

8-31-2017

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### Citation Information

Bawa, Sylvia. "Assessing Universalism and The Rhetoric of Development Assistance in Human Rights Research: Canadian-Ghanaian Human Rights Engagements." *The Transnational Human Rights Review* 4. (2017) :

DOI: <https://doi.org/10.60082/2563-4631.1065>

<https://digitalcommons.osgoode.yorku.ca/thr/vol4/iss1/3>

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CANADIAN-GHANIAN HUMAN RIGHTS ENGAGEMENTS

**ASSESSING UNIVERSALISM AND THE RHETORIC OF DEVELOPMENT ASSISTANCE IN HUMAN RIGHTS RESEARCH: CANADIAN-GHANAIAN HUMAN RIGHTS ENGAGEMENTS**

SYLVIA BAWA\*

**Abstract**

This article is a contribution to the question of how Canada engages human rights in Ghana and Anglophone sub-Saharan Africa in general. In order to critically assess human rights engagement between Ghana and Canada, I situate the discussion within the broader global human rights milieu to deconstruct the myriad ways in which power dynamics in the global arena shape human rights practice and discourse. Using the rights concerns of women and minorities in Ghana as an entry point, I discuss the interconnected nature of first- and second-generation rights and cultural relativism in universal rights discourses. This discussion aims to propose a research agenda that will approach human rights in a more progressively transformative fashion.

**1A. IN 2007, AFTER 50 YEARS OF INDEPENDENCE** from British Colonial Rule, Ghana made history by passing into law a bill aimed at combatting domestic violence. Women's rights leaders and activists jubilated. It had taken five years from the introduction of this Bill into Parliament to its passage. Rights activists imagined that this would be a simple task – after all, Ghana has ratified international conventions on women's rights and is hailed as a progressive country, as far as human rights and democracy are concerned in Africa. They had no idea that they would face a kind of opposition that was unprecedented in Ghana's history. Those that opposed the bill claimed that the demands of the women's movement were not cultural or, rather, that the women's movement was borrowing uncritically from western feminism. Activists responded that this was ridiculous, that violence is not part of Ghanaian culture. Like other activists, Adwoa, one of the participants in the interviews I conducted in Ghana has often critically engaged the question of Ghanaian culture.

“Which Culture? The one that allows men to wear suits and attend school while justifying obnoxious practices against women in the villages? That came from the British; let them

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check their facts. There is nothing cultural about a woman denied education, nor is there anything cultural about women's rights violations. How can anyone talk about Ghanaian culture like we never met the British? Especially when we speak their language and use their laws."

In a country of over 70 ethnic groups and cultures, the notion of a Ghanaian culture is an interesting one. Opposition to women's sexual and individual rights on the basis of culture in Ghana, and sub-Saharan Africa for that matter, open up space for conversations not just about women's and minority rights, but about issues of sovereignty and imperialism in postcolonial societies. I suggest that it is important, and helpful, to consider women's rights in Africa as minority rights because of three reasons:

- a) Women are not the culturally dominant group, despite sometimes being a majority in terms of population. Therefore, as discussions here will show, women's rights are considered peripheral to the male-centered agenda of nation-state building.
- b) Closely related to this is the fact that women's rights are considered a threat to the cultural cohesion of nation-states. In other words, there's a prevailing notion that individual rights threaten the collective conscience and goals of communitarian societies and therefore need to be suppressed for the sake of the "whole society".
- c) Finally, by conceptualizing women's rights as minority rights, practitioners will bring much needed urgency to women's rights concerns and by so-doing dispel the idea that women's rights advocacy caters to "a few disgruntled women" who have been unduly influenced by western women's rights discourses. In other words, it would help to raise awareness of how powerful male actors have managed to suppress the interests of the majority of their citizens through propaganda which seeks to center their interests (though in the minority) as communal and beneficial to all.

Human rights discourses in the Third World, especially within African contexts, tend to revolve around two main issues: a) Culture and cultural relativism (i.e. the necessity of assessing the place or otherwise of culture in human rights practice), and b) Poverty and development (i.e. the alleviation of poverty as a way of ensuring the enjoyment of human rights). African ‘culture’ has assumed a central role as an inevitable explanatory variable in discussions of development and human rights. Culture is an excellent exceptionalist tool kit to explain away the African “mess”, *i.e.* the lack of linear progress trajectory within modernization discourses in development studies. Cultural difference was, after all, the *raison d’être* for the salvation and civilizing missions of colonialists and their surrogates, which continue today in neocolonial discussions of so-called development aid. To this extent, it is important to engage and critically evaluate the centrality of culture to human rights discourses and practice in Ghana in the postcolonial era.

