

HRP is employing strategies that enables them to both follow traditional United States culture, i.e. legislation for reform, and simultaneously go outside of it. According to Dike, “[T]here are many different strategies and you have to employ many different strategies to achieve a goal. You have to realize that it could be very long term strategies and figure out what your different steps are.”<sup>118</sup> HRP lays emphasis on particular parts of their strategies when they see fit. The flexibility of Sandoval’s differential consciousness allows HRP to have multiple ways in which to achieve one goal. It is precisely the flexibility that allows HRP to reconsider the ways in which they go about mobilizing for the passage of HR GOAL. One thing remaining constant is HRP’s ability to reclaim

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<sup>117</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

<sup>118</sup> Ejim Dike. Director of Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 16 Jan 2009.

citizenship for the most marginalized people in New York City, by making them the centerpiece of their work. HRP through their different tactics address issues of power and hierarchy as a means to craft a new political culture; one that depends on equality and human rights.

### **(Re)Envisioning Human Rights**

Like any other human rights organization, HRP faces obstacles; however, unlike international and sometimes even domestic human rights organizations, HRP is aware of difference and power. Grewal's critiques of human rights do not hold true. First, even if human rights is part of the dominant knowledge of the North, HRP concerns itself with making sure that second generation rights, a non-North knowledge, is on the table at all times. Furthermore, although HRP resides in the United States does not mean that their campaign is broad. In fact, HRP makes it their mission to not only include the most vulnerable of people, but to make them the center of their work. Moreover, intersectionality is a word quite familiar to HRP. They take into account how race, class and other social factors intersect with gender, reiterating that not all women are the same, and that not all women are autonomous. HRP's methodology and praxis allows them to overcome the problems with universal human rights.

HRP has succeeded in (re)envisioning universal human rights that are in fact inclusive to all, human rights that allow for difference and intersectionality, one that does not take hegemonic knowledge of the North as fact. Human rights that allow for global principles, structures, standards and norms, and applies them at a local level without leaving anything out. This new human rights frame, is one which calls for a new way of governing, an effective way, a type of governing that does not push those deemed non-

citizens or second class citizens to the margins, while those with power make all the decisions and maintain the status quo.

Will New York City emerge as one the most transformative cities in the United States by means of passing HR GOAL? The questions that become pertinent are: why has the passage of HR GOAL not occurred yet? Is the content of the legislation problematic? or have the procedures of New York's liberal democratic system not allowed it to pass? Is the legislation too radical, or is it a matter of resources? Basically, what are the contributing factors to the fact that HR GOAL has not become a New York City law? What does that say about New York City and the United States as a whole? Is there hope?

# 4

## **What the Future Holds:** **Human Rights Legislation in New York City**

Chapter Three illustrated the multi-level strategies HRP has taken and continues to take in order to apply human rights principles at the local level via legislation. This chapter hones in on the human rights legislation, HR GOAL, and analyzes it as a way to examine how HRP's primary strategy is working itself out on the ground. HR GOAL was introduced to City Council on March 12, 2008. HR GOAL stands as the "within the system" strategy, as it uses a method—a change in the law—that is accepted in the United States. However, it is also "outside the system", because the legislation goes beyond the traditional civil rights approach of the United States. This chapter examines the content and history of this legislation, including the factors hindering HR GOAL from passing. It makes this assessment within the context of New York City's governmental structure—the Mayor, the Speaker of the City Council, and City Council as a whole—in order to evaluate the ways the municipal government has and continues to play a role in stalling HR GOAL, and particular proposed legislations. This chapter then compares the New York City Human Rights Law (NYCHRL) and HR GOAL in order to answer whether HR GOAL is necessary in New York City. The chapter analyzes where the differences lie, differences that result in NYCHRL being accepted, but not HR GOAL, as of yet. Finally, the chapter concludes with what I see as the future of HR GOAL.



## **New York City Government**

The following section is an explanation and analysis of New York City Government. It describes and summarizes the roles that the Mayor and the City Council play. Furthermore, it explains the links between New York City Government and how a bill can become a law in New York City. The section concludes with City Council Member Tony Avella (Democrat-District 19) and HRP Program Coordinator Tatiana Bejar's words on whether or not New York City government is working adequately, and democratically.

The relationship between the Mayor and City Council are laid out in the New York City Charter and Administrative Code, which are foundations of New York City Government. The Charter

establishes the basic form of organization and administration for New York City government. It sets forth the structure of the city government and the manner in which it operates... it distributes powers and establishes duties of the city's officers, departments and agencies.<sup>119</sup>

New York City is based on a strong mayoral system. This means that the mayor plays an important and vital role in city politics and government. The Mayor of the City of New York is head of the executive branch. The Mayor's office is responsible for all city services and enforces all city and state laws within New York City. The current mayor is Michael Bloomberg, who is now in his second term. Bloomberg, a lifelong Democrat, switched to the Republican Party in 2001, prior to seeking the mayor position. He then left the Republican Party in 2007 to join the Independent Party.

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<sup>119</sup> Public Access Portal to the Laws of the City of New York. "New York City Charter." <http://24.97.137.100/nyc/charter/entered.htm>. (Accessed April 14, 2009).

The legislative branch of New York City is the City Council. City Council is the law-making body, comprised of 51 members who oversee and represent 51 different districts within the five boroughs. “The Council monitors the operation and performance of city agencies, makes land use decisions and has sole responsibility for approving the city's budget.” The city council is supposed to provide the checks and balances of New York City government. However, the checks and balances remain skewed precisely because of the strong mayoral system. In addition to the Mayor, the next most powerful player is the Speaker of the House, who “is elected by the Council Members and is primarily responsible for obtaining a consensus on major issues.”<sup>120</sup> The current Speaker is Democrat Christine C. Quinn, who presides over District 3 in Manhattan. Speaker Quinn “is the first woman, openly gay, and Irish Speaker of the New York City Council.”<sup>121</sup> The fifty-second member of city council is the Public Advocate, who presides in Stated Meetings and votes in cases of ties. The current Public Advocate is Betsy Gotbaum. Currently in City Council there are three members of the Republican Party, the rest are Democrats. Within the City Council there are forty-three committees, such as Aging, Civil Rights, and Women’s Issues.

In addition to the committees, City Council has a Black, Latino, and Asian Caucus comprised of twenty-five of the fifty-one members, only one away from the majority. This Caucus “convenes to make sure that issues of particular concern to the City's Black, Latino and Asian communities are being addressed through the legislative, oversight and budgetary powers of the City Council.” However, much like Council Members the Caucus does not have the legislative and authoritative power the Mayor

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<sup>120</sup> Quotes come from New York City Council. “About the City Council.” <http://council.nyc.gov/html/about/about.shtml>.

<sup>121</sup> New York City Council. “Speaker’s Page.” <http://council.nyc.gov/d3/html/members/home.shtml>.

does, even with an almost-majority vote. In addition, the presence of a Black, Latino, and Asian Caucus does not mean that its members share the same values, beliefs and ideologies. Hence, the Caucus should not be mistaken for a collective voice, but a space for conversations about the Black, Latino and Asian communities.

A bill becomes a law by moving successfully through City Council and signed by the mayor. However, a proposed legislation can last years just within City Council and never reach the mayor's desk. The reasons for this vary, but one of the reasons is that Council Members will only place priority in a bill if it is known that the Mayor supports, at the very least, the idea or concept of it. The steps go as follows:

- 1) A bill is filed by a Council Member with the Council's law clerk.
- 2) The bill is introduced into the Council during a Stated Meeting and referred to the appropriate committee.
- 3) The appropriate committee holds a public hearing.
- 4) The committee debates and amends the bill, if appropriate.
- 5) The committee meets and votes on the final version of the bill.
- 6) If passed in committee, the bill is sent to the full Council for debate and a final vote.
- 7) If the Council vote is affirmative by a majority vote (26 members), the bill is sent to the Mayor. The Mayor can do either of two things, sign it or veto it.
  - a. If s/he signs it, it becomes a local law automatically.
  - b. If s/he decides to veto it, s/he must send it back to City Clerk with objections by the next Stated Meeting. If thirty days elapse, the bill becomes a local law automatically. After receiving it the Council has thirty days to override the veto or it can also choose to re-pass the bill (with Mayor's objections taken into consideration) by a vote of two-thirds (34 members) of all Council Members. If so, the bill becomes a local law.

New York City, as Council Member Tony Avella explains, has a very powerful Mayor, or executive branch, and a weak City Council, or legislative branch. Council Member Avella declares that New York City

probably has one of the more powerful mayor roles than other cities have across the country...That's why it's even more important that the city council exert itself as much as possible, which we don't...Almost everything that goes on in the city is due to mayoral power. For example,

the city agencies: the city council has no direct control over them. We can conduct oversight, which we don't unfortunately, but the mayor has control of every city agencies, all employees work for the mayor.<sup>122</sup>

Hence, according to Council Member Avella, City Council needs to exert more legislative and oversight power in order to balance out and check the Mayor's power. The problem becomes worse when the Speaker of the House is willing to follow the Mayor's politics. According to Avella, "The rules and procedures of city council are there, but somebody has to enforce them. It all comes down to leadership."<sup>123</sup> Thus, in order for City Council to fulfill its mandate, the Speaker of the House must be willing to enforce it. According to Tatiana Bejar of HRP, New York City Government "is not a democracy." It is her opinion that "Many Council members do not represent the will of the people; if Council Members follow the procedures in an honest way, [then New York City] will be a very advanced democracy."<sup>124</sup>

So, is the problem that the Mayor has too much power, or that City Council has failed to exert its own power? Even though New York City's system is that of a strong mayor, City Council does have a certain type and amount of power. Council Members have a responsibility to their constituents to make the best decisions on their behalf; if this is not being done the fault also lies on City Council Members. The procedures and ruled of New York City have it so that City Council can balance the strict dictatorship of one person; however when City Council Members, including the Speaker of the House, are willing to follow the Mayor's decision, they are failing to do their job.

