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ASSET AND VULNERABILITY:
THE DOUBLE-EDGED SWORD OF HUMAN RIGHTS

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Without a doubt, human rights are a complex subject. Early debates during the formation of the UDHR, through to contemporary adoption of conventions recognizing the rights of vulnerable persons, indicate that complexities continue to surface and challenge how we think about, practice, and attempt to ensure human rights. Primary challenges encompass conceptual questions of universality, individuality, difference, and pluralism. Such primary challenges become particularly highlighted with respect to the legacy of structural violence evident when examining the inequality between the Global North and the Global South, the poor, women, and the disabled, in particular. This paper traces how vulnerabilities to increased risk of human rights violations emerge contingent on the body (bodies), the situation (context/embeddedness), and language (communication/information), artificially separated in this initial examination. Through these three points of analysis, the paper concludes by identifying how these points converge, having the power to both generate vulnerability to violations and also to undo the possibility of human rights being violated.

INTRODUCTION

VULNERABILITIES to increased risk of human-rights violations emerge contingent on body, situation, and language. These points converge and have the power both to generate vulnerability to violations and also to undo the possibility of violations. Historically, the power to undo the possibility of violations has been muzzled via human-rights law since antiquity, despite legislative facelifts. Time and time again, those that suffer human-rights violations share identical characteristics: outside powerful states, poor, women, disabled. Those trying to wield a sharp human-rights scalpel find instead a clumsy, double-edged broadsword. To end this cycle, what is needed, presented herein, are novel definitions of such vulnerabilities, definitions that incorporate a liberatory praxis.

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History and continuing complexity

1948. A world that had newly seen nuclear war—still now its greatest threat. But was it a world that universally begged for human rights? With eight abstentions in United Nations' voting regarding the UDHR, certainly not. And Germany didn't sign. Japan didn't. Nor could they, rebuilding what they could. So, what was the UDHR, then, a feelgood project by Allied nation-states (and their allies) to voice who's friends with whom while the Soviet nuclear machine revved into full gear? Even before adoption, the Universal Declaration of Human Rights (UDHR) was mired in conceptual inconsistencies (Messer 1997: 293), definition disagreements (Turner 1997: 274), and theoretical problems (Messer 1997; Zhao 2015). Today, human-rights dilemmas continue, namely, material inequalities (Farmer 2004: 312; Farmer 2003b), social inequalities (Richer 2011), political inequalities (Farmer 2003e: 140), and a lack of victims' perspectives (Scheper-Hughes 1992: 239; Brommer 2011; Hemmet 2011; Shively 2011; Babior 2011).

Lack of victims' perspectives

Certainly, the Allied hand was present in the UDHR's adoption. But this was not the first human-rights legislation intended to be universal. As Ellen Messer, in the landmark "Pluralist Approaches to Human Rights," identified in comparative analysis of ancient historical examples, there are the proclamations of Cyrus the Great, Egyptian pharaohs, and the Babylonian Hammurabi's Code (Messer 1997: 298). Messer found "two schematic dimensions, ruler and ruled," with "not [...] everyone as a human being" (*Id*.).

Was, then, Hammurabi's Code *Hammurabi*'s code? While that prong of query relates to disagreements as to what constitutes a human, discussed later, certainly Hammurabi was not a sufferer of human-rights violations. Quite to the contrary, Hammurabi caused them, both via war campaigns and the Code itself. But key here in this prong of query is that in writing the Code, victims' perspectives were not considered. Indeed, with its *lex talionis* rhetoric, the Code presumes, essentially, that a rape victim would want a rapist's reprisal to be rape.

The function of Messer's comparative analysis is not to show that legal systems are no longer so schizophrenic as to punish one human-rights violation with the same human-rights violation; rather, the function is to show that in thousands of years of human-rights legislation, nothing has changed when it comes to considering victims' perspectives. This is true—and then some—in the work of Nancy Scheper-Hughes in

Brazil, which found victims worth more dead than alive (Scheper-Hughes 1992: 239). Here, victims' perspectives are such that human-rights discourse is opposed by them because it liberates their oppressors to oppress even further (*Id*.). Scheper-Hughes writes of victims' "awesome fear of the judicial system," resulting in refusal to seek judicial intervention "to redress even the most horrendous violations of their basic human rights" (*Id*. at 227). Do victims, then, not want justice? Certainly not in the Brazil observed by Scheper-Hughes. But this case shows that such a perspective cannot be identified unless victims' perspectives are sought. It also shows the doubled-edged nature of human rights: requesting human rights may result in violations.