This article is a contribution to the debate on the question of how Canada engages human rights in Ghana and Anglophone Africa generally. I will examine how Canada’s development aid (broadly conceived) and the mining activities of Canadian companies contribute to our understanding of different engagements working in tandem to uphold and violate rights simultaneously. I include the activities of human rights NGOs and civil society organizations located in Canada as part of the objects of this analysis. I suggest that, taken in the context of the right to development framework, the work that these organizations do (by way of providing material resources to alleviate poverty, engagement in advocacy for rights, and giving some funding to local NGOs) provide critical insights into the tensions and North-South polarizations of human rights discourse. In relation to the complicated nature of the cultural relativism debate within human rights discourse, I use women’s and LGQBT rights to exemplify how minority rights are considered to be oppositional to nation-building ideas by cultural gatekeepers, while

simultaneously serving as a basis for international interventions. This article, modified from a conference presentation on Canada's engagement with human rights in Anglophone Africa, primarily seeks to assess the literature and the policy direction, and propose a research agenda.

The article is divided into three parts: the first segment engages theoretical debates on the power dynamics which are in play in assessing human rights as a universal good and provides context for women's rights advocacy in Ghana. Part two focuses on how Canada engages Ghana in the promotion and protection of human rights. Here, I discuss Canada's international development projects in Ghana and how these would create opportunities for promoting/protecting human rights at various levels. Additionally, I also examine how the discourses surrounding these initiatives work to obscure the exploitative nature of many of these engagements. I make the case that while the human rights community still focuses largely on civil and political liberties (which tend to favor, largely, but not exclusively the political class and elite), interventions in basic social services are crucial to ensuring long term adherence to rights<sup>1</sup>. I conclude, in part three, with some suggestions for a research agenda on Canadian-Ghanaian human rights engagements.

Methodologically, I approach this work from a postcolonial African feminist framework, which provides crucial tools to critically engage colonial legacies and prevailing nationalist and socio-cultural discourses on gender. The article draws some insights from earlier research work on women's rights and empowerment discourses in Ghana.<sup>2</sup> To this end, I draw on textual analyses of the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights,

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<sup>1</sup> This is not to suggest that poor people do not need or benefit from civil and political liberties; in fact, it may well be the case those rights form the basis for challenging the economic system that impoverishes them. However, in this context, I am referring to the artificial binary distinction that seems to suggest that the way to achieving economic rights for the poor is through securing CP rights as a first step. Here I argue that such an approach benefits, disproportionately, those who are not in dire poverty. I believe that in cases of dire poverty, an approach that prioritises the provision of basic necessities would be most beneficial to the poor and would not need to de-emphasise CP rights in the process.

<sup>2</sup> Sylvia Bawa, "Women's rights and culture in Africa: a dialogue with global patriarchal traditions" (2012) 33:1 Can J Development Stud 90.

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the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (hereafter the Maputo Protocol), and, to a small extent, news reports and media framings of women's rights issues in Ghana. It is necessary that a critical assessment of human rights engagements between Ghana and Canada be situated within the broader global human rights milieu in order to deconstruct the myriad ways in which universalism and difference work dialectically in human rights practice. To wit, these engagements are shaped by a historical, colonial hierarchical structure which privileges Canada as a more "progressive" human rights compliant state with a moral obligation to support Ghana's weak human rights infrastructure.

**B. THE UNIVERSAL IN THE POSTCOLONIAL**

The adoption of regionally/religiously specific human rights instruments to guide human rights practice, law, and culture alongside the universally imposed UDHR speaks to the challenges facing human rights practice and law around the globe. More importantly, the weak (if existing) enforcement mechanisms make human rights discourses lofty and ideological. Theoretically, these other human rights instruments bridge the socio-cultural and religious gaps between universal [read: western individual libertarian] human rights principles and existing socio-cultural practices in non-western societies. While it is generally agreed that some cultural particularism is required in assessing human rights needs and issues, tensions often arise as to the extent to which such relativism is necessary in the adjudication of human rights.<sup>3</sup> In the case of the African Charter of Human and Peoples' Rights for instance, some of its provisions favor a patriarchal understanding

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<sup>3</sup> Makau wa Mutua, "The Banjul Charter and the African Cultural Fingerprint: An Evaluation of the Language of Duties" (1995) 35:1 Va J Intl L 339; Bonny Ibhawoh, "Human Rights INGOs and the North/South Gap: The Challenge of Normative and Empirical Learning" in Daniel Bell and Jean-Marc Coicaud, eds., *Ethics in Action: The Ethical Challenges of International Human Rights Nongovernmental Organizations* (Cambridge: Cambridge University Press, 2007), at 79-97.

