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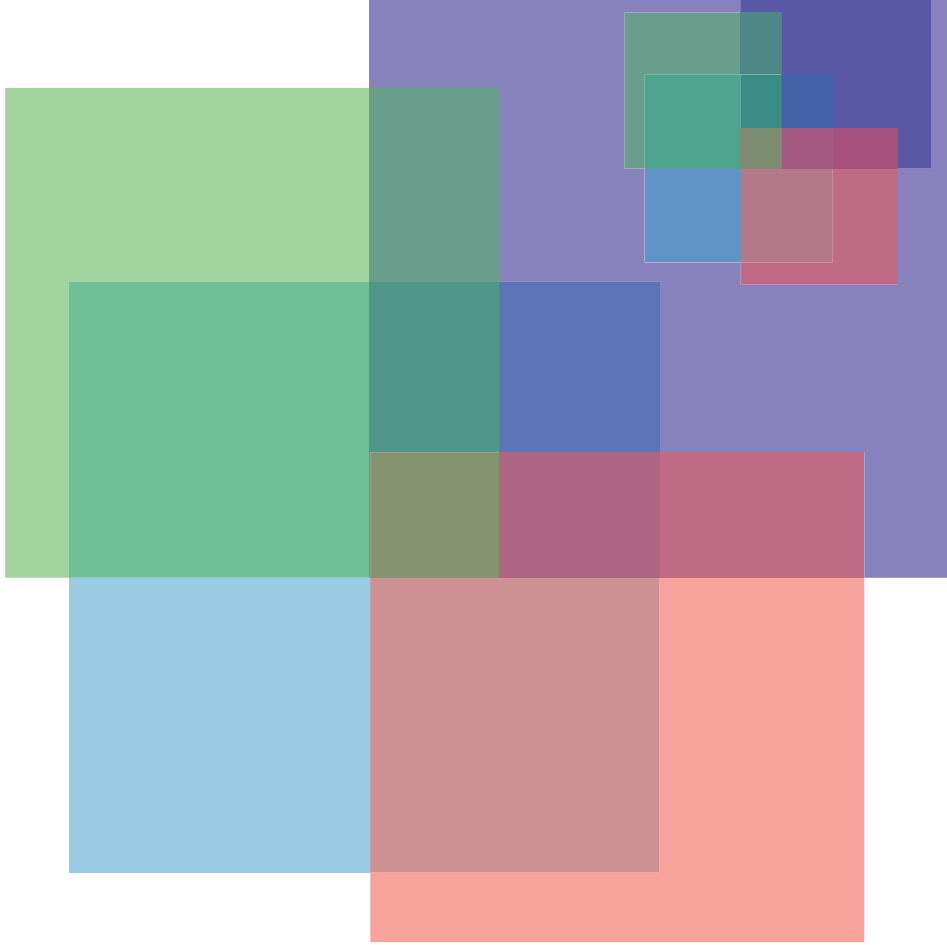
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CHAPTER 3

Sexual rights in the core of the UN human rights system: practices, learning, and challenges

*Gustavo Santos Elpes**

There is this white wall, above which the sky creates itself
Sylvia Plath, *Apprehensions*, 1962

Introduction: The unsolved problem

In recent years, many arguments have emerged to evidence the problem of addressing sexuality and gender issues through a UN¹ human rights framework. Previous efforts were made to assert issues related to sexual orientation and gender identity through the UN provisions (charters, declarations, covenants, instruments and so on). The advocacy's efforts in the international arena to achieve new possibilities in terms of practices and new meanings in this area are one of the aims of this chapter.

The idea of sexual and gender rights remains deeply contested and a very controversial topic. However, the noise and tease encountered in international meetings to debate such issues evidences that we are not in a deadlock. In fact, the last 30 years have shown that we are living the opposite: all the noise gave rise to new paradigms of sexual and gender rights.

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¹ The meaning of the abbreviations and acronyms used throughout this chapter is included in a list at the end of the chapter.

As remarked by Girard (2007: 319), “the cycle of UN conferences that began with the UNCED — the 1992 Conference on Environment and Development (Earth Summit) in Rio de Janeiro, Brazil — provided an opportunity to push sexuality concerns forward”. In their way, women’s health advocates and feminist groups addressed the recognition of reproductive health as a human rights issue as part of their sexuality concerns, following a ‘population-control language’ in family planning, access to reproductive health care and gender-biased violence against women in accessing health services. The 1993 World Conference on Human Rights (WCHR) played the role of asserting ‘the sexual’ into human rights language, namely sexual rights.