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<sup>122</sup> Tony Avella. New York City Council Member (D-19). Interview Conducted by Yalidy Matos. 12 Jan 2009.

<sup>123</sup> Tony Avella. New York City Council Member (D-19). Interview Conducted by Yalidy Matos. 12 Jan 2009.

<sup>124</sup> Tatiana Bejar. Program Coordinator for the Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 9 Mar 2009.

**New York City Human Rights Law**  
**Administrative Code of the City of New York Title 8**

The way in which we in civil society find out whether a law is working is to measure how well it has accomplished its goals. New York City has an existing human rights law entitled New York City Human Rights Law (NYCHRL). This law is Title 8: Civil Rights Chapter 1-7, of the City's Administrative Code. If passed, HR GOAL would amend the city's Administrative code, a collection of the law, codes, and ordinances of the City of New York. The following section is an analysis of the NYCHRL and how well it has worked to prevent and prohibit discrimination in New York City. HRP decided to propose HR GOAL because it assessed that the NYCHRL is not working. The NYCHRL is measured by way of using reports from the Civil Rights Committee of the New York City Bar Association and the Anti-Discrimination Center of Metro New York, Inc.

The NYC Bar Association emphasizes that "the public good remains one of the Association's highest priorities." Following their mission to promote the interests of the public, the Civil Rights Committee embarked on a mission to report the adequacy and efficiency of the Human Rights Commission and Law Department, the two city agencies with the authority to enforce the NYCHRL. The Anti-Discrimination Center of Metro New York is a non-profit organization that "works to prevent and remedy all forms of discrimination in housing, employment, education, and public accommodations through advocacy, litigation, education, outreach, monitoring, and research."<sup>125</sup> The report is written by Graig Gurian, Executive Director of the Anti-Discrimination Center of Metro New York. Director Gurian is also Scholar-in-Residence at Fordham Law School's Stein

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<sup>125</sup> Anti-Discrimination Center. "About Us." <http://www.antibiaslaw.com/about-us>.

Center for Law and Ethics and Adjunct Associate Professor of Law at Fordham Law School. Gurian was the principal drafter of the 2005 Local Civil Rights Restoration Act. (The law is explained in the following section.) Both of these reports have credibility, as they overlap in the findings about the adequacy of the NYCHRL and the Human Rights Commission.

The NYCHRL is Title 8 of the New York City Administrative Code, “in its current form [the Code] was reenacted by Chapter 907 of the Laws of 1985.”<sup>126</sup> It was significantly revised in 1991 and amended six times since then, most notably in 2005 by Mayor Bloomberg. The amendments of 1991 are under Local Law 39 of 1991. These amendments include provisions stronger than those contained in federal law, such as,

the scope of reasonable accommodation and other disability protections; the scope of vicarious liability for acts of employees and agents; the circumstances under which punitive damages are imposed; the imposition of individual liability for one’s own discriminatory acts; the allocation of burdens in disparate impact cases; the scope of public accommodations coverage; and a limitation on housing units excluded from coverage under the statute.<sup>127</sup>

These amendments take the NYCHRL from “voluntarist” efforts in the 1950s and 60s to a more litigation-based legislation. This change recognized, among other things, that

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<sup>126</sup> Public Access Portal to the Laws of the City of New York.

<http://24.97.137.100/nyc/AdCode/entered.htm>. (Accessed April 14, 2009).

The site was developed by the New York Legal Publishing Corporation, [www.nylp.com](http://www.nylp.com);

It appears that no one has a definitive date of when the Administrative Code was first enacted. The Code and the Charter is said to have been in place since the consolidation of the City in 1898; however, the current form of both the Charter and Code does not go back to 1898. In other words, it has been amended various times after 1898.

<sup>127</sup> Association of the Bar of the City of New York. Committee on Civil Rights. (December 2001). “It Is Time To Enforce The Law: A Report on Fulfilling the Promise of the New York City Human Rights Law.” [http://www.nycbar.org/Publications/reports/show\\_html.php?rid=9&searchterm=It%20is%20time%20to%20enforce%20the%20law](http://www.nycbar.org/Publications/reports/show_html.php?rid=9&searchterm=It%20is%20time%20to%20enforce%20the%20law). (Accessed April 28, 2009). p.4.

discrimination had become more subtle, and that remedy required not mediation, but litigation.

The NYCHRL under its current form protects against actual or perceived discrimination based on sixteen categories. Categories include race, color, creed, ages, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, partnership status, any lawful source of income, status as a victim of domestic violence, status as a victim of sex offenses or stalking, lawful occupation, “whether children are, may be or would be residing with a person or conviction or arrest record.” The law is overarching in that it protects a lot of different groups. For people with intersectional identities this, in theory, is a good thing. However, given the way in which law works in the United States, most individuals have to choose a category from which to base a complaint. For example, the discrimination that women of color face is not simply additive (gender- plus-race discrimination), it is specifically intersectional. In other words, women of color face a specific kind of discrimination that neither white women nor men of color face. NYCHRL is yet to be aware of the specific and different faces of discrimination, particularly facing women of color.

As it stands the New York City Commission on Human Rights is the city agency responsible for enacting the NYCHRL. It has the “power to eliminate and prevent discrimination from playing any role in actions relating to employment, public accommodations and housing and other real estate.”<sup>128</sup> Only in these sectors does the NYCHRL apply. It does not cover all economic rights. Also, the City deals with

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<sup>128</sup> The New York City Human Rights Law: Administrative Code of the City of New York Title 8, Chapter 1. §8-101.

economic issues as services, rather than rights. The mission and functions of the New York City Commission on Human Rights are to:

- 1) Foster mutual understanding and respect among all people in New York City;
- 2) Encourage equality of treatment for, and prevent discrimination against, any group or its members;
- 3) Cooperate with governmental and non-governmental agencies; and
- 4) Make investigations and studies in order to aid its general purposes.

According to the New York City's Commission on Human Right's website, this law in its current form is "one of the most comprehensive civil rights laws in the nation."<sup>129</sup> Yet civil and human rights groups have found that the law and its applications have not met its goals. According to the Anti-Discrimination Center, "the simplest way to understand the problem is to recognize that there is not a single civil rights advocate in New York City who believes that the City Human Rights Commission is doing its job."<sup>130</sup>

In December 2001, the Committee on Civil Rights of the Bar Association of New York City wrote a report on the NYCHRL and the Commission. The report entitled, *It is Time to Enforce the Law: A Report on Fulfilling the Promise of the New York City Human Rights Law*, is a thorough documentation on how well (or not) the Commission and the Law Department have done their job to implement and enforce the NYCHRL. There are seventeen findings and observations in the report. Seven of these are laid out and analyzed below. These particular seven findings are relevant to the thesis as a whole. They point out findings which HRP, and other organizations have found as well. In addition, most of the findings are addressed in HRP's proposed human rights legislation.

First and foremost, the Commission is underfunded and understaffed and has, in fact, never been adequately funded. In FY91, there were 152 city-funded employees

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<sup>129</sup> NYC Commission on Human Rights. <http://www.ci.nyc.ny.us/html/cchr/home.html>.

<sup>130</sup> Anti-Discrimination Center. "NYC Human Rights Law: Administrative Enforcement." <http://www.antibiaslaw.com/nyc-human-rights-law/administrative-enforcement>.



within the human rights agency. By FY01, there were 36 city-funded employees. In other words, there was a 76 percent cut in city-funded employees from 1991 to 2001. Most strikingly, in FY04, the Commission only budgeted for 23 employees, an 85 percent cut. The budget cuts post-9/11 makes sense; however, it is precisely during this time that the non-white population needs the most protection. Post-9/11 became a heightened time to discriminate against those that “look” like they pose a threat to the country. Meanwhile, as the number of employees decreased, the case load continues to increase. Moreover, in FY02 the city funding was \$3,239,139 due to a 20 percent budget reduction. In FY09, city funding was down to \$2,663,463.<sup>131</sup> This figure is “less than a penny a New Yorker per week.”<sup>132</sup> Budget cuts continue to be issued. Then again, it may be that employees are not necessary if “most of the Commission activity does not involve penalizing discriminators and compensating victims.” Aside from the difficulty of getting a law passed, another problem arises regarding how much monetary resource the City is willing to allot. The latter problem becomes pertinent when talking about HR GOAL.

The second finding reveals that the Commission’s activity does little penalizing of discriminators and compensating victims of discrimination. In FY00 50.7 percent or 285 of 562 cases were closed, a little over half. The reasons include withdrawals from the complainant without benefits, failure to locate the complainant, and “administrative convenience” dismissals (which includes closures made at a complainant’s request, closure due to failure of a complainant to cooperate, and cases where further investigation was deemed unnecessary and not beneficial to public interest). In addition, 30.2 percent

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<sup>131</sup> New York City Commission on Human Rights Annual Report (2002 and 2008, respectively). <http://www.nyc.gov/html/cchr/html/annreport.html>.

<sup>132</sup> Graig Gurian. (2003). “At the Crossroads: Is there Hope for Civil Rights Law Enforcement in New York City? A Report from the Anti-Discrimination Center of Metro New York, Inc. <http://www.antibiaslaw.com/sites/default/files/files/crossroads.pdf>. (Accessed April 28, 2009). p.4-5.

or 170 cases were closed due to no probable cause (NPC). This means that the case did not have sufficient evidence to justify probable cause (PC) of discrimination. In other words, in 2000, 80 percent of cases were closed. Furthermore, when more than half of the cases brought in a year are closed, there exists a major problem. Although many cases are closed because of the complainant (who cannot be found, is not cooperating, or requests for a closure), it does not mean that these people are not being discriminated against. It just means that a better effort on the part of the Commission and the Law Department needs to be made to make sure complainants do not feel threatened by the system.