of the cultural systems operating on the continent.<sup>4</sup> They also suggest homogeneity in an otherwise vast and diverse continent. This stake to socio-cultural and political difference from the West, while understandable, in the matter of asserting complete political independence, means the suppression of voices of dissent from minority groups, including women<sup>5</sup> and those who do not subscribe to heterosexual normativity. These patriarchal interpretations have been deemed, to a large extent, by women's rights groups to be harmful to individual women and can therefore potentially lead to the violation of their fundamental human rights to personhood and dignity. I have argued elsewhere that African women's rights concerns, conveyed formally in the Maputo Protocol, open up spaces for critically engaging the primary debates in human rights: cultural relativism in universalist conceptions of human rights and on the continuing prioritization of civil and political (CP) rights over economic, social, and cultural (ESC) rights.<sup>6</sup> I suggest further that, the very act of resisting a blanket/patriarchal interpretation of African culture through the drafting of the Maputo protocol encapsulates the agency of women in resisting the double colonization that colonialism instituted.<sup>7</sup> Further to that point, I have suggested that "as far as human rights advocacy is concerned, the challenge facing African women's rights advocates and feminists is their ability to advocate a specific relativism, one that leans towards individual freedoms and individual libertarian values while emphasizing a communal responsibility to protect the rights of women at community and state levels through an institutionalization of these processes, legally and socio-culturally."<sup>8</sup>

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<sup>4</sup> See Bawa, *supra* note 1; Sylvia Tamale, "The right to culture and the culture of rights: a critical perspective on women's sexual rights in Africa" (2008) 16:1 Fem Leg Stud 47.

<sup>5</sup> As discussed earlier, I find it helpful to consider women a minority group in rights claims because of their subordinate positions, generally speaking, in African communities.

<sup>6</sup> See Bawa, *ibid*.

<sup>7</sup> For a more thorough discussion of double colonization, see Oyèrónkẹ Oyěwùmí, *The Invention of Women: Making an African Sense of Western Gender Discourses* (Minneapolis: U of Minnesota Press; 1997).

<sup>8</sup> *Ibid*, at 92.

Criticism of the western philosophical origins of the dominant Liberal conception of human rights notwithstanding, human rights have assumed a sacred status and subsequently contributed extensively in advancing a universalized concept of fundamental human needs across the globe. Sociologically speaking, it is curious to see how clashes between particular cultural traditions and universalist notions produce dialectical alternatives. The notion of inalienability of rights – *i.e.* rights bestowed simply on the basis that we are all human – is a foundationalist approach to human rights scholarship.<sup>9</sup> Contrary to this foundationalist understanding and theorizing of rights by sociologists, social constructionist theorists examine the processes and structures that support human rights discourse and the power dynamics involved in the evolution of the term as well as contexts within which rights claims are made.<sup>10</sup> Following this constructionist approach, it is clear that examining the power dynamics and processes of institutionalizing human rights helps reveal the ideological biases that underpin the global human rights regime. Waters, for instance, argues that:

“institutionalising rights can be to the advantage of political regimes in consolidating political support. We can thereby identify the core assumption of a social constructionist theory of human rights: that the institutionalisation of rights is a product of the balance of power between political interests.”<sup>11</sup>

Stammers picks up on the importance of power analyses in discourses of human rights between institutions. He argues that there’s a dearth of scholarship in the area of power, social movements, and human rights, even though the discourse of rights assumes these engagements. According to Stammers, we should “...use the triadic relationship between human rights, social movements, and power as an organizing focus for analysis...” to provide a way of analyzing the manner in

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<sup>9</sup> Bryan S Turner, “Outline of a Theory of Human Rights” (1993) 27:3 Soc 489.

<sup>10</sup> Obiora Chinedu Okafor, “The African System on Human and Peoples' Rights, Quasi-Constructivism, and the Possibility of Peacebuilding within African states” (2004) 8:4 Intl J Hum Rts 1; Malcolm Waters, “Human Rights and the Universalization of Interests: Towards a Social Constructionist Approach” (1996) 30:3 Sociology 593.

<sup>11</sup> Waters, *ibid* at 595.



which human rights discourse evolves and is constructed through engagements with power.<sup>12</sup>

Elliot, sums it up aptly by arguing that:

“...we can gain new insights into the expansion of human rights by viewing it as a cult of the individual for a global society. While not a religion in the traditional sense, this modern cult worships its own gods, venerates its own sacred texts, and performs its own rituals in strikingly similar ways to religious practices.”<sup>13</sup>

## II. CANADIAN-GHANAIAN HUMAN RIGHTS ENGAGEMENTS

In this segment, I address the question of what human rights engagement means in the geo-political and spatial contexts of two hierarchically ranked commonwealth countries. In terms of literature, there is hardly any literature on the specific issue of Canadian/Ghanaian human rights engagements. Therefore, to guide discussions in this segment more directly, I ask the following questions:

- a) What is the nature of these engagements (how are they shaped and what power dynamics are at play in how expectations, praise, and assessments are set up)?
- b) Who is involved in these engagements? Who benefits? What are the concrete/tangible goals and deliverables of these engagements? (Governments, Civil Society organizations, private individuals)

Perhaps, it is fair to say that the only commonality between Canada (a settler colonial state in North America) and Ghana (a former colony of Britain in West Africa), besides a desire on the part of both countries to flourish, is that they share a common law legal heritage from the British Commonwealth. The critical difference between the two, though, in terms of colonial history and legacy (one a colonizing/colonial state and the other a formerly colonized state) is central to analyzing the nature of human rights engagements. The nature of engagement between the two

<sup>12</sup> Neil Stammers, “Social Movements and the Social Construction of Human Rights” (1999) 21:4 Hum Rts Q 980.

<sup>13</sup> Michael A Elliott, “Human Rights and the Triumph of the Individual in World Culture” (2007) 343.

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countries is framed by global rights discourses and agenda. In particular, besides their differing emphasis on categories of rights (i.e. as between CP and ESC rights), the added layer of a structured hierarchy in which countries of the Global North have emerged as leaders in human rights adherence, while Third World or Global South countries tend to be considered as culprits in rights observance requires attention here. It is important in this context to address the ways in which such highly skewed global discourses of rights re-designate the Global North as the authors, arbiters, and progenitors of progress.

### A. THE NATURE OF THE ENGAGEMENTS

The following are extracted comments from news reports of statements made by a former British Prime minister, David Cameron, in 2011 and the current Prime Minister of Canada, Justin Trudeau, in 2016 respectively. In the first statement, Cameron threatens to cut aid to countries with questionable human rights records, with specific reference to bans on homosexuality. In the second, Justin Trudeau takes a less authoritarian view by articulating a cultural relativist stance on the pace of evolution of human rights in Africa with regards to culture. As discussed in the section immediately preceding this, it is important to pay attention to the rhetoric used in framing cultural differences with regards to human rights in order to situate current human rights engagements within a colonial historical context. As members of the Commonwealth, broader discussions of aid and human rights issues at Commonwealth events contribute to country specific responses (in terms of aid-giving and reception as well as public engagements on human rights from the countries concerned). It is hard to miss the salvationist narratives in these comments.

“Mr. Cameron says *those receiving UK aid should "adhere to proper human rights"*. Ending the bans on homosexuality was one of the recommendations of an internal report into the future relevance of the Commonwealth”.<sup>14</sup>

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<sup>14</sup> “Cameron threat to dock some UK aid to anti-gay nations” *BBC News* (30 October 2011), online: <[www.bbc.com/news/uk-15511081](http://www.bbc.com/news/uk-15511081)> [emphasis added].

“The fact is, different countries have different paces of evolution in terms of recognizing and enshrining those rights, but we can see that there has been tremendous progress over the years in many different areas,” Trudeau said when asked to address the fact that many in Liberia do not condone same-sex marriage. Standing beside Johnson Sirleaf at a joint news conference, Trudeau praised the Liberian president for the leadership she has shown on *female genital mutilation, another human rights issue that affects the region*. “*I understand that culture can be a challenge in pushing that, but doing the right thing is something that people shouldn't shy away from*”...<sup>15</sup>

At the state and governmental level, Canada formerly provided official development assistance to Ghana through the Canadian International Development Agency (CIDA). Since that agency was merged with the then Department of Foreign Affairs and International Trade, assistance has been given through the federal government department known as “Global Affairs Canada”. Beyond the provision of such development aid, and in concert with global human rights practice, Canada, as part of the international community, indirectly exerts pressure on Ghana to comply with international human rights norms. While development assistance language tends to convey the impression that Canada is a benevolent state, it must be noted that international agreements between Ghana and Canada also provide an enabling environment for Canadian multinationals to operate in Ghana.

In 2016, the Canada Fund for Local Initiatives (CFLI) posted the following as its priority areas in Ghana:

...championing inclusive and accountable governance, peaceful pluralism and *respect for diversity, and human rights* with a *focus on* one or more of the following: Preventing Child, Early and Forced Marriage, Supporting democratic transition and civic participation, particularly by women, youth and minority groups, including persons with disabilities, and building the capacity of the media to fulfill their role in a responsible and ethical manner;

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<sup>15</sup> Joanna Smith, “‘Culture can be a challenge’: Trudeau’s Liberia visit champions equality rights” *CBC News* (24 November 2016), online: <[www.cbc.ca/news/politics/trudeau-liberia-thursday-1.3865308](http://www.cbc.ca/news/politics/trudeau-liberia-thursday-1.3865308)> [emphasis added].