Conceptual inconsistencies, definition disagreements, and theoretical problems

Messer, citing Legesse 1980: 123, further considered the possibility of human rights being "ethnocentrically western," (Messer 1997: 295) which would support a finding that not only is the UDHR an Allied project, but that human rights is, too, so to say. However, Messer's main finding is that two theoretical camps exist as to human rights. The first of these are the cultural relativists; the second, the anti-cultural relativists. Messer finds that although these camps differ on where cultural notions of human rights fit into theory, they both agree that it is *western* political culture that serves as the main inspiration for the Declaration (*Id*.). This is compounded by definitions of "human." While the novice answer may appear to be anyone with *homo sapiens* DNA, there is disagreement as to what constitutes a human. For example, debates continue as to whether fetuses, embryos, or even ova constitute humans. And do humans that have suffered death constitute humans? These constitute debates of the word "human" in its nounal form. However, as Terence Turner so aptly illustrated, when collocated with "rights," in its adjectival form, the essence of "human" is compounded (Turner 1997: 273). This transcends beyond questions such as whether dead humans have rights, such as the right to be resuscitated. Indeed, the great—and recently late—Prof. Turner's greatest argument about human rights is not linguistic, but theoretical. Merely collocating the words "human" and "rights" causes theoretical problems because it "implies the existence of some general notion of justice, equity, or a general principle capable of serving as the grounds for specific rights or laws, applicable to all peoples and cultures" (*Id*.).

Such theoretical problems can be illustrated in prisons, where prisoners are regarded as less than human and consequently suffer structural violence in the form of

tuberculosis, HIV, syphilis, and hepatitis (Farmer 2003d); in disaster planning, where "equality" has a forced approach, in that women's unique needs are consciously neglected because women are regarded as literally equal to men (Richter 2011); in domestic settings, where those subjected to "private" violence are not regarded as human as those subjected to "public" violence (Brommer 2011); conversely, in *public* settings, where women, though structurally disempowered, are blamed for returning to those same, private, violent domestic settings (Alcalde 2011); in military families, where family members that suffer violence from the military member(s) in the family will not have their human needs met as a consequence of reporting such violence (the reporting of which, will, in turn result in the military member being fired) (Lutz 2004); in peaceful protests, where participants are met with military weaponry (Amnesty International 2014); in hospitals, where those with psychopharma-cologically treatable conditions are subjected to irreversible psychosurgeries, such as leucotomies (Drew et al. 2011); in legal settings, where rape victims are subjected to dehumanizing, mechanical definitions of rape (Coundouriotis 2013); in everyday settings, where those with post-traumatic stress disorder are regarded as monsters instead of humans (Gutmann and Lutz 2009); in criminal-justice settings, where those deemed to be a racial minority are more likely to be convicted (The Sentencing Project 2015); in research settings, where victims are labeled as participants, which strips them of the privilege to be actors of change (Pittaway et al. 2010); and even in human-rights violations settings generally, where victims do not have the privilege of conceptualizing violations (Adams 1998). In light of Turner's theoretical paradox, that joining the words "human" and "paradox" has specific implications (Turner 1997: 273), these *few* examples show that, time and time again, even when humans establish specific rights or laws, they do not apply them in a just and equitable manner. Therefore, even were there no conceptual disagreements about universality, individuality, difference, or pluralism, violations would continue because, as the evidence suggests, humans do not believe that each other should be treated just and equitably. Indeed, the very essence of these concepts is each other: the essence of individuality is one's difference; the essence of pluralism is its universality. These discourses, the canonical nucleobases of human rights' DNA, which can be shuffled *ad nauseam*, further illustrate the double-edged nature of human rights.