This observation leads right into the third finding: the Commission does not have strategy to prevent and eliminate discrimination. First, the Commission does not have an adequate mechanism to identify the scope of the problem. It relies on the number of cases of discrimination brought to the Commission as a way to measure the extent of discrimination that goes on city-wide. This is problematic because not everyone knows their rights as residents of New York City. Moreover, the Commission, as well as the NYCHRL, is not highly publicized and well known in New York City. Hence, only a selective group of people bring complaints to their attention, while thousands are being discriminated against daily. Second, the Commission does little to create a deterrent. Due to the fact that penalties are rarely enforced and half of the cases on average are closed, discriminators do not see the Commission or the NYCHRL as serious threats. The Commission and its actions do not create an atmosphere where discriminators feel at risk if they were to discriminate based on the sixteen protected categories.

Fourth, the Commission believes mediation is independent of litigation, and it states that its focus is, in fact, on mediation. Again, a focus on mediation only serves to

downplay the severity of discrimination. Mediation needs to be a part of litigation, not independent of it. Mediation provides the complainant with ways to deal with what has happened to him/her. However, there is only so much one can mediate when it comes to discrimination based on race, gender, sexual identity and so forth. The bottom line is that discrimination hurts, and mediation alone will not ease the pain or, more importantly, change the conditions that create the inequity. Additionally, sometimes the complainant or victim of discrimination does not want to face the other party in a mediation process because it is too painful or simply because s/he is scared of retaliation given the genuine power imbalances. Mediation can work to undercut the seriousness of the law and Commission. Part of the debate with mediation as a resolution is whether it denies people access to the power of government, and thus the law, or whether it provides people with choices. Thus, both mediation and litigation are needed aspects because the two together provide a diverse population more than one way of handling discrimination cases. A sole emphasis and focus should not be just mediation.

Fifth, the report finds that few investigations are done by the Commission. As stated before, more than half of the cases annually on average are closed when individual complaints are made. The Commission can engage in eliminating and preventing discrimination more effectively through initiating investigations on their own, without a complaint. These cases have much more chance of being successful than those cases brought by individuals, because the Commission takes it upon itself to articulate that there might be discrimination in a particular organization or business. In addition, the Commission has resources available such as census and organizational data, which may or may not be available to individuals. At the end of the day, the Commission knows

more about the law than any individual does. However, the Commission does very few investigations on its own; it waits until a complaint is made. Hence, in this regard the remedies provided by the law are reactive, rather than proactive.

In addition to not doing investigations, as the sixth critique, the Commission only engages in minimal publicity about its anti-discrimination efforts. Minimal publicity allows for more discrimination, but no real mechanism to eliminate it or prevent it. If “[m]ost of the Commission’s current effort (full 80%) is expended on administrative closures, withdrawals without benefits, and ‘no probable cause’ determinations,”<sup>133</sup> then what seems to be the real purpose of the Commission is to deter individuals from bringing a complaint.

Finally, the Commission does not have a sufficient and efficient data tracking mechanism. Furthermore, no analysis is done internally to assess the cases and their meanings. The long-term goal and the whole point of the Commission and the NYCHRL is to prevent discrimination from happening. However, when the data is not analyzed in order to assess questions such as what is working, what is not working, where is discrimination happening, who are the groups most vulnerable, what other ways can the Commission provide protection, then what seems to be the purpose? Without answers to these questions, discrimination will continue to permeate every sector of New York City life. It is logical and appropriate for HRP to want an effective anti-discrimination law.

The amendments of 2005 called “Local Civil Rights Restoration Act of 2005” (LCRRA)<sup>134</sup> work to address the issues stated above. However, prior to the LCRRA of

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<sup>133</sup> Association of the Bar of the City of New York. p.14.

<sup>134</sup> Human Rights Law No. 85: Local Laws of the City of New York. (2005).  
[http://www.nycouncil.info/pdf\\_files/bills/law05085.pdf](http://www.nycouncil.info/pdf_files/bills/law05085.pdf).

2005, the LCRRA of 2003<sup>135</sup> was introduced by Council Member Gale A. Brewer on April 30, 2003. The bill died at the end of the session on December 31, 2003. Hence, the proposed bill Int. 22 was introduced in Primary Sponsor Gale A. Brewer on February 4, 2004. The main difference between the 2003 and 2005 versions is that the 2003 version wanted to amend the meaning of marital status to read: “The term ‘marital status’ refers both to the marital status of a person in isolation, and to the marital status of a person in relation to another person.” Int. 22-A does not mention marital status; instead, it adds a new term “partnership status.” Int. 22 was sent to the Committee on General Welfare that same day, and the Committee held a Committee hearing on September 22 of 2004. Then, on April 2005 the Committee held another hearing. On August 2005, the Committee proposed amendments to the legislation and held yet another hearing. On that same day in August, the Committee approved the amendments, the bill became Int. 22-A and the Committee also passed the legislation. The bill was then sent to the Council at large for all the Council Members to vote on it. The Council approved it on September 15, 2005, and sent it to the Mayor. The Mayor held a hearing of his own, on October 3, 2005, and signed it on the same day. Hence, it took one year and six months for the LCRRA to become local law in New York City.

As the principle legislative drafter, Graig Gurian and the coalition of over forty civil rights and allied groups were able to do six main things to the pre-existing NYCHRL.

- 1) They re-emphasized that the NYCHRL does not have the same limitations that similar State and Federal statutes have. It states that the provisions “shall be construed liberally for the accomplishment of the uniquely broad and remedial purposes thereof, regardless of whether federal or New York State

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<sup>135</sup> Int. 0439-2003.  
<http://webdocs.nycouncil.info/textfiles/Int%200439-2003.htm?CFID=101695&CFTOKEN=72456464>.

civil and human rights laws...have been so construed.”<sup>136</sup> This amendment protects against conservative city judges. Other provisions seek to strengthen the litigation process by protecting litigants and encouraging lawyers to take cases.

- 2) The Restoration Act of 2005 added a stronger protection against retaliation of those that file a case.
- 3) These amendments added an incentive for lawyers to take on cases by providing attorneys fees even if a case is settled.
- 4) The civil penalties were increased from \$50,000 to \$125,000 for those the “Commission finds [have] engaged in an unlawful discriminatory practice.”<sup>137</sup> Moreover, for those that the Commission finds that did so intentionally, the dollar amount of civil penalties increased from \$100,000 to \$250,000.
- 5) The amendments require the Commission to do “complete a thorough investigation of the allegations.”<sup>138</sup> This amendment was opposed by the Commissioner of Human Rights Patricia L. Gatling. However, it was able to pass.
- 6) Finally, “partnership status” was added as a protected category under NYCHRL.<sup>139</sup>

Overall, the 2005 amendments to NYCHRL were substantial and a victory. The Restoration Act was successful in amending the NYCHRL. So, how is it that these amendments, initially opposed by the Mayor, were able to become a law? First let’s look at the leadership. The primary sponsor of the bill was Gale A. Brewer, a Democrat who presides over District 6 in Manhattan (Upper West Side and Clinton). Council Member Brewer is highly popular. She has served as Council Member since 2002, when she won 86 percent of the votes. In addition, Council Member Brewer was re-elected in 2005 with over 80 percent of the votes. Council Member Brewer chairs the Committee on

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<sup>136</sup> Human Rights Law No. 85. § 8-130

<sup>137</sup> Ibid. § 8-126(a)

<sup>138</sup> Ibid. § 8-109(g)

<sup>139</sup> Facts also came from:

Andy Humm. (June 2005). “Civil Rights Restoration Act: Opposed by Mayor, Stalled in Council.” *Gotham Gazette*. <http://www.gothamgazette.com/article/civilrights/20050608/3/1435>. (Accessed March 28, 2009).

Technology in Government. In addition, Council Member Gale Brewer serves in the Finance; General Welfare; Higher Education; Housing & Buildings; Mental Health, Mental Retardation, Alcoholism, Drug Abuse & Disability Services; Parks & Recreation; and Waterfronts Committees. She also co-chairs the Manhattan Delegation and sits on the Council's Steering Committee and the Budget Negotiating Team. Brewer has passed laws such as protecting domestic workers and legislation requiring City publications to be made available via the Web. Evident from her work, Council Member Brewer is an active member in city government. Moreover, Brewer was ranked 10<sup>th</sup> in HRP's *New York City Watch: 2008 Human Rights Report Card*. The report card assesses Council members on their performance "in protecting and advancing the basic human rights of New Yorkers in 2008."<sup>140</sup>

Additionally, the bill was under the Committee on General Welfare (which CM Brewer serves) chaired by Council Member Bill de Blasio. Council Member de Blasio is Democrat presiding over District 39 in Brooklyn. As the highest-ranking official in the New York/New Jersey region for the U.S. Department of Housing and Urban Development, Council Member de Blasio was key in directing federal funding for affordable housing, senior citizen housing and economic development in the region. In addition, de Blasio managed Hillary Rodham Clinton's successful run for U.S. Senate. Council Member de Blasio also serves the Education; Environmental Protection; Finance; Technology in Government Committees. Finally, the bill was sponsored by 40 Council Members and the Public Advocate when it was signed into law by Mayor Bloomberg.

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<sup>140</sup> Ejim Dike, ed. (Dec 10, 2008). *New York City Council Watch: 2008 Human Rights Report Card*. For copies contact HRP-UJC or [councilwatch@hrpujc.org](mailto:councilwatch@hrpujc.org).