Petchesky (2007) argues that a biomedical, regulatory model about population and sexuality has prevailed in many UN agencies. Within the UN system, much has been done to construct alternative discourses on body integrity and sexual justice, as well as their inseparability from social justice. These include the rejection of a heterosexual matrix, which is continuously evoked by international bodies based on documents and norms.

Extensively invoked to illuminate patterns of human rights violations to avoid and punish gender-based violence, international human rights treaties are far from adopting proactive anti-discrimination measures on sexual orientation. They have been equally insufficient in addressing a more effective protection of those who are excluded from the formal scope of human rights.

If, for example, we consider the work conducted by the Commission on Human Rights (CHR), one can easily note that the difficulties in recognizing a common ground to fight against discrimination and violence because of sexual orientation or gender identity mainly come from the UN system consisting of a group of political and state role players. Abandoning the fight cannot be based on the presumed ‘flotation’ of meanings at an international level, as well as ‘respect to differences’ regarding religious, cultural

or moral issues in face of sovereignty. It is important to recognize that the protection of international human rights standards against sexual orientation-based discrimination is part of this complex stage. For instance, deliberations within the CHR² can undermine the legitimacy of specific claims, understanding ‘sexual orientation’ as an ‘undefined term’, and addressing human rights issues based on ‘social and cultural patterns’.

Many countries try to undermine the effectiveness of non-discrimination principles on the grounds of sexual orientation, arguing that “asserting sexual orientation as a source of universal rights is culturally divisive and therefore threatening to the UN consensus” (Saiz, 2005: 12–13). To face the impact of western discourses on sexuality on UN debates (Girard, 2007: 313), many countries have been strategically using these ‘cultural and relativist arguments’ as a way of continuing to spread modal forms of discrimination in their domestic spaces.

This chapter aims to introduce and to analyze some of the aspects of this political process to contribute to understanding the expansion and the broad reconfiguration of the discussion on sexual rights in the UN system, and regarding some of the challenges in discussing discrimination based on sexual orientation. It also aims to provide the identification of the main actors involved in this debate.

1 Practices: the lost links

In 1975, as the international feminist movement began to gain momentum, the UN organized the first World Conference on

² Saiz (2005) notes the draft resolution presented by Brazil to the CHR regarding sexual orientation in the discussion on international human rights norms. In this case, the 2003 draft resolution faced in its discussion the fact that member states of the Organization of Islamic Conference (OIC) “proposed deleting all reference to sexual orientation in the draft” (Saiz, 2005: 12). Postponed to 2004, the draft resolution then faced opposition from the OIC and the Holy See and “lukewarm support from supposedly sympathetic governments led Brazil to postpone formal discussion of the resolution for yet another year” (Saiz, 2005: 12).

Women in Mexico City. The General Assembly declared 1975 as the International Women's Year, enhancing institutional opportunities to women's rights at national and international levels. More and more state and non-state Organizations and social actors were legitimizing their broader struggles against oppression and violence perpetrated by men over women, widening the perception of equality and equity between men and women within the human rights scope. In 1979, the UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), increasing the fight for sexual rights within the scope of sexual and gender inequalities. The 1993 World Conference on Human Rights in Vienna, through its Declaration and Program of Action, initiated the discussion on sexual issues in a UN human rights conference or forum, acknowledging and accrediting 'the sexual' as a human rights issue and asserting 'the sexual' into human rights language, namely as 'sexual rights'. Both the 1994 International Conference on Population and Development (ICPD) in Cairo, Egypt, and the Fourth World Conference on Women (FWCW) in Beijing, China, strengthened the recognition of sexual and reproductive rights as part of universal human rights, but negotiations on sexual orientation and sexual rights followed different paths. However, as explained below, the 2007 Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity³ brought further substantial changes in non-discrimination based on sexual orientation.