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*Addressing violence and discrimination against, and protecting the human rights of, lesbian, gay, bisexual and transgender people.*<sup>16</sup>

The government's shift in aid engagement, i.e. change in name and focus from a more "development oriented" Canadian International Development Agency (CIDA) to a more generally styled "Global Affairs Canada", as indicated in their priority areas above, undoubtedly demonstrate the Eurocentric nature<sup>17</sup> of human rights engagements from Northern nations. Thus emphasis on women's health rights by Canada in recent years, though beneficial to women in African countries, still fits within this paradigm.

Beyond the tired traditional debates on CP rights and ESC rights, the more nuanced debate on the right to development (RTD) has also garnered much attention, especially among critical scholars from the Third World. While this rights claim resonates strongly with southern academics and states, northern politicians and states are skeptical about its provisions. They worry that it empowers already authoritarian states that will pursue economic development to the detriment of individual civil rights. Less obviously stated in these concerns is the potential for the RTD to weaken the hegemonic hold of the West on southern states. In tracing the history of the emergence of the RTD rhetoric, Ibhawoh makes connections between its emergence, the New International Economic World Order (NIEO) and decolonization of the Third World. The 1970s heralded another wave of decolonization agenda setting from the Third World to challenge western hegemony. RTD (which is not to be confused with a rights-based approach to development) was therefore a forceful way of using human rights language to center the need for economic

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<sup>16</sup>Government of Canada, High Commission of Canada in Ghana, *Canada Fund for Local Initiatives (CFLI)-Ghana Call for Proposals*, online: <[http://www.canadainternational.gc.ca/ghana/development-developpement/CFLI\\_FCIL.aspx?lang=eng](http://www.canadainternational.gc.ca/ghana/development-developpement/CFLI_FCIL.aspx?lang=eng)> [emphasis added].

<sup>17</sup> Eurocentric here should be taken broadly within the context of this article to include the tendency towards the salvation/rescue of 'vulnerable' groups (such as women and sexual minorities) from so-called backward societies. As well, it also refers to an approach that further enhances the privileged position of the West/northern nations as progressive in relation to their southern counterparts.

development and basic subsistence needs. Ibhawoh points out paradoxes in the right to development framework, citing in particular the tendency for state actors in the south to use the argument of the RTD to conceal human rights violations and ignore other internationally sanctioned environmental policies, such as carbon caps. While touting the importance of economic development, he is cautious about overwhelmingly privileging economic rights (in the hands of the state) over the important civil rights of people.<sup>18</sup> Nevertheless, the RTD enables Third World states to reclaim power for self-determination, especially in prioritizing subsistence and basic needs over equally important rights.

The issue of LGBTQ rights, in particular, brings the paradoxes of the global human rights debates to light in the African setting. With a focus on economic redistribution and subsistence, sexual minority rights may appear a luxury to the economically struggling African state. Similar to the rhetoric on women's rights, but with much more hostility, the rights of LGBTQ communities have been constructed as un-cultural to Ghanaian society. Therefore, rather than merely compel countries in the Global South to legislate favorably on this matter in the midst of such great hostility, it is crucial to encourage education and dialogue to provide an enabling environment for people within these communities to enjoy these rights. Canada's engagement in this case then, needs to substantially deviate from the posturing of other northern nations that threaten to withhold aid until compliance with international human rights norms on same sex rights are met. This attempt to coerce state compliance has been detrimental to the work of sexual minority rights activists, in part because it has also raised questions of sovereignty and invoked a sense of nationalistic pride among many who fear that threats could strengthen overt neocolonialism on the part of northern countries. Of course, opposition to this on the streets is often more along the lines

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<sup>18</sup> Bonny Ibhawoh, "The Right to Development: The Politics and Polemics of Power and Resistance" Hum Rts Q 76.

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of religious and ‘cultural’ reasoning.<sup>19</sup> Not surprisingly, tensions in same-sex rights advocacy in Ghana seemed to have escalated following the discovery of commercial quantities of oil in 2010. In particular, some chiefs, peoples, and religious groups in the now oil-rich Western region, held protest marches to denounce what they observed to be the increasing visibility of gay activity in their region – a problem they attributed to the presence of western migrant workers in the mining and oil sector (otherwise known as ex-pats) who supposedly were luring young men into homosexual activity with money. Using religious references, organizers and participants were quoted as saying, for instance, that “Ghana will suffer more than the experience of *Sodom and Gomorrah*, should we embrace this practice in this country.”<sup>20</sup> In 2006, the Gay and Lesbian Association of Ghana (GALAG), was compelled to issue a statement quelling rumors that they had planned to organize a conference in Accra.<sup>21</sup> The rumors had led to a fiery backlash from the public, again largely on religious grounds.