Second, assessing the role of civil society in pressuring city government and the Mayor provides crucial information for HRP and their strategic decisions. The bill was supported by over 40 organizations, including the Asian American Legal Defense and Education Fund, Disabled in Action, Habitat for Humanity-NYC Chapter, Lambda Legal, the New York City Civil Liberties Union, the Puerto Rican Legal Defense and Education Fund, the New York City Bar Association and the Brennan Center.<sup>141</sup> One of the strategies of both the Anti-Discrimination Center and Council Member Brewer was to expand the coalition of organizations and to re-draft the bill in order to get it passed and signed by the Mayor. When Andy Humm interviewed Council Member Brewer in 2003 about the LCRRA of 2003, Brewer said, “The administration doesn't love our bill, but we're going to plow ahead. I'm working to expand the coalition and hope to pass it early next year.” Mr. Humm paraphrased, “Brewer says, we’re trying to get a bill that we can get passed.”<sup>142</sup> The coalition was significant in regards to media and publicity of the bill. Civil society pressured Council Member Brewer and City Council to take the bill seriously. In addition, the bill was drafted by a non-profit organization representing civil society. Furthermore, Mayor Bloomberg singled out “the support of District Council 37, the municipal employees’ union, as important and stood with its president, Lillian Roberts, at the bill signing.”<sup>143</sup> The persistence and determination of Council Member Brewer was the most instrumental factor to the passage of LCRRA of 2005.

The 2005 amendments were remarkable accomplishments as they enforce the litigation side of the NYCHRL; however, the new legislation does little to enforce several

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<sup>141</sup> Gale A. Brewer. (Oct 3, 2005). “Intro 22-A Signed into Law!” <http://www.antibiaslaw.com/nyc-human-rights-law/legislative-history/local-civil-rights-restoration-act-2005>. (Accessed April 28, 2009).

<sup>142</sup> Andy Humm. (June 2005).

<sup>143</sup> Andy Humm. (Oct 2005). “City Strengthens Human Rights Law.” *Gotham Gazette*. <http://www.gothamgazette.com/article/civilrights/20051006/3/1609>. (Accessed April 25, 2009).



important non-litigation factors such as, the definition of discrimination as intentional *and* unintentional; data collection; accountability; and public participation. Introduction 731-HR GOAL works to fill in the gaps the LCRRA of 2005 left. The human rights language, emphasis and principles are powerful in part because they draw on previous legislative progress and the experience of civil society in working in the arena of legislation and its implementation.

**Introduction No. 731:**  
**Human Rights Government Operations Audit Law**

This examination shows that in New York City, one of the most diverse places in the United States, a working and effective anti-discrimination law does not exist and is urgently needed. The following section describes the Human Rights Project's legislation, Human Rights GOAL, reintroduced in City Council on March 12, 2008, as an alternative and additional law.<sup>144</sup> The law is alternative in that it is a non-litigatory way of making city government's agency services accountable for preventing discrimination, rather than waiting for it to happen. Moreover, the law works as an additional law to the NYCHRL in order to make the process of identifying and eliminating discrimination better, in which factors such as public participation and data collection becomes part of the work of the Human Rights Commission.

HR GOAL's policy reads as follows:

It is the public policy of New York City to enhance good governance by promoting equality and preventing and eliminating discrimination based on the human rights principles articulated in the international human rights

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<sup>144</sup> Prior to Introduction 731, HRP had already introduced a version of HR GOAL in December 2004; hence this is why in 2008 they *re*-introduced it. However, this thesis does not narrate the story line chronologically. I have chosen to compare and contrast the most relevant legislations which are the NYCHRL and HR GOAL. For future research, narrating the story line and comparing both the 2004 and 2008 legislation will be crucial to understand why the 2004 legislation went further in the city government process, as opposed to the 2008 legislation.

framework and, in particular, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)...and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)...

...the City shall take all appropriate measures to apply the human rights-based approach to the administration of government, including budgetary decisions, the creation and implementation of public policy and the management and administration of city agencies and departments...[C]onsistent with the human rights-based approach, the City take affirmative measures to identify, eliminate and prevent discrimination, and to promote equality in the City's policies, practices, programs and services.<sup>145</sup>

The legislation creates a Human Rights Task Force, in addition to the Human Rights Commission, that aids in all aspects of the provisions of the bill, including implementation of the policy itself. The task force committee works as an oversight and helps to guide the city agencies. The task force will include eight people, five voting members and three ex-officio members. The mayor appoints the five voting members; however, the appointments need to follow an open process and should “consist of representatives with a substantial record of promoting racial justice, gender justice, civil rights, or human rights, and data or budgetary analysis in city government.”<sup>146</sup> The ex-officio members are the Commissioner of the Department of Citywide Administrative Services’ Equal Employment Opportunity Office, the Commissioner of the Commission of Human Rights, and the Chairperson of the Equal Employment Practices Commission. The strong mayoral system constrains how much power HRP and other organizations have to appoint the task force members. The fact that the Mayor appoints the five voting members undermines the independence of the law and the task force. Considering the fact

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<sup>145</sup> Human Rights Government Operations Audit Law. Int. 0731-2008. §8-1102 Policy.

<sup>146</sup> Ibid. §8-1110 1a. Human Rights Task Force.

that the Mayor already has an immense power in city government, he is free to appoint whomever he wants who is qualified. Even if the law is passed, the Mayor has a huge amount of power to influence the task force. Furthermore, by definition the ex-officio members do not vote. Hence, the Mayor's power is further magnified.

According to HR GOAL's policy (quoted above) the city agencies need to adopt the provisions of the law through "human rights principles" and a "human rights based approach" including educating their own members regarding human rights principles. This approach as it has been implemented through CEDAW and CERD has a process to hold states accountable. These principles, as articulated by HRP and international human rights standards, declare that government has a duty to "take affirmative action to ensure, prevent, and eliminate discrimination." HR GOAL requires affirmative action from city government by analyzing the effects of the City's policies, programs and services in a way that takes into account the interdependence of all human rights. It then requires city government to promote public participation from civil society by developing and employing methods for the public to participate in decision-making discussion about city policies, programs and service through systems that provide the public with information about City policies, programs and services and their impact.

Seeking to redress the noted lack of data on discrimination, HR GOAL would require that city agencies conduct a Local Human Rights Audit. The audit needs to have "current data collection and data reporting practices including such practices related to budget allocations, contracting, service delivery, and employment."<sup>147</sup> In addition, the audit needs to list the measures the agency already takes to promote, prevent and eliminate discrimination, and existing processes taken to solicit public input. Lastly, the

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<sup>147</sup> Int. 0731-2008. §8-1105.

audit needs to describe the way(s) in which the particular city agency disaggregates data. This data would serve as empirical evidence on who city agencies provided their services to, who needs more services provided, and who is left out. Although the Mayor does have the power to appoint the task force that assesses and analyzes the audit data, if done correctly and honestly the data will be powerful in and of itself. It can also expand and magnify the Mayor's power by allowing him access to the data and how the data is construed and collected and finally what is done with. Or it can potentially undercut his power, because the data can speak for itself. Or, the mayor could choose to use the data to become a stronger advocate for equity in the city.

After the audit is submitted to the task force, the proposed law requires that the task force prepare individualized written guidelines for the city agencies to conduct and produce a Local Human Rights Analysis. All analyses should include quantitative and qualitative data regarding city agencies' operations, in other words, what programs and services they provide and to whom. Data they provide needs to be disaggregated by various demographic characteristics, such as race, color, gender, sexual orientation, age, ethnicity, disability, language, religion, immigration status, national or social origin, or other status. While doing the analysis agencies need to seek qualitative information from the communities they serve. Finally, the agencies need to do an assessment of the discriminatory effects, whether intentional or not, that their policies have. The analysis should be completed every five years after the completion of the first analysis.

After the analysis is read by the task force, it comes up with recommendations for the city agencies. These recommendations need to be taken into consideration in order for the agencies to produce a Local Human Rights Action Plan. The action plan should

include “specific measures that will be taken to identify, eliminate and prevent discrimination in the city entity’s operations including prospective programs, policies and practices, and to integrate the human rights principles.”<sup>148</sup> In addition, a timetable for the implementation of the measures, as well as a fiscal statement that estimates the cost of the implementation. City agencies need to produce an action plan every five years after the initial plan is completed.

City agencies through this process are held accountable for the unintentional discrimination that goes on in New York City regarding services provided by the City. At the end of the day, the law is non-litigation based; however, city agencies have to admit that the ways in which they have provided services has been flawed. Similar to other laws of the kind, i.e. civil rights laws, HR GOAL is dependent on the Mayor’s and City Council Members’ dedication to substantive equality and HR GOAL. Without their support and the backing of civil society, HR GOAL runs the risk of becoming just another local law in New York City. Civil society has a strong role to play as well. If city agencies, City Council and the Mayor are not following the law, civil society can put pressure on city government to hold government accountable for its actions, or lack thereof, and demand that the law is put into action. Hence, HR GOAL requires civil society participation both to get the legislation passed and to make the law work effectively.

### **Analyzing the Legislations—Content and Context**

The following section describes and analyzes the ways in which NYCHRL and HR GOAL are different, and how they can both work simultaneously without one erasing

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<sup>148</sup> Int. 731. §8-1107(1).

or compromising the other. Furthermore, this section analyzes the context in which each of these legislations was born into and how context matters.

The NYCHRL is individualistic in nature, which follows US ideology and culture. It deals with individual complaints and does not address the prevention of discrimination for marginalized and/or vulnerable populations. Even though a complaint can affect the lives of other people of the same group, it is clear that the Commission's way of handling cases have not helped entire populations. The documentation strategy of HR GOAL fills this gap in the NYCHRL by providing ways in which the Commission can be proactive as opposed to reactive and helps individual groups of people marginalized due to race, ethnicity, gender, sexual orientation and other factors in the most efficient and collaborative way.