Concerns about LGBT human rights violations have been expressed by the United Nations human rights mechanisms since the early 1990s. The OHCHR website clearly states that:

³ The Yogyakarta Principles were launched in 2007 at the fourth HRC session. The Yogyakarta Principles presentation at the fourth session were led by the International Commission of Jurists (ICJ) as well as with the support of human rights specialists, sexual rights advocates and former UN staff.

protecting LGBT people from violence and discrimination does not require the creation of a new set of LGBT-specific rights, nor does it require the establishment of new international human rights standards. The legal obligations of States to safeguard the human rights of LGBT people are well established in international human rights law on the basis of the Universal Declaration of Human Rights and subsequently agreed international human rights treaties.⁴

However, the idea of sexual and gender rights remains deeply contested. The dialogues in international meetings and in Preparatory Committees, further maintained in the corresponding UN Conferences, shows that the relation between human rights and sexuality is an ongoing and contentious process to address sexual orientation or other sexual rights in draft documents.

1.1 From transliteration to achievement

States party to and legally bound by treaties such as the International Covenant on Civil and Political Rights (ICCPR) or the International Covenant on Economic, Social and Cultural Rights (ICESCR) are requested to comply with any decisions based on international human rights laws, and it is recommended that States bind national laws to these provisions.

The most evident challenge in this binding process is the translation and interpretation of what should/must be (and how it should/must be) enshrined in law. Yet, the Human Rights Committee (HRC) and the Committee on Economic, Social and Cultural Rights (CESCR)⁵ try to protect the legitimacy of and to control the ‘meanings

⁴ Available at <http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBT.aspx>

⁵ There are 9 core international human rights instruments, each one with its own committee of experts to monitor the implementation of the treaty provisions by its State parties. For example, the International Covenant on Economic, Social and Cultural Rights has established a Monitoring Body, namely, the Committee on Economic, Social and Cultural Rights; or the Convention on the Elimination of All Forms of Discrimination

flotation' with respect to the State's obligations under international human rights law within UN treaty bodies. Moreover, it should assist with "the interpretation and enhancement of the obligations imposed by treaty provisions" (Bevilacqua, Harper and Kent, 2014: 6).

With respect to States complying with international human rights law, in regard to sexual orientation and gender identity, relevant treaties are usually evoked to protect all persons against discriminatory acts based on sexual orientation. The containment of human rights violations on grounds of sexual orientation is imposed by other human rights fundamental principles and provisions, such as the prevalence of the principle of non-discrimination, the right to equality, the rights to freedom of expression and to privacy, the protection of the right to life and against the deprivation of liberty, and so on. However, the UN human rights system has a long way to go to establish an interpretation including *sexual orientation* in non-discrimination provisions. According to Douzinas, the battleground for constituting the legal subject is symbolic and political. Given the common aim of human rights campaigns "to link the floating and symbolic signifier to a particular signified" (Douzinas, 2000: 259), these campaigns can be understood by means of rhetorical devices such metaphors and metonymies. Here, the "Metaphor operates when a new group has established in law and fact its claims to equality and difference and has appropriated the symbolic value of the 'floating signifier'" (2000: 258), while the imaginative and rhetorical operation of metonymical transfers of meaning "[...] allows the transfer of the presumed dignity of human nature to entities which, although not strictly analogous to people, are contiguous or in some other way related to them" (Douzinas, 2000: 258).

against Women, whose body of independent experts monitoring its implementation is the Committee on the Elimination of Discrimination against Women. The list of all core universal human rights instruments and their monitoring bodies and additional optional protocols is available at the OHCHR website: <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>>.

As I see it, country-based movements for sexual and gender rights, as well as the mobilization of transnational movements and activist networks on behalf of the administration of rights, are the main actors empowering the human rights narrative to attain neglected rights. Transnational activist networks with representative voices in international and governmental arenas have to deal with the challenge of ‘translating’ the demands and expectations of country-based movements.

The UN is one of the most important arenas both to find a common ground for the prerogatives of state and non-state actors in the spirit of “local-to-global and global-to-local hybridity” (Petschesky, 2007: 21), and to feed a typically⁶ ‘transnational language’. The latter would create social spaces for citizen action in countries that have been facing an emergence of voices on changing the landscape of Sexual and Reproductive Health and Rights (SRHR), and where the expansion and extension of sexual rights involves developing new discourses.