Put within a historical context, the notion from many Africans that this is foreign to native African cultures is a) unsubstantiated, and b) paradoxical (in Ghana’s case), given that the practice was criminalized by colonial administrations. While it is possible that such a criminalization was merely a colonial policy made in response to the practice in one of the colonies or not, the argument is not lost that such laws restricted, and continue to restrict, sexual freedoms. The claim to a monolithic heterosexual Africa is not a view that is shared by all on the continent, which calls into question the dangers of generalizations. It would be preposterous to argue that Africa is so unique

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<sup>19</sup> See Norimitsu Onishi, “U.S. Support of Gay Rights in Africa May Have Done More Harm Than Good” *The New York Times* (20 December 2015), online: <[www.nytimes.com/2015/12/21/world/africa/us-support-of-gay-rights-in-africa-may-have-done-more-harm-than-good.html?\\_r=1](http://www.nytimes.com/2015/12/21/world/africa/us-support-of-gay-rights-in-africa-may-have-done-more-harm-than-good.html?_r=1)>.

<sup>20</sup> See “Thousands Attend First Anti-gay Protests in Ghana” *GhanaWeb* (4 June 2010), online: [www.ghanaweb.com/GhanaHomePage/NewsArchive/Thousands-Attend-First-Anti-gay-Protests-In-Ghana-183484](http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Thousands-Attend-First-Anti-gay-Protests-In-Ghana-183484) [emphasis added].

<sup>21</sup> Outright Action International, “Ghana: Gay and Lesbian Association of Ghana Speaks Out on Recent Attacks” *Outright Action International* (15 September 2006), online: <[www.outrightinternational.org/content/ghana-gay-and-lesbian-association-ghana-speaks-out-recent-attacks](http://www.outrightinternational.org/content/ghana-gay-and-lesbian-association-ghana-speaks-out-recent-attacks)>.

that it shares a single sexual orientation. Apart from a handful of studies, very little has been done academically to engage and historicize same-sex identity.<sup>22</sup> Until thorough empirical and historical studies are carried out on this subject, any claim one way or the other would be largely speculative. What is indisputable, however, is that homosexuality exists. While socio-cultural accommodations for it may be slow at the moment, I suggest that the conversation it engenders is a sign of progress. In the postcolonial era, it is important to understand how cultural, political, and religious power dynamics in the Ghanaian society impact and shape same-sex rights discourse. It is therefore necessary to utilize a social constructivist lens to interpret human rights norms and evolution in this particular context. A related philosophical thread would be to examine the extent to which cultural nationalism in post-colonial societies reaffirms colonial identity constructs sanctioned by super-imposed religious dogma.

In light of the issues raised above, it is reassuring to see that, in this case, Canada plans to fund some local organizations working on these issues. For instance, in 2015, Global Affairs Canada provided funding in the amount of \$32, 946.00 to Solace Brothers Foundation for their work addressing violence against LGBTQ individuals through victim support services.<sup>23</sup> Solace Brothers Foundation is a legal advocacy and human rights NGO for LGBTQ people in Ghana. This organization relies on human rights frameworks to argue their case. The services they provide are crucial to a group that is largely persecuted for their sexual orientation in Ghana. In general, gay rights activism on the continent as a whole has grown and become more visible and forceful; <sup>24</sup> nevertheless, they face an uphill battle, especially in a country where economic deprivation has

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<sup>22</sup> See Marc Epprecht, *Heterosexual Africa?: The History of an Idea from the Age of Exploration to the Age of AIDS* (Athens, Ohio: Ohio University Press, 2008); Marc Epprecht, *Sexuality and Social Justice in Africa: Rethinking Homophobia and Forging Resistance* (London: Zed Books, 2013).

<sup>23</sup> See Government of Canada, Global Affairs Canada, *Solace Brothers Foundation - Foreign Affairs*, online: <[www.acdi-cida.gc.ca/acdi-cida/contributions.nsf/Eng/336803ECFB972B6985257F6800706CB8](http://www.acdi-cida.gc.ca/acdi-cida/contributions.nsf/Eng/336803ECFB972B6985257F6800706CB8)>.

<sup>24</sup> Marc Epprecht, "Sexual minorities, human rights and public health strategies in Africa" (2012) 111:443 *Afr Affairs* 223.