The NYCHRL is litigation-based, as opposed to HR GOAL which is not. The NYCHRL exists as a means for people who have been discriminated against to bring a complaint forward and sue the employer, landlord, or any other person who exists within the limits of the legislation. HR GOAL has no litigation section; people cannot bring any type of lawsuit to city agencies because of the results of the data audit. HR GOAL can make the process of eliminating discrimination in New York City better by providing city agencies a tool to prevent and eliminate unintentional (and sometimes intentional) discrimination. Thus, individuals cannot use the data collected by the city agencies as proof of discrimination by the City. As HR GOAL makes clear "in the event of conflict between any provision of this chapter and existing law such that this chapter would abridge, affect, diminish or otherwise lessen the rights or protections therein, existing law

shall govern.”<sup>149</sup> In other words, the NYCHRL cannot, under this law, be lessened or diminished by HR GOAL. HR GOAL is not intended to provide yet another litigative strategy for minorities in New York City; that already exist. Its purpose is to make New York City government more democratic and transparent. Litigation is not the only way a law can have power. If, and when HR GOAL is passed, the existence of the law will provide civil society, particularly organizations such as HRP that mainly work for people of color in New York City, a law that can hold city agencies accountable for having discriminatory policies and services.

The NYCHRL is reactive, whereas HR GOAL is proactive. The NYCHRL allows for discrimination to happen and then tries to solve it, as opposed to work out ways in which systemic and subtle discrimination stops. According to Tatiana Bejar, “The idea of being free of discrimination in the United States is litigation; this is not the solution because you are waiting until you are discriminated against.” On the contrary, HR GOAL is preventative; it enables city agencies to conduct analyses in order to find ways in which their programs, policies and services are discriminatory. Subsequently, city agencies will create an action plan to find ways in which they can get rid of intentional and unintentional discrimination before it happens. If city agencies do not follow HR GOAL, then civil society can hold them accountable. HRP used to have a provision that “allowed the Task Force to bring a case for injunctive relief, meaning that they could sue to force an agency to comply but not for damages...that was taken out because the lawyer at City Council said that the city could not sue the city. However, that does not prevent

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<sup>149</sup> Ibid. §5 Construction.

civil society from suing the City to comply.”<sup>150</sup> In other words, civil society can sue to make the city comply with the law, but civil society cannot sue because the city has been discriminatory based on the data collected by city agencies as requested by HR GOAL.

The NYCHRL is accepted in the United States because it follows liberal democratic values. In other words, the United State’s emphasis on civil rights, as opposed to human rights, as articulated by HRP and HR GOAL. As explained by Ms. Bejar, in the United States, “the idea of human rights is really civil rights.”<sup>151</sup> The NYCHRL, whether intentional or not, does not talk about or deal with the reasons why marginalized people are discriminated against. For example, economic issues lie at the center of why minorities, whether by race, gender, and/or other factors face discrimination. The NYCHRL does not mention dealing with issues such as poverty. The underlying notion accepted in the United States says that it is the individual’s responsibility to get out of poverty. Although the NYCHRL is in place to fight discrimination, it does very little to stop discrimination from happening. Hence, at the end of the day the NYCHRL only helps some individuals, while leaving others to face the reality of discrimination.

The drafters of HR GOAL, on the other hand, understand that economic rights are at the center of the way in which low-income people are able to socially organize and express themselves culturally. The greater economic independence that can come from creating coalitions, unionizing, and demanding power in the work places and as citizens in relationship to their governments as a group allows people to express their cultures in a more free and open way and celebrate what makes them unique rather than hiding what

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<sup>150</sup> Tatiana Bejar. Program Coordinator for the Human Rights Project-Urban Justice Center. Electronic correspondence with Yalidy Matos. 29 April 2009.

<sup>151</sup> Tatiana Bejar. Program Coordinator for the Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 9 Mar 2009.



makes them subordinated or oppressed. Those with economic independence can be whole people, as opposed to just poor people. Economic issues, whether their dealt with in NYCHRL or in HR GOAL, affect social and cultural rights; and in some ways economic rights, or lack thereof, can control the extent of expression of all other rights.

Furthermore, those who experience discrimination that does not fall under employment, public accommodations and housing and other real estate are left vulnerable and without protection of the law. For example, domestic workers employed by private families, who by and large are mostly women of color, are left without protection. The rights to health care or to a job (rather than being discriminated against once at work) are also economic rights within UDHR. This is the kind of discrimination that HR GOAL will help to shed light on, but also not necessarily eliminate because HR GOAL focuses specifically on city services. HR GOAL would work to make city government more accountable to its own role in promoting economic inequalities and failing to provide remedies.

In contrast to the NYCHRL, HR GOAL expands US ideology. First, HR GOAL is a proactive human rights legislation, which means that human rights are not merely just the title of the legislation, but the means in which the legislation is to be practiced. Second, the legislation emphasizes all rights including economic, social and cultural rights, rights the United States refuses to deem important. Third, HR GOAL places accountability and responsibility for city agencies' role in discrimination, whether intentional or not. This is one of the principles (of government accountability) taken from CEDAW and CERD. City policies, although not intentional can still be discriminatory. It is the way in which the more subtle and covert modern-day discrimination exists. The thought of city agencies having to examine and admit the ways in which they have been

discriminatory is radical. What government agency wants to admit they have been racist, and/or sexist? HR GOAL can provide people with one more tool that has the potential to take into consideration systemic discrimination, and can lead to system-wide changes. HR GOAL has the potential to change consciousness and paradigm. Lastly, HR GOAL, if passed, could provide an additional tool to help transform and reform the meaning of democracy in New York City. Public participation—yet another CEDAW/CERD principle which has to be practiced and not just talked about—makes for a more democratic city government. So, the question arises, does HR GOAL, a radical and paradigm-changing legislation, have a real chance of becoming a law in New York City?

### **The Future of HR GOAL**

The following section describes and analyzes the obstacles that HR GOAL faces, and makes an attempt to predict the future of HR GOAL.

Currently, the politics of HR GOAL are being played out in city council. HR GOAL is in step two in City Council, which means the legislation has been introduced and referred first to the Committee on Government Operations, and then to the Committee on Civil Rights. At the moment the HR GOAL has sixteen Council Members as sponsors, with Helen Foster as primary sponsor of the bill. Helen Foster is a Democrat and presides over District 16 in the Bronx. Council Member Foster “was the first African-American woman elected to a City office from Bronx County in November of 2001.”<sup>152</sup> In addition, Foster chairs the Parks and Recreation Committee and sits in the Aging, Education, General Welfare, Health, Lower Manhattan Redevelopment, and Public Safety Committees.

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<sup>152</sup> New York City Council. “Helen D. Foster: Background Information.” <http://council.nyc.gov/d16/html/members/home.shtml>.

The primary sponsor is ranked third in powerfulness when it comes to getting a legislation passed. Part of the problem of HR GOAL's future is that primary sponsor Foster is not as active as HRP would like her to be. It is the job of primary sponsors to get other Council Members to sponsor the bill; however, HRP has lobbied almost all of the sponsors themselves. Furthermore, Foster does not have an active image in city council; hence, her relationship with other council members is not as close as it needs to be. As Bejar explains, the primary sponsor has a very important and active role to play. Moreover, Ms. Bejar declares that part of the reason why the legislation has not passed is because of the lack of help from the primary sponsor.<sup>153</sup> Although City Council Members in general, wait for the Speaker of the House to sign any legislation, primary sponsor Foster has not adequately done her job.

The second ranked person with the power to get a bill passed is the Speaker of the House. Speaker Quinn has not signed onto HR GOAL as of yet. Although, the Press Office of the New York City Council explains that the Speaker will eventually sign on to the bill when more Council Members sign on to it.<sup>154</sup> However, if Council Members are waiting for the Speaker to show her support by signing on to a piece of legislation, and the Speaker is waiting for more Council Members in order for her to sign on to it, how exactly is HR GOAL going to get passed? Overall, although Christine Quinn during her time as Council Member (and not Speaker) advised HRP Director Dike to add all protected categories into HR GOAL, she has yet to sign on to the bill.<sup>155</sup>

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<sup>153</sup> Tatiana Bejar. Program Coordinator for the Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 9 Mar 2009.

<sup>154</sup> This statement comes from the Press Office of New York City Council. I asked for an official statement by Speaker Quinn; however, although various attempts were made the official statement was never made.

<sup>155</sup> Ejim Dike. Director of the Human Rights Project. Interview Conducted by Yalidy Matos. 16 Jan 2009.

Finally, the number one person with the power sign a bill into local law is the Mayor. It is Mayor Bloomberg at the moment who has the power to move HR GOAL ahead. However, Speaker Quinn has tremendous power because if she would really like a law implemented she'll get all of the council members as sponsors and the Mayor will have little bargaining power. Unfortunately, as Council Member Avella declares, "Under this present speaker we've [city council] given up any independence whatsoever and now it's almost like we [city council] go along with whatever the mayor wants to do."<sup>156</sup> The City Council prioritizes proposed legislations the way in which the Mayor does. However, the Mayor and the Speaker, among other Council Members, come up for reelection this year. These elections could offer a window of opportunity, if it were not for the fact that Mayor Bloomberg along with Speaker Quinn both lobbied for longer term limits.

The amendment to the New York City Charter expands the term limits of city Council Members, including the Mayor and Speaker, to run for up to three consecutive four-year terms. It was passed and signed by the Mayor in less than a month on November 3, 2008. The bill was introduced by Council Members Felder, Comrie, Koppell, Recchia Jr. and Stewart "(by request of the Mayor)."<sup>157</sup> This local law can have various implications. First, HR GOAL has no future in City Council if both Quinn and Bloomberg are re-elected and both continue to treat HR GOAL as a non-priority. Second, HR GOAL may be able to pass if there is more time for HRP to lobby more members of city council and push Quinn on the issue, which she is already familiar with. Third, Helen

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<sup>156</sup> Tony Avella. New York City Council Member (D-19). Interview Conducted by Yalidy Matos. 12 Jan 2009.

<sup>157</sup> Term Limits for Elected Officials. Local Law No. 51. <http://webdocs.nycouncil.info/textfiles/Int%200845-2008.htm?CFID=101695&CFTOKEN=72456464>. (Accessed April 29, 2009).