Petchesky (2007: 20) argues that “[...] the language is now circulating in the halls and chambers of the institution and cannot easily be put back in the bottle”. She goes on to say that:

Beyond this, a human rights approach to sexuality and sexual policy implies the principle of indivisibility — meaning that sexual rights are inextricable from economic, social, cultural, and political rights. Freedom to express one’s sexual or gender orientation or to be who one is as a sexual person, to experience erotic justice, is interdependent with a whole series of other rights, including health care, decent

⁶ Nathanson, Sember and Parker (2007), expressed their concerns about how transnational language of sexual rights affects the lives of people at the grassroots. For instance, they ask “how are emerging gay and lesbian communities in relatively peripheral social and economic settings creating and re-creating their own understandings of citizenship and empowerment that may or may not have the same terms of reference as LGBT and queer activism as it evolved in the centres of economic and political power — and that may have very little to do with the transnational activism focusing on sexual rights in arenas such as the United Nations?” (2007: 409).

housing, food security, freedom from violence and intimidation, and to be in public space without shame. (Petchesky, 2007: 20)

The spread of human rights discourses and how they circulate and spread creates a sort of cultural homogeneity in terms of social justice discourse. Regarding the global-local and local-global dynamics in the context of the production and circulation of ideas, the process of translating ideas among different spatialities (the global and the local arenas) is profoundly marked by a deep determinacy. This means that travelling from transnational sources (bound by legal documents and policy statements of transnational sites like the UN) to communities are not somehow ‘properly’ framed by global human rights principles and activities.⁷ Despite the problematic conjecture of universal moral frameworks (stated in international human rights conventions) in national and local communities, as well as its tendency to shape discussions at transnational levels, the ongoing process of bringing into discussion ideas from suffering and violation at a local level to assert the validity of international law under a universal code of social justice⁸ is still challenging.

Local cultural customs have been instrumental in maintaining the ongoing practice of discrimination and criminalization in domestic arenas. In most countries party to a specific treaty should at least constrain such practices (in face of international

⁷ However, it is important to note the existence of powerful (and the imbalance of power) discourses and counter-discourses addressing certain rights in connection with sexuality or to name explicitly “sexual orientation” in the agenda of sexual rights. The “b-side” of this story is remembered by Girard (2007), who notes that “Especially because of the history of modern colonialism, Western constructs of sexuality have permeated debates in other countries and at the UN. They have been partially adopted by colonized countries, and readapted to suit new discourses” (2007: 317).

⁸ For a perspective that is not similar but is complementary on the practices of translations from global ideas and institutions to local settings around the world, and how “translators refashion global rights agendas for local contexts and reframe local grievances in terms of global human rights principles and activities” (Merry, 2006: 39) to face specific situations of suffering and violation, see Merry (2006).

covenants, declarations, norms, instruments and additional protocols, some claims for the unpredictability of law interpretation, or the prevalence of other sources of law in domestic spaces rather than the “imposed western legal reasoning”, or the safeguard of sovereignty). It is helpful to remember that “[...] the process and scope conditions by which and under which states as well as private actors could be moved from commitment to human rights norms to actual compliance with them”⁹ (Risse and Ropp, 2013: 4) can also be explained by the international geopolitical power of states.

2 Learning: The many voices

In recent efforts, all those experiences were highly valuable in evidencing the operative perspective that recognizes reproductive rights as sexual rights and in introducing reproductive rights and sexual rights in the human rights agenda. As we will note further, one of the prevailing points is still introducing sexual orientation in the sexual rights agenda.

Petchesky (2007:19) argues that a “biomedical, regulatory model with regard to population and sexuality has prevailed in many UN agencies — UNFPA, WHO — in the past”. Within the UN system, alternative discourses have found their way to address one of the most persistent challenges in body integrity and sexual justice, as well as in their inseparability from social justice: the struggle to approve a resolution on sexual orientation in the HRC or to include a strong reference to it in UN treaties and Covenants.

At the UN, the leading international venue to develop international norms and to circulate, to bring visibility to and to locate (somehow or other, limiting the exogenous possibilities outside

⁹ Following the definition provided by Risse and Ropp (2013), “commitment” means that “actors accept international human rights as valid and binding for themselves. [In the case of states] this usually requires signing up to and/or ratifying international human rights treaties” (2013: 9), while “compliance” is understood as “sustained behaviour and domestic practices that conform to the international human rights norms” ((2013: 10).

its scope) new discourses on the interrelation between sexuality and law, sexuality discussion has been systematically placed in the frame of population and development discussions. Much has been done by implicitly addressing sexuality through related subjects and their corresponding rights. According to Girard (2007: 312), the discussion on “whether to assert certain rights in connection with sexuality or to name explicitly those aspects that give rise to discrimination” has been rising since the 1990s.