Material inequalities, social inequalities, and political inequalities

Prof. Messer's example of Hammurabi's Code is ideal, for the problems of material, social, and political inequalities are illustrated well in the definition of humans implicit in Hammurabi's Code: humans, quite simply, are those in Babylon literate in Akkadian. For King Hammurabi to have cited every such person would not be cause to feel awe, for that would be a short list. But what was true then about accessing human rights similarly remains true today. Material inequality then would have ensured that none but those decked in the elite garb of the day were allowed into royal plazas where the Code was displayed. Social inequality of the day would have ensured literacy among only such persons that could afford said garb. Political inequalities would have restricted not only access to such plazas, but also to walled Babylon itself, despite the Code's applicability to all of Babylonia.

We see this in the structural violence of the day, the Global Civil War, North versus South, where neoliberalism is the new *ius in bello*, as Dr. Farmer would describe, "an ideology that has little to say about the social and economic inequalities" (Farmer 2004: 313). We see this in discourses used to keep disabled persons battling a different war in perpetuity, yet, still, a war of inequality, described as a "global crisis" (Drew et al. 2011). We see this in structural violence applied to the poor and to women, where, in particular, as Roxane Richter found, "the poorest of the poor are women" (Richter 2011: 21).

Each of these can produce double-edgedness. The poor of the South, when rallying against unemployment, can be accused by North neoliberals as lazy and unwilling to engage in work. Women, in struggles against inequality, descend deeper into poverty, especially when such efforts require leaving workplaces. The same is true for persons with permanent medical problems, for participating in a protest necessitates foregoing medical treatment, however momentary. But this double-edgedness is not suggested as a new trend in anthropology. Rather, it is a glint of something more, something bigger that warrants framing.

VULNERABILITIES TO HUMAN-RIGHTS VIOLATIONS

The Global South, the poor, women, and persons with disabilities are all vulnerable to human-rights violations because of convergences among body, language, and situatedness. One's body must be situated outside what is demarcated by the Global North, for example. The stigmatized poor are situated in a cycle that indubitably takes

a bodily toll. Women are called "women" by virtue of their bodies, and thus situated differently than men. "Persons with disabilities" is a legal term, with applicability only to those whose bodies are not able to do something in particular situations. But these examples of convergence points are a superficial few connected among three-dimensional dots. True convergence requires a fourth dimension.

Body

   Any exploration of vulnerabilities to human-rights violations as it pertains to body must begin with a definition of body. Such a definition must first consider bodily limitations. In this case, the human body is both frail and strong. It is frail in the sense that it cannot heal some injuries, such as decapitation, and it is strong in the sense that it can heal profound injuries, such as burns caused by fire. But it is the frailty, not the strength, that lends itself to human-rights violations. But what is the scope of that which can be deemed as frail? Is it merely the skin and everything contained within it? Or is the notion of proxemics to be considered?

   Certainly, beyond frailty, in defining body in a human-rights context, one must also frame a definition of violence: anything that, deliberately or by neglect, causes physical pain or emotional negativity. This fourth dimension, so closely intertwined with cognition, must append any spatial definition of violence. With this definition, the act of stopping just short of punching someone's face meets the definition because it is violence that intended to cause someone to feel fear. Similarly, antisocial behavior, such as a deliberately oppositional laugh when others are overtly feeling happiness, so as to induce an immediate cessation of positivity, can be defined as violence. Thus, it is through this novel definition of violence that a four-dimensional image of the body becomes apparent. One allows a definition of the other; for it is truly the body that is harmed in violence, and the harm need not result in physical scars to be lifelong. Thus, the human-rights definition of body here is *that which is harmed in violence*. While that has always been true, it is limited definitions of violence—laws—that enable its total perpetuity, forbidding physical pain, but allowing most language.

Language

   And it *is* language, absent specific threats, that has been permitted since antiquity to perpetuate violence. But the linguistic definition of language, expression of thoughts by means of arbitrary signs (Fichte 1794), is insufficient for human-rights

purposes because thoughts can be transmitted via other means. Thus, the human-rights definition of language here is *that which causes others to think about violence*. This can consist of a threat of physical pain. This can consist of a victim's story (such as via an intake interview at a shelter) (Babior 2011; Shively 2011; Jacobs 2011), a physician's diagnosis of a condition caused by systemic violence (including a secondary condition such as PTSD), a court proceeding, a protest (including via the Internet), a transnational migration attempt, a law, a memorial (Leach 2011), an emergency declaration (Richter 2011), or even an anthropologist's account (Babior 2011).