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contributed significantly to increased religiosity. Subsequently, it is not uncommon or unusual to hear religious leaders using LGBTQ people as scapegoats to explain misfortune (as seen in references to Sodom and Gomorrah above). This scapegoating is injurious to LGBTQ people. Without more effective social education campaigns and adequate legal protections, it is not clear that the services currently provided by NGOs will alter the attitudes of people. In addition, the fact that this work is supported by the contributions of international governments and NGOs, such as Global Affairs Canada, lends further credence to the prevailing perception that this is a western import. This Canadian support for the promotion/protection of certain categories of human rights in Ghana is coupled with the indirect violation of human rights through mining activities. The activities of Canadian mining corporations in Ghana represent another area of human rights engagement that merits critical attention in the scholarship. The government of Canada reports that there were 14 Canadian mining companies in Ghana in 2015.<sup>25</sup> These companies provide some form of “development aid” to the communities they work in, largely through obligations set out in their corporate social responsibility stipulations (CSR). Mining activities cause environmental degradation, including water and air pollution, resulting all-too-often in disastrous consequences for host communities. Asad Ismi of the Canadian Centre for Policy Alternatives, reports that:

“A recent fact finding mission carried out by Ghana's Human Rights and Administrative Justice Committee in the Wassa area confirmed reports of "arbitrary arrests, violations of the right of access to food, forceful evictions, inadequate compensation and demolition of villages...[The government body found] overwhelming evidence of human rights violations occasioned by the mining activities which were not sporadic but a well established pattern common to almost all mining communities.”<sup>26</sup>

<sup>25</sup> Government of Canada, Natural Resources Canada, *Canadian Mining Assets (CMA) by Country and Region, 2014 and 2015*, online: <[www.nrcan.gc.ca/mining-materials/publications/15406](http://www.nrcan.gc.ca/mining-materials/publications/15406)>.

<sup>26</sup>Asad Ismi, “October 2003: Canadian Mining Companies Set to Destroy Ghana’s Forest Reserves” *Canadian Centre for Policy Alternatives* (1 October 2003), online: <[www.policyalternatives.ca/publications/monitor/october-2003-canadian-mining-companies-set-destroy-ghanas-forest-reserves](http://www.policyalternatives.ca/publications/monitor/october-2003-canadian-mining-companies-set-destroy-ghanas-forest-reserves)>.



In this light, it is ethically difficult to give credit to Canada for its role in alleviating poverty and poverty-related issues through its development aid activities in the country. It is also curious then that such gross human rights violations caused by Canadian mining companies do not constitute a priority in terms of the funding provided by Canada for human rights work in Ghana. Indeed, that Canada's engagement does not address the human rights violations of Canadian-owned companies in the extractive industries in countries like Ghana leaves much to be desired. Is Canada itself, then, complicit in violating human rights in Ghana and similarly situated countries through the mining activities of Canadian companies?

Another important consideration in terms of assessing Canada's engagement with human rights in countries like Ghana is to go beyond the cosmetic presentation of the former as human rights compliant and critically assess its own human rights record with regards to its aboriginal peoples. Canada's aboriginal population suffered tremendously under its colonial administration. For instance, the legacies of the abhorrent residential school system that resulted in a cultural genocide that is still felt by the population today through vicious cycles of debilitating poverty and systemic racism in areas of health, social justice, and incarceration.<sup>27</sup> It is understandable that domestic problems (especially historically inherited problems) should not stop Canada from its international developmental engagements and commitments. This notwithstanding, the continued violations of the basic human rights of aboriginal peoples in Canada, especially with regards to women's rights (taking the case of missing and murdered aboriginal women as an example), raise

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<sup>27</sup> SY Tang & AJ Browne, "'Race' matters: racialization and egalitarian discourses involving Aboriginal people in the Canadian health care context" (2008) 13:2 *Ethnicity & Health* 109; B Schissel & T Wotherspoon, "The Legacy of Residential Schools" in Valerie Zawilski & Cynthia Levine-Rasky, eds, *Inequality in Canada: A Reader on the Intersections of Gender, Race, and Class* (Toronto: Oxford University Press, 2005) 188.

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serious ethical questions about the intentions of Canada's human rights support to low income Third World countries like Ghana. It begs the question of the altruistic nature of these engagements. In other words, the rhetoric of human rights appears to play a crucial role in reifying Canada (along with other western nations) as superior, and in helping entrench its dominance over impoverished Third World countries.

This notwithstanding, assessing the involvement of private Canadian non-governmental organizations, individuals and civil society organizations in human rights advocacy in Ghana presents a much more challenging task. These organizations have their own visions and operate largely independently of state control. Watchdog/civil society-type groups that do research and advocacy on the activities of mining and other extractive corporations (such as MiningWatch Canada<sup>28</sup> and the Centre for Policy Alternatives), and service-delivery/funding NGOs (such as CARE International and Plan Canada), all engage human rights at a global level. While advocacy groups work to keep the government accountable, especially with regards to its policies and actions in regard to the mining activities of Canadian companies in Third World countries such as Ghana, the other group of NGOs provides more direct services to people and local communities in Ghana as elsewhere. Acting independently of governments, these organizations cannot necessarily be considered complicit in government neocolonial/imperialist policies and programs. Nevertheless, they still operate in an environment created by problematic inter-state relations that set the tone for their operations. More importantly, they are not merely by-products of government policy – for, by operating on the same assumptions of the “better than the other” philosophy, they become manifestations of abstract discourses of neo-imperialism. This is particularly so when the focus

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<sup>28</sup> MiningWatch Canada, *Blog*, online: <[miningwatch.ca/blog](http://miningwatch.ca/blog)>.

of their programs is “ending, banning, or correcting” so-called negative socio-cultural practices in Global South countries such as Ghana.