Firstly, let us assume that complex interactions between transnational network¹⁰ and governments have shaped the circumstances and characteristics of the struggle to recognize ‘sexual rights’ as a concept related to the human rights narrative and encompassed in human rights treaties. During struggles to foster new and more progressive norms on sexuality at the UN, negotiations have shown a lack of balance in asserting the ‘right to non-discrimination’ in ‘non-discrimination based on sexual orientation’ debates. Including mentions to ‘sexual orientation’ in UN documents has become an increasing challenge in this international multicultural arena.

The inclusion of anti-discrimination clauses based on sexual orientation offer new possibilities to frame sexual citizenship around the world. Nevertheless, the legal accomplishments of these clauses open new challenges. Regarding the role of transnational networks in pressuring for change, Keck and Sikkink remind that

¹⁰ In using the term “transnational network” for the purposes of this chapter, I mean only the domestic and international NGOs, highlighting the interactive advocacy process in which actors are organized to transform the terms of a specific debate as well as to promote causes, ideas, norms and lobby for policy changes, collectively and for group interests. In order to analyse this specific form of relationship with states seen from within the UN international arena, the restrictive use of the “transnational network” term here will not focus on other relevant social actors, such as local social movements, regional and international intergovernmental organizations, the media etc. By “network”, I understand the “the forms of organization characterized by voluntary, reciprocal, and horizontal patterns of communication and exchange. [...] In spite of the differences between domestic and international realms, the network concept travels well because it stresses fluid and open relations among committed and knowledgeable actors working in specialized issue areas” (Keck and Sikkink, 1998: 8).

when channels between the state and its domestic actors are blocked, the boomerang pattern of influence characteristic of transnational networks may occur: domestic NGOs bypass their state and directly search out international allies to try to bring pressure on their states outside. (Keck and Sikkink, 1998: 12)

However, the challenge increases when the ability to establish contacts involves dispersed or fragmented actors, or when governments are inaccessible to group claims or constrain practices of non-state actors. This is the case of several countries where domestic groups and activism work on gender and sexuality issues are formally forbidden or inhibited.¹¹

Building on the “boomerang effect” analysis (Keck and Sikkink, 1998), Risse and Ropp (2013) describe a so-called “spiral model” that explains the types of socialization processes towards states non-compliant with human rights norms. Regarding the “causal relationships between various state and non-state actors and associated processes” (Risse and Ropp, 2013: 5), they put forward five distinct phases. (1) ‘Repression’, because of the degree of repression that social actors and groups face in some states, in which “the resulting informational vacuum made it extremely difficult for opposition groups to convince authoritarian leaders” (2013: 6). (2) ‘Denial’ refers to transnational group actions in gathering information on human rights violations, and the lobbying of international human rights organizations for democratic states to react to the continuing refusal of violators to recognize the validity

¹¹ By analysing state perpetrators, the conditions and mechanisms in which the complex *modus operandi* of social action between states and transnational activist networks tries to enforce the “move from commitment to compliance” becomes more apparent (Risse and Ropp, 2013: 5). However, they continue, “with regard to consolidated autocratic regimes...persuasion [discursive socialization mechanism] could prove to be ineffective” (2013: 18). Here, the “rule-consistent behaviour” phase in the compliance of states to human rights norms, described by Risse and Ropp (2013), is particularly interesting in the way that it highlights the results of social actors seeking international support to “triumph over their domestic opponents” (2013: 7).

of international human rights norms and their denial in engaging those norms in the domestic realm. (3) ‘Tactical concessions’ refer to the ways a repressive state can use an instrumental tactical concession perspective “in order to get the international human rights community ‘off their backs’” (2013: 6). (4) A ‘Prescriptive status’ is achieved when the states grant human rights norms through a “well-defined set of state actions and associated practices such as ratifying-relevant international treaties and their optional protocols, changing related domestic laws” (Risse and Ropp, 2013: 6), among other attributions. Finally, (5) The ‘Rule-consistent behaviour’ involves processes at both domestic and international level to achieve “behavioural change and sustained compliance with international human rights” (2013: 7).