Foster (amongst other Council Members) is also up for re-election. If she is reelected HRP will have to continue to do all the work of getting new sponsors; if she is not, HR GOAL may have a better chance of getting a more active primary sponsor. Lastly, the new local law that expands term limits may imply that some of the current sponsors of HR GOAL are defeated, resulting in a loss of sponsors.

There is no telling what the future holds for HR GOAL. Term limits can affect it in a positive, but also a negative way. The overall message of the term limits law is that if the Mayor wants something passed, it will get passed in less than a month. City council members barely have any independent power.

In the midst of it all, the United States—as well as the world—is going through an economic crisis. This can affect whether or not HR GOAL has a real chance in City Council. Human rights is thought of as costly because they involve the three affirmative rights, which means that it is the government who is responsible for providing everyone with equal economic, social and cultural rights. City government, as well as state and federal governments, will only deem most important the policies, both domestic and foreign, that contribute to the overall economic recovery. Furthermore, the United States is fighting overseas wars in Iraq and Afghanistan, with Pakistan as possibly next. Domestic human rights are the last thing on any US agenda. Moreover, HRP is a non-profit organization with limited funds. The economic crisis has impacted how much HRP and other non-profit organizations can do. In addition, the economic crisis has hugely impacted civil society. According to Council Member Avella, “the average person is probably busy just going to work and back and forth and you know these days both spouses work, or both members of the family work. I think the average person is

interesting in it; they don't have much time of the day to give to it. Probably New Yorkers more so, than people outside of the metropolitan areas..."<sup>158</sup> However, economic crises can also give rise to social movements seeking greater economic justice, or smaller movements by people who are insistent on their rights during tough economic times. The latter possibility is better aligned with the purpose of this thesis.

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<sup>158</sup> Tony Avella. New York City Council Member (D-19). Interview Conducted by Yalidy Matos. 12 Jan 2009.

# 5

## A Shift in Consciousness

This thesis started off by quoting excerpts of President Bush’s speech to the General Assembly at the United Nations in 2007. In the intervening ninety-five pages this thesis has shown that human rights matter in the United States. It is now 2009, and on January 20<sup>th</sup> of 2009, the United States inaugurated the first African-American President, President Barack Obama. For many, the election of President Obama became a symbol of change and hope; it meant a new beginning for America. For many it meant descriptive representation and for others substantive representation, for many it meant both. Catch phrases “change” and “hope” became equated to Obama’s administration. President Obama’s famous 2008 “Yes We Can” speech in New Hampshire became iconic. President Obama speech, quoted in italics in the following pages, reminds us that

*[I]n the unlikely story that is America, there has never been anything false about hope. For when we have faced down impossible odds; when we've been told that we're not ready, or that we shouldn't try, or that we can't, generations of Americans have responded with a simple creed that sums up the spirit of a people.*

*Yes we can.*

President Obama’s speech ignited people from all over the world, women and men of all races, ethnicities, nationalities, and many other social identities. The speech reminded people that change is possible. It inspired hope throughout the United States, during a time where hope seemed distant. The Global War on Terror, torture allegations, and an economic recession were not things to be hopeful about. However, when Obama won the Democratic nomination, he reminded the American population that things can change.

*It was whispered by slaves and abolitionists as they blazed a trail toward freedom through the darkest of nights.*

*Yes we can.*

*It was sung by immigrants as they struck out from distant shores and pioneers who pushed westward against an unforgiving wilderness.*

*Yes we can.*

We can shift consciousness in the United States in order to make human rights matter. We can parallel our rhetoric with actions. Americans have already started a trend of activism by going out to vote in the 2008 presidential election. The voter turnout rate for 2008 was one of the highest at 61.7 percent, or 132,608,519 American citizens.<sup>159</sup> In addition, approximately 22.4 million (51.1%) American youth (ages 18 to 29) voted in the presidential election, “which represents an increase of more than two million from 2004 and more than 6.5 million from 2000.” Young women (ages 18-29) voter turnout increased; 54.9 percent of young women voted in the 2008 presidential elections, compared to 47.2 percent of young males. Fifty-eight percent of African-American youth voted “the highest turnout rate of any youth racial/ethnic group since 1972. Among young people, African-American youth had the highest turnout: nearly six in ten young African Americans voted in the 2008 election.” Furthermore, the new ‘mixed race’ category implemented by the Census in 2003 was the group with the second highest turnout rate at 55 percent, followed by white youth at 52 percent. “Asian-American youth increased their turnout by ten percentage points and turnout among Latino youth

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<sup>159</sup> Michael McDonald. United States Election Project. “2008 General Election Turnout Rates.” [http://elections.gmu.edu/Turnout\\_2008G.html](http://elections.gmu.edu/Turnout_2008G.html). (Accessed April 30, 2009).



increased five percentage points.”<sup>160</sup> The higher voter turnout rate of young people in America has signaled a new era of activism, of civil participation; a human rights principle.

*It was the call of workers who organized; women who reached for the ballot; a President who chose the moon as our new frontier; and a King who took us to the mountaintop and pointed the way to the Promised Land.*

*Yes we can to justice and equality. Yes we can to opportunity and prosperity. Yes we can heal this nation. Yes we can repair this world. Yes we can.*<sup>161</sup>

Yes we can to human rights, which will inevitably “repair this world.” America is in a transitional time where the decisions made can impact not only America but the whole world. Decision that work toward issues such as eradicating poverty, eradicating misconceptions and judgments about people based on factors such as race/ethnicity, nationality, religion, and eradicating inequity can lead to a better America, a better world.

However, at almost one hundred days in office, President Obama’s early decision to not participate in the Durban Review Conference disappointed some. HRP was hopeful that the Obama Administration would engage in the Durban Review process, given that under the Bush Administration the United States’ boycotted in 2001. Through pressure from civil society, the Obama Administration responded by sending a delegation to one preparatory meeting for the conference and the administration announced upon its return that it would not participate in the conference. The reasons given are: “strong reservations about the direction of the conference, as the draft document singles out Israel for

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<sup>160</sup> Emily Hoban Kirby and Kei Kawashima-Ginsberg. (April 2009). “The Youth Vote in 2008.” The Center for Information and Research on Civic Learning and Engagement (CIRCLE). [http://www.civicyouth.org/PopUps/FactSheets/FS\\_youth\\_Voting\\_2008.pdf](http://www.civicyouth.org/PopUps/FactSheets/FS_youth_Voting_2008.pdf). (Accessed April 30, 2009).

<sup>161</sup> Barack Obama. (January 08, 2008). Organizing for America. *Remarks of Senator Barack Obama: New Hampshire Primary*. Nashua, NH. [http://www.barackobama.com/2008/01/08/remarks\\_of\\_senator\\_barack\\_obam\\_82.php](http://www.barackobama.com/2008/01/08/remarks_of_senator_barack_obam_82.php). (Accessed April 27, 2009).

criticism, places unacceptable restrictions on freedom of expression under the guise of defaming religion, and calls for payment of reparations for slavery.”<sup>162</sup> Consequently, the UN revised the agenda for the conference to consider all of the US objections. The outcome document for the conference was a 19-page document that does not mention Israel or slavery reparations. It does, however, reaffirm the positive role of freedom of expression in the fight against racism, while also deploring the

global rise and number of incidents of racial or religious intolerance and violence, including Islamophobia, anti-Semitism, Christianophobia and anti-Arabism manifested in particular by the derogatory stereotyping and stigmatization of persons based on their religion or belief.<sup>163</sup>

The new document has addressed all the objections of the government, and yet the United States did not partake in the Durban Review Conference which took place April 20-24, 2009.

The outcome document for the Durban Review Conference reiterated, reaffirmed and emphasized many of the concerns of HRP, as they relate to economic, social, and cultural rights. The Durban Review Conference:

- 1) *Reiterates* that poverty, underdevelopment, marginalization, social exclusion and economic disparities are closely associated with racism, racial discrimination, xenophobia and related intolerance and contribute to the persistence of racist attitudes and practices which in turn generate more poverty;
- 2) *Stresses*, in the context of multiple discrimination, the need to treat all forms of violence against women and violence against children as a criminal offence, punishable by law, as well as the duty to provide access to just and effective remedies, and the importance of providing specialized assistance and rehabilitation to victims, including medical and psychological assistance and effective counseling;

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<sup>162</sup>Gordon Duguid. U.S. Department of State. Bureau of Public Affairs. Press Release. (Feb 20 2009). *February 16-19 Consultations on the Durban Review Conference (World Conference Against Racism)*. Washington, D.C.: U.S. Department of State. <http://www.state.gov/r/pa/prs/ps/2009/02/119413.htm>. (Accessed April 28, 2009).

<sup>163</sup> Outcome Document of the Durban Review Conference. (Apr 24 2009). Section 1(12). <http://www.un.org/durbanreview2009/conference.shtml>. (Accessed April 27, 2009).

- 3) *Recommends* that States that have not yet done so establish mechanisms to collect, compile, analyze, disseminate and publish reliable and disaggregated statistical data, and undertake all other related measures necessary to regularly assess the situation of all victims of racism, racial discrimination, xenophobia and related intolerance, in accordance with the Durban Declaration and Programme of Action;
- 4) *Urges* States to improve democratic institutions, to increase participation, and to avoid marginalization, exclusion of and discrimination against specific sectors of society.<sup>164</sup>

These are the conversations of which the United States was not a part, although all of the points above directly relate to and affect racial minorities in the United States. It comes down to how much pressure civil society places on President Obama to make the changes he promised for America. President Obama decision to sign the Ledbetter Equal Pay Act has followed his change platform and embodies change for women. Hence, civil society should follow President Obama's call to volunteer and create the change they want to see. Civil society can be a catalyst for change. Clearly context matters when human rights are on the table; however, it was persistence and determination that has led to the election of the first African-American President. Thus, HR GOAL and broader human rights principles have a chance in the United States to become more than just rhetoric.