Because it is the *body* that expresses emotion, and because it is *language* that expresses cognition (though language can express both), is it sufficient, then, to think of the body as emotion and language as cognition? Although it wouldn't be farfetched, artificial separation of body and language is not done without difficulty, for it is inapposite. Take for example the first aforementioned example of language, a victim's story. A victim, in such a case will have a body, and verbal language may not be necessary to make a violation known; that is, bodies can speak for themselves at times, even dead bodies; that is, *that which is harmed in violence* (body) can *cause others to think about violence* (language). In such cases, photographs can speak for the dead. But, as in the case with rape, an absence of visual evidence constitutes a need for other language; that is, rape victims often do not have the privilege of allowing their bodies to speak for themselves; that is, that which is harmed in violence (body) *does not always* cause others to think about violence (language), which calls for a third prong of inquiry, situatedness.

Situatedness

The human brain, in all its might, can produce thoughts and feel emotions. But its greatest tool is imagination. It can blindly visualize something on the other side of the galaxy. It can see something that never existed anywhere. And it is *the brain* where these three points of inquiry converge. Body and language enable the brain to experience violence, literally, to see it and feel it, even when not in a violence setting. The eyes can be open; the eyes can be closed. But the brain can *see* it, and the brain can make the body *feel* it. Via the emotion *empathy*, mere oral descriptions of one person being punched in the teeth are enough to make another person feel *actual physical pain* in one's mouth. Males feel *real* groin pain when seeing other males get kicked there. Even a blind person will shudder at the notion of a Braille teacher

dragging fingernails across a sheet of tin to punish students. Although the physical pain brought by empathy is not necessary to experience situatedness, is does illustrate the brain's awesome power.

But the visual component *is* necessary for situatedness, and it is essential for definition. Where body is *that which is harmed in violence* and language is *that which causes others to think about violence*, situatedness is *that which allows others to visualize an act of violence as if actually there*. Sometimes body alone can do this. Sometimes language alone can do this. It can be thought of as a downloaded memory; it can be imagining oneself in a storybook. Viewed in this light, PTSD is the brain's autonomic means of ensuring the body does not allow itself again to enter situations that result in violence, *re*situatedness, with secondary PTSD as not "secondary" at all, but, rather, *situatedness itself*.

CONCLUSION

Body, language, and situatedness converge *cerebrally* and have the power both to generate vulnerability to violations and also to undo the possibility of violations. Continuing with the example of rape, for which mere body and language are insufficient to evince a violation, situatedness explains why lawyers are so graphic in their descriptions of rape, as opposed to descriptions of decapitation, for which photographic evidence suffices. It is because lawyers try to make juries *visualize an act of violence as if actually there*. And it is visualization, cognition, and emotion that can unravel violations before they occur, the absence of which that explains why they do.

Absence of situatedness, body, and language explain conscious neglect of women's needs in disaster planning (Richter 2011), and these—and only these—will bring about change. (The shock of situatedness, in particular, would do well.) These same three cerebral convergence points show why police blame women for domestic violence (Alcalde 2011), and these same points are the remedy. In domestic violence shelters, the absence of these points are the root of shelter problems (Babior 2011; Bargach 2011; Shively 2011); however, these cases show that it is at "front lines" where situatedness most readily occurs. Violations such as mass murder (Scheper-Hughes 1992: 239; Leach 2011), rape (Alcalde 2011; Scheper-Hughes 1993), AIDS (Farmer 2003d), and tuberculosis (Farmer 2003a; Farmer 2003e) all occur because that which is harmed in violence (body), that which causes others to think about violence (language), and that which allows others to visualize an act of violence as if actually there (situatedness) is not immediately available to those able to make

change. Accordingly, it is a complete reconceptualization of violence that must occur if the field of human rights is ever to pass its planning stage. And it is body, language, and situatedness that must be wielded as the weapons of human rights, to enable true *verstehen* that liberates humans from the endless cycle of human-rights violations.

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