The discussion process on discrimination based on sexual orientation crosses all 5 phases. The relationship between states and transnational groups within the UN clarifies how the socialization process operates so that struggles may achieve the results they aimed at.

2.1 A useful landscape to improve the non-discrimination principle

The Yogyakarta Principles were probably the most important movement and well-succeeded strategy to bring antidiscrimination laws for LGBT people to the international human rights system of law. The rights in these Principles are closely linked to those within the ICCPR and ICESCR, especially the articles on non-discrimination and on the right to legal recognition. Most notably, “the Yogyakarta Principles provide clear guidelines to States and the international community on how international human rights law applies to sexual orientation and gender identity” (Bevilacqua, Harper and Kent, 2014: 7).

In respect to matters of definition implied by the Principles defining binding legal standards with which all States must comply, it is worth noting that

sexual behaviour (what people do) is different from both sexual orientation or desire (object choice or fantasy) and sexual identity (which may or may not coincide with behaviour or desire). And all three are distinct from gender behaviour, gender orientation, and gender identity (subjectivity). (Petchesky, 2007: 13)

Furthermore, the strategy launched by the “Call for Action Worldwide against Discrimination and Abuse” (the Yogyakarta Principles) can be a helpful resource both to countries and to the broader society to face discrimination and violence. Cviklová (2012), bearing in mind the Yogyakarta Principles “which aim at the application of international human rights law in relation to sexual orientation and gender identity” (2012: 56) adopted through international documents ratified by most UN member states, asserts that “the reasons for the initiative were to remind UN members that they have been signatory to the international norm” (2012: 56). He also reports that

a uniform system of law governing human rights at the international level in the field of sexual orientation and gender identity as a subject of non-discrimination would be a very good means of ensuring the fundamental freedoms of all... (Cviklová, 2012: 56)

In Cviklová’s words, the Yogyakarta Principles

can be characterized as a set of principles that aim at the application of international human rights law standards to address the abuse of the human rights of LGBT people as well as issues of intersexuality. [...] The aim of these principles is to improve the interpretation of human rights treaties

but, they have not become part of international human rights law yet. (Cviklová, 2012: 48)

Consequently, the Yogyakarta Principles address a broad range of human rights standards, providing both instruments for action and, at the same time, new challenges for State compliance.

Conclusion: From sexual rights to sexual justice

When sexual and reproductive rights were brought up, their contents were linked to the demands and claims of a specific agenda based on feminist movements. Violence experienced by women and the violation of women's rights were at the core of the sexual rights agenda, and its association to reproductive health issues was an important consequence of feminist struggles that were bringing up and/or correcting the understanding of rights as including the experience of women in particular. The legacy of women activism in bringing sexual, reproductive, and health rights to the UN Human Rights Council is immeasurable. However, I agree with Rios (2006) on the need to broaden the concept of sexual and reproductive rights, and to further

advance in the comprehension of sexual rights and reproductive rights in the broader picture of human rights [...], because sexual rights and reproductive rights are legal categories meant to question social phenomena and relations that are not only set by women [...]. Such rights are prominently necessary in discussions on sexual expressions, here understood in a broader way, including homosexual, heterosexual, bisexual, transsexual and transvestite sexual orientations. (Rios, 2006: 79)

Taking into consideration the principle of indivisibility underlying sexual rights discussion, as well as the recognition of sexual rights as human rights, the consequences of not framing

sexual-orientation-related rights within a broader concept of sexual rights can drastically affect peoples' lives. Those who are not recognized as full legal subjects cannot organize or access specific rights. Compartmentalizing individuals into those who are and those who are not covered by law induces non-recognition. This compartmentalization may "recognize some aspects of self (formal equality and dignity), withhold recognition from others (the necessary material preconditions for the effective enjoyment of dignity), finally, devalue or dismiss still others (sexual orientation and identity as a prime example)" (Douzinas, 2007: 324).