### **Global Conventions Go Local**

As I argued in the introduction to this thesis, although the United States' rhetoric follows human rights standards and norms, its actions do not. In his address to the General Assembly at the United Nations in 2007, President Bush talked about human rights as a "foreign problem," an international problem. He assumed that human rights violations do not happen in the United States. Taking a closer look at the lives of minorities in the United States reveals that human rights are violated on a daily basis in

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<sup>164</sup> Outcome Document of the Durban Review Conference. (Apr 24 2009). These clauses can be found in the document in Section 1(8); Section 5(87), (103), (111), respectively.

America. The bottom line is: human rights issues are not just a foreign problem. Marginalized communities in the United States disproportionately suffer from all types of discrimination. Civil and political rights guaranteed by the U.S. Constitution have not been enough for minorities in the United States. As part of a real attempt to reduce and eventually eliminate discrimination, all human rights must be regarded as real and important—particularly economic rights that form a basis for social and cultural rights—precisely HRP’s mission and goal.

This thesis illustrates the ways in which HRP has used its positionality in the United States and its limited power position as a US-based human rights organization, and simultaneously work to create a human rights culture in New York City, in order to affect change. To briefly summarize, Chapter Two illustrates—via Inderpal Grewal’s critiques—that universal human rights on its own and as articulated by the UN, is not enough. Universal human rights could have the effect of being too grounded in the dominant knowledge of the North, it can ignore other countries and cultures, results in broad gender campaigns, assumes all women are the same by ignoring intersectionality. An analysis of the ways in which human rights can be universalist and inclusive is needed in order to figure out ways in which human rights can be both broad and specific, global and local. Chandra Mohanty and her feminist solidarity model, and Chela Sandoval and her differential consciousness model, provide solutions to the problem of universal human rights. Mohanty’s feminist solidarity model argues that the differences among women should not be erased for a cause. She explains that it is precisely the differences that need to be analyzed in order to further explain power relations and autonomy, or lack thereof, among women. Sandoval’s differential consciousness allows

women of color to strategize using a range of ‘consciousness’ that would allow them to shift back and forth among them in order to reach desired goals. Moreover, differential consciousness allows women of color to work within and outside a liberal democratic system. Furthermore, intersectionality,—as articulated by Crenshaw, hooks, and Collins—as a theoretical innovation and practical tool, offers yet another methodology to take into consideration the lives of intersectional identities, especially those of women of color who often fall through the cracks.

Chapter Three then applies these theories to HRP’s strategies, ranging from documentation, advocacy, and education to government monitoring and legislation. HRP’s use of different strategies at different times depending on what makes the most strategic sense reflects Sandoval’s differential consciousness. Moreover, the fact that HRP makes low-income people of color the center of their strategies and policy-making is in and of itself a direct solution to the “second generation” of universal human rights, those for economic, social and cultural justice. It also takes into consideration of intersectionality. HRP’s participation in global conventions such as the Durban Conference and their application of global human rights principles in New York City makes it truly global and local. As the Durban Review Conference emphasizes documentation, in other words, data collection is key to the fight against racism and discrimination. Documentation has been one of HRP’s strongest and most effective strategies to hold the City accountable. For example, HRP’s release of the *City Council Human Rights Report Card*, allowed New Yorkers to see who in City Council is making decisions that impact them in a positive manner.

Chapter Four focuses on one aspect of HRP's strategies: human rights legislation, HR GOAL. As argued in the chapter, the NYCHRL and the Human Rights Commission do not adequately deal with preventing and reducing discrimination. Hence, HR GOAL works to provide yet another tool for New York City government to work more effectively to reduce and eliminate discrimination. It does so by holding City Agencies accountable to take affirmative actions to eliminate their discriminatory policies. Furthermore, HR GOAL also provides civil society with ways to learn how to articulate their human rights and to make their government accountable for discrimination perpetrated, whether intentionally or not, by the City. Through the journey of trying to get a human rights legislation which deal with second generation rights, HRP has educated civil society and city officials. Chapter Four also illustrates that HR GOAL and HRP have obstacles to face and hurdles to jump in order to truly shift consciousness in New York City. However, it is not an impossible task.

### **A Human Rights Campaign in New York City:**

#### **Next Steps**

What's next for human rights in the in New York City? As one of very few domestic human rights organization, as the lead coordinator of NYCHRI and the human rights campaign in New York City, has done exceptional work. Moreover, without a coalition of groups HRP would not have been able to forward HR GOAL and human rights as much as it has done in city government. However, HRP can improve on strengthening the coalition. Although numbers do matter, it is quality that exceeds quantity. If there are twenty strong and active organizations in the coalition, HR GOAL can arrive at victory. Moreover, with strong coalition members, education about human rights is better publicized to various groups of people, and not just HRP's constituency.

The struggle for human rights in New York City, other municipalities and the United States is one that requires a shift in consciousness. Americans everywhere need to admit that human rights violations do happen in the United States and then educate themselves and others about their own human rights and what the uses and purpose of human rights are. As Asbjorn Eide declares, “The success of the transformation depends on the evolution of a human rights culture where individuals accept both their own rights and their duties to the community which make the enjoyment of rights possible.”<sup>165</sup> A shift in consciousness requires activism, awareness, recognition. It requires finding ways to incorporate human rights principles daily and demand that the US government do so as well. As Gloria Anzaldua argues,

The future depends on the breaking down of paradigms, it depends on the straddling of two or more cultures. By creating a new mythos—that is, a change in the way we perceive reality, the way we see ourselves, and the ways we behave—...a new consciousness.<sup>166</sup>

When something as important as human rights is on the table and when national ratification of human rights global conventions is not an option, civil society is as responsible for creating a human rights culture within their own communities. Change takes time; however, if people lose the cause and vision, change will never occur.

HRP, along with U.S. citizens and other residents, should take advantage of the new administration. If President Obama encourages change and calls for volunteerism and activism, more people should start and/or continue to demand change. HRP can also strategize to educate newly elected city government officials, including council member. In addition, HRP and similar organizations can also campaign for community leaders to

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<sup>165</sup> Asbjorn Eide. (2003). Economic, Social, and Cultural Rights as Human Rights. In *Human Rights in the World Community : Issues and Action*, (2006). Ed R. Claude and B. Weston. 3<sup>rd</sup> Edition. p. 170-179.

<sup>166</sup> Gloria Anzaldua. (1987). “La Conciencia de La Mestiza: Towards a New Consciousness.” In Kum-Kum Bhavnani, ed, (2001) *Feminism & ‘Race’* (p.93-107). New York: Oxford University Press. p. 96.

run for city government positions. This strategy would allow City Council and city government offices to have people with decision-making power, even if limited, that understand and work for a more equitable and just society.

The overarching tenant of human rights is that all human beings are equal and deserving of equal treatment. If everyone were able to treat all people equally, regardless of differences, then human rights violations would not occur as often and as frequent as they do. As Audre Lorde reminds us, “It is not our differences that divide us. It is our inability to recognize, accept, and celebrate those differences.”<sup>167</sup> The search for substantive equality or a equitable world, *including the United States*—where we are all considered human beings deserving of respect, of dignity; a world where one does not have to be ashamed of who and what one is and can consequently walk around feeling safe in one’s own body; a world without poverty; a world without violence against women and girls—the search for that world “is also a search for a new map, a new ethos, a new *America*.”<sup>168</sup>

The future of HR GOAL is blurry, similarly to the future of many who are living in poverty in New York City. However, like much other contestable legislation in New York City Council, there are various factors that will affect its future. Timing is a major factor. In December of 2009, Council Members come up for re-election. Civil society has an opportunity here to elect those people that support HR GOAL. There are proposed legislations still on the table from last decade, which means that it takes time for any legislation, especially a radical one such as HR GOAL. It also needs to have the necessary leadership in place to sign it into law. Furthermore, City Council dynamics can

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<sup>167</sup> Audre Lorde. (1984). “Age, Race, Class, and Sex: Women Redefining Difference.” In *Sister Outsider* (p.114-123). New York: The Crossing Press. p.115.

<sup>168</sup> Juan Flores. (2003). p.102.



make or break a legislation. If at any given time, City Council has veto-proof majority of open-minded and human rights friendly active Council Members, HR GOAL has a chance to pass more quickly. With new leadership, including the Mayor—leadership that comes from a social position of understanding what it means to be vulnerable and marginalized in New York City—HR GOAL has a better chance of becoming a local law. The passage of HR GOAL is ultimately dependent on whether or not there can be a shift in consciousness in New York City. In other words, HR GOAL is a tool of and from a social movement, but it cannot itself provide that movement.

Regardless of the fact that HR GOAL has not yet passed, the existence of HR GOAL is in and of itself transformative and revolutionary. HR GOAL may not seem revolutionary at first; however, it is a legal reform that can have the potential to be revolutionary if its legal provisions are followed. As Rosa Luxemburg declared:

Legal reform and revolution are not different methods of historic development that can be picked out at pleasure from the counter of history...They are different *moments* in the development of class society which condition and complement each other, and at that same time exclude each other reciprocally... In effect, every legal constitution is the *product* of a revolution. In the history of classes, revolution is the act of political creation, while legislation is the political expression of the life of a society that has already come into being. Work for reform does not contain its own driving force independent from revolution.<sup>169</sup>

Hence, HR GOAL as a legal reform does not have to be divorced from the idea of revolution, or systemic change. If passed and enforced, HR GOAL could create a shift not ever seen in the United States. A change in the way people think about human rights. The fact that a domestic human rights organization drafted a legislation that calls for city government agencies to admit that they have been discriminatory, intentionally or not, is

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<sup>169</sup> Rosa Luxemburg. (2004). "Social Reform or Revolution." In P. Hudis and K. Anderson, eds, *The Rosa Luxemburg Reader*. New York: Monthly Review Press. p.156.

a revolutionary idea anywhere in the world, not just the United States. A legal reform can lead to another reform, which can lead to another, as the history of human rights legislation in New York City shows.