Across the complex dynamics discussed above, transnational advocacy networks in the UN international arena are fundamental to negotiation, bringing both local and global consensus over sexuality issues and non-discriminatory practices. The challenge to define and to set *sexual orientation* in legal documents within the scope of the UN meets, comes against, and collides with the multiplicity of cultural frameworks. In a multi-vocal context such as UN meetings, the ability to negotiate requires both a huge sensibility in dealing with different discursive regimes, and the need to embed differences into the principles and legal documents that constitute human rights law. At the same, in view of the coalition-building strategies, the

political project of human rights and sexual rights [continually] reinvent their meanings so that they are social and individual, global and local, theoretical and practical, inclusive and specific, visionary and operational, about the body and about the collective body, all at the same time. The 'beyond' beyond dichotomous thinking is political solidarity. (Corrêa, Petchesky and Parker, 2008: 223–224)

According to Corrêa, Petchesky and Parker (2008: 223), we should not "dispense with the language of human rights, but neither

can we accept it as fully adequate or complete”.¹² Searching for a ‘equally open and pluralistic strategy’, Rodríguez-Garavito (2014) argues that a more horizontal *modus operandi* promoting the interaction among different actors in a diverse ecosystem of collaboration and complementarity is needed to strengthen human rights, in order to expand human rights theory and practice, and to open “spaces for new actors, themes, and strategies that have emerged [...], to capture and maximize this diversity” (Rodríguez-Garavito, 2014: 505).

As human rights law has been formally conceptualized, it has not yet been able to destabilize the forces of dominant meanings related to gender and sexuality issues. Throughout this chapter, it was possible to see how arduous and defiant this process is.

As asserted by the International Commission of Jurists (ICJ),

In the case of discrimination and violence against LGBT individuals, there is often a protection gap. A man who is physically assaulted because of his sexual orientation or gender identity cannot file a complaint with the Special Rapporteur on Violence Against Women. If he is not a human rights defender, he cannot go to the Special Rapporteur on the Situation of Human Rights Defender. If the situation did not involve expression or assembly and he is not being detained and he has not been killed, it may be difficult for him (or his family) to meaningfully access the special procedures. Such an individual could slip through the cracks in the UN human rights system. (ICJ, 2013: 7)

When sexual and gender identity discourses operate with reference to international standards, the global structure of human rights principles and norms does not seem to be enough to guarantee that sexual rights can be safeguarded in the key-reading of human

¹² In this sense, Goodale (2007) asks “How, for example, does the employment of human rights as a normative framework actually affect the ongoing set of causes of vulnerability, regardless of how this is defined?” (2007: 31).

rights issues. A number of countries (if not all UN state members) keeps using strategies to keep some inequalities untouched. It is not unusual to see states maintaining “an appearance of compliance while doing nothing or while doing something that is quite different to what international law specifies as human rights” (Merry, 2006: 48).

In the meantime, the challenge in addressing a steadier place for discrimination on the basis of sexual orientation remains. Between promises of justice and the interruption of perpetuating oppressive practices, exclusions and several forms of violence, there is still a long way to go to overcome the many abysses. In the languages¹³ of human rights norms and standards, “most human rights utterances constitute ‘performative speech acts’” (Baxi, 2006: 173). The author goes on to say that “human rights textualities and sexualities go together” (Baxi, 2006: 182). Along this typifying language that builds and destroys beautiful things, part of our hopes are in the ruins, by which new buildings can always be edified.

*I want to give thanks to the divine
Labyrinth of causes and effects [...]
For Reason, that will never give up its dream
Of a map of the labyrinth [...]
For morning, that gives us the illusion of a new beginning
Jorge Luis Borges, Another poem of gifts*

¹³ As noted by Baxi (2006), there are “and in raw plenitude, not just one but many worlds of human rights. The dense, often labyrinthine, intertextuality of human rights far from (to evoke Roland Barthes) ‘releasing a single “theological” meaning’ [...], constitutes a ‘multidimensional space in which a variety of meanings, none of them original, bend and clash’” (2006: 175).

List of abbreviations and acronyms

CEDAW	Convention/Committee on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
ECOSOC	Economic and Social Council
FWCW	Fourth World Conference on Women
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Commission of Jurists
ICPD	International Conference on Population and Development
LGBT	Lesbian, gay, bisexual, transgender
NGO	Non-governmental organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
SRHR	Sexual and Reproductive Health and Rights
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCED	United Nations Conference on Environment and Development
UNFPA	United Nations Population Fund
UNHRC	United Nations Human Rights Committee
WCHR	World Conference on Human Rights

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