According to Tatiana Bejar, Program Coordinator of HRP, HR GOAL “can change the idea of democracy.”<sup>170</sup> It can also help close the gap between symbolic human rights rhetoric and lack of real action from the part of the United States. HR GOAL makes New York City government more democratic in that it allows for more public participation, transparency, and a government that really works for the people. Moreover, it can have a domino effect. More and more cities can learn from HRP’s Human Rights Campaign in New York City and attempt to pass similar legislation. Furthermore, the myriad of ways factors such as race, gender, sexual orientation, and age influence discrimination can be considered on a more regular basis; consequently, making visible those that have been historically deemed invisible. The effects of HR GOAL and the work of HRP are not merely local, but have the potential to be national and global. Globally, HR GOAL and other attempts to make localities truly democratic and follow human rights principles can change the negative image the United States has managed to acquire—especially after 9/11 and the Global War on Terror. Legal reform and social movements can have the potential to create change, and “if we know anything about American politics, it is that the landscape of possibility shifts, sometimes rapidly.”<sup>171</sup> The landscape has shifted. It is time for action demanding positive change.

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<sup>170</sup> Tatiana Bejar. Program Coordinator for the Human Rights Project-Urban Justice Center. Interview Conducted by Yalidy Matos. 9 Mar 2009.

<sup>171</sup> Michael Ignatieff. (2006). p.387.

## ACRONYMS

CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CSW	Commission on the Status of Women
HR GOAL	Human Rights Government Operations Audit Law
HRP	Human Rights Project at the Urban Justice Center
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Family
ICRPD	Convention on the Rights of Persons with Disabilities
NAACP	National Association for the Advancement of Colored People
NGO	Non-governmental organization
NYC	New York City
NYCHRI	New York City Human Rights Initiative
NYCHRL	New York City Human Rights Law
UDHR	Universal Declaration of Human Rights
UN	United Nations

## **APPENDIX A: Institutional Review Board Proposal**

### **IRB Proposal for Gender & Women's Studies Dept. Honors Research**

Yalidy Matos  
May 4, 2008  
Professor Borrelli  
IRB Application

#### **Global Conventions Go Local: The Case of CEDAW in New York City**

##### **Abstract:**

The United Nations (UN) has a multitude of global conventions and treaties in which its members states can choose to sign. The UN has 192 member states that pick and choose which conventions and/or treaties they sign and adhere by. CEDAW, the Convention on the Elimination of all forms of Discrimination Against Women, is a UN treaty adopted in 1979. Throughout the world, all but a few minority states have ratified CEDAW. Amongst those few minorities is the United States. Although the US has decided not to sign CEDAW, there are various localities, such as San Francisco, that have taken the task to implement CEDAW city-wide, as opposed to nation-wide. The task has not been an easy one but San Francisco has successfully been able to pass CEDAW. The Human Rights Project under the Urban Justice Center along with others has diligently worked to pass CEDAW, along with CERD (the Convention on the Elimination of All Forms of Racial Discrimination) in New York City. The fact that the United States has not ratified CEDAW makes it even harder to pass a global convention, specifically made to be signed by global state actors, locally. My thesis research will analyze the obstacles and struggles that exist when trying to pass a global convention made to be applied on a national as opposed to a city level. Through field observation, interviews, a case study and research, my thesis will ask if global convention can be applied locally, and if so what are the obstacles encountered when trying to do so. This thesis will be studying how the obstacles and difficulties that result from trying to apply a global convention locally, affect the success of the implementation and practice of the convention. The information gathered during research will hopefully be applied to other cities across the United States.

##### **Methodology:**

In order to adequately gain an understanding of CEDAW I will be looking at: its implementation in San Francisco; and the obstacles and reasons why it has not been able to pass in New York City. I will draw on literary sources that deal with United Nations global conventions and treaties, and experiences from my internship at a domestic human

rights organization in New York City. My core sources include existing literature on CEDAW, the actual language of CEDAW and secondary sources on ways that global conventions can be applied locally.

My summer internship opportunity will hopefully give me access to a wide range of professionals that I expect to interview about the obstacles that make translating global conventions into local practices difficult. Contacts and interviews will be achieved with the help of the Human Rights Project—Urban Justice Center in New York City, where I will be conducting my summer internship for 2008 and some of my interviews. For example, one of the possible interviews is with the Director of the Human Rights Project Ejim Dike. Another possible interviewee is with Sylvanna Falcon, one of our own professors, who worked to pass CEDAW in San Francisco. Contacting interviewees will be primarily through email. The staff and professionals at the organization are aware of my honors thesis project and of my hope to conduct interviews during my summer internship experience.

I will ask the people I interview questions about their experience, commitment and struggles in trying to implement CEDAW in New York City. More specifically, I will be asking the interviewees about their role in the attempt to implement CEDAW in New York City and their participation, if any, in its adoption. Through these interviews and my literature readings, I hope to learn more about the language used to draft global conventions and the reasons why NGOs, in particular, have a hard time implementing global conventions locally. Consent forms will be given to all participants. If I tape any of the interviews I will have the participant sign a specific consent form in addition to the general consent form. I will destroy the taped interviews once my study is completed in such a way that they cannot be used again for any other study.

#### **Interview and Research Questions:**

1. Were you part of the CEDAW drafting committee?
2. What would you say is the purpose of a convention like CEDAW?
3. Why do you think the United States has not ratified CEDAW?
4. Do you think that the United States' failure to pass CEDAW makes it harder for localities to implement CEDAW?
5. Are there conventions that are easily passed in local settings? If so what makes CEDAW different?
6. What, would you say, are the reasons as to why the City Council hesitates to pass CEDAW?

7. What, would you say, are the obstacles the Human Rights Project faces when trying to pass a global convention?
8. Do you believe global conventions were made to reach local levels?
9. What, would you say, keeps global conventions from being applied locally in more places?
10. What are some of the changes that have to occur if CEDAW is passed in New York City?
11. What makes San Francisco different from New York City?
12. What, would you say, are the reasons why CEDAW was passed in San Francisco and has not been able to pass in NYC?
13. What is the relationship between CEDAW and CERD?
14. Do you think that trying to implement CERD, along with CEDAW is one of the reasons why the City Council has not passed CEDAW?
15. What is the reason behind trying to pass both CERD and CEDAW?

**Ethical Issues:**

I do not foresee any ethical issues arising from my study. I fully intend to respect the confidentiality of all the participants. I will not ask any questions that would compromise the professional standards of the staff with whom I will come in contact. I understand that all information received during my contact with professional staff members is to remain confidential and to be used in appropriate contexts such as my senior honors thesis or possible presentation.

I acknowledge that the people I interview retain the right to answer only those questions with which they feel comfortable. I will also make it clear to them at the beginning of the interview that they can choose to remain unidentified by name in the study. I will not use the Human Rights Project—Urban Justice Center or any specific case as a case study unless given permission to do so by the director of the organization.

## Debriefing

Thank you for participating in my senior honors thesis research dealing with implementing a global convention, such as CEDAW, locally, and the added obstacles that exist precisely because the United States has not signed CEDAW. In this research, I am hoping to find the reasons as to why global conventions are hard to implement at a local level. I also plan on using this research to draw conclusions in order to further improve ways in which other localities implement global conventions.

Concerns about any aspect of this study may be addressed to Professor Ann Sloan Devlin, Chairperson of the Connecticut College IRB at [asdev@conncoll.edu](mailto:asdev@conncoll.edu).

If you are interested in this topic and want to read the literature in this area, please contact me (Yalidy Matos) at [ymatos@conncoll.edu](mailto:ymatos@conncoll.edu).

Listed below are two sources you may want to consult to learn more about this topic:

Buergenthal, Thomas, and Dinah Shelton, and David Stewart. International Human Rights. 3<sup>rd</sup> ed. USA: West Group, 2002.

Merry, Sally Engle. Human Rights & Gender Violence: Translating International Law Into Local Justice. Chicago: University of Chicago Press, 2006.

### **Informed Consent Document**

I hereby consent to participate in an interview as part of Yalidy Matos' honors thesis research about the struggles and difficulties that exist when trying to implement a global convention or treaty locally.

I understand that this research will involve answering questions about the implementation or the attempt to implement CEDAW in San Francisco and New York City, respectively, and may be taped for use as additional information in the research.

While I understand that the direct benefits of this research to society are not known, I have been told that I may learn more about the obstacles that exist in applying a global convention, locally.

I have been told that there are no known risks or discomforts relating to participating in this research.

I have been told that Yalidy Matos can be contacted at [ymatos@conncoll.edu](mailto:ymatos@conncoll.edu)

I understand that I may decline to answer any questions as I see fit, and that I may withdraw from the study without penalty at any time.

I understand that all information will be identified with a code number and NOT my name.

I have been advised that I may contact the researcher who will answer any questions that I may have about the purposes and procedures of this study.

I understand that this study is not to gather information about specific individuals and that my responses will be combined with the responses of others.

I consent to the publication of the research results as long as the identity of all participants are protected and that no identifying information from cases or current investigations will be used in any report of the research.

I understand that this research has been approved by the Connecticut College Human Subjects Institutional Review Board (IRB).

Concerns about any aspect of this study may be addressed to Professor Ann Sloan Devlin, Chairperson of the Connecticut College IRB at [asdev@conncoll.edu](mailto:asdev@conncoll.edu).

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I am at least 18 years of age, and I have read these explanations and assurances and voluntarily consent to participate in this research.

Name (Printed) \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Yes or No I \_\_\_\_\_ (signature) consent to being taped for interviews. Each participant voluntarily has the right to decline to be taped during an interview.



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