Nonetheless, these organizations provide basic necessities like water, food, and healthcare to many in deprived communities throughout the country. Such provision is predicated on the assumption that they will make life bearable and livable for their beneficiaries. While not often framed in the discourse of rights, these basic necessities ensure that peoples’ fundamental rights to life (etc) are guaranteed to some extent, even if not secured in the long term. On the other hand, their praxis tends to endorse the global redistribution system, which effectively ensures that the needs they are meeting will always be in demand. In assessing the impact of these organizations, it is important to point out that this type of engagement connects private individuals, states and global policy, law and legal frameworks, and the discourse on rights. Civil society and advocacy groups like MiningWatch Canada, can play a crucial role in employing the time tested methodology of naming and shaming to hold International Financial Institutions (IFIs) and international trade laws responsible for, in the poignant description of Okafor, the “grinding poverty” many in the Third World are experiencing. Here, I very much agree with Okafor’s postulation that human rights activists should hold accountable, through resistance, the actions “... not just of powerful states but also of certain non-state global actors like the key IFIs and many transnational corporations (TNCs)”<sup>29</sup>. In particular, there needs to be a conversational shift from a focus on the ills of Structural Adjustment Programs to the theft (*i.e.* profit from mining and other extractive industries) that is occurring in plain sight of International Human Rights Institutions (IHIs). The UN Declaration on the Right to Development (1986), states (among others) that:

“Considering that the elimination of the massive and flagrant violations of the human rights of the peoples and individuals affected by situations such as those resulting from

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<sup>29</sup> Okafor OC. Poverty, agency and resistance in the future of international law: an African perspective. *Third World Quarterly*. 2006 Jul 1;27(5):799-814 P. 800.

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colonialism, neo-colonialism, apartheid, all forms of racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity and threats of war would contribute to the establishment of circumstances propitious to the development of a great part of mankind [... confirms that] the right to development is an inalienable human right and that the equality of opportunity for development is a prerogative both of nations and of individuals who make up nations”<sup>30</sup>

Since poverty is a stumbling block to people’s ability to exercise their rights to self-determination, because of its restrictions on human agency and ultimately on human capabilities,<sup>31</sup> it is clear that the slow pace at which this condition of mass impoverishment is being remedied at the global level demonstrates a lack of political will to constructively engage powerful state and global actors for transformative solutions. It is also obvious that the focus of most IHIs activism, mainly on CP rights, has been largely misplaced. To be clear, I am not arguing for a dichotomization of the two sets of intricately interconnected rights conventions. However, I am agreeing with Okafor and other scholars who see the urgency of addressing the lack of human dignity and capabilities resulting from poverty as imperative to attaining, enjoying, and defending CP rights.

In any case, as Okafor cautions, the potential for resistance on the part of African and Third World peoples to push for fundamental change in international law and for international law to potentially transform the global system over time is limited, in part because dissent and resistance are expected (in the mainstream view) to be a “natural,” if innocuous, part of the contribution and repertoire of Third World nations to the global order.

## B. ON THE MATTER OF WOMEN’S RIGHTS, SPECIFICALLY

“Canada plans to spend another \$36-million over seven years to help *improve the lives of women and children in sub-Saharan Africa*. The announcement was made Wednesday by

<sup>30</sup> See Micheline R. Ishay, *The Human Rights Reader* (New York: Routledge, 2007) at p. 470.

<sup>31</sup> See Sen’s seminal and influential works on human capabilities, Amartya Sen, *Development as Freedom* (Oxford: Oxford University Press, 2001); Amartya Sen, “Human Rights and Capabilities” (2005) 6:2 J Hum Development 151.

Health Minister Rona Ambrose during the World Health Assembly in Geneva. *The \$36-million will help pay for research in nine countries into the primary health care needs of mothers, newborns and children.* [ ]. The pledge was made as part of the so-called Muskoka Initiative in June 2010 as part of the G8 summit in Toronto”<sup>32</sup>

Individual women’s rights issues in Ghana (as is the case in other African countries) are largely considered contentious because of cultural reasons. Cultural nationalists are wary of the potential of women’s individual rights to destroy collectivist cultural systems. Beyond this, it is important to echo the intricately interconnected nature of first- and second-generation rights with regards to women. We know that global neoliberal economic programs, and macro-economic restructuring generally, disproportionately negatively affect women. The SAPs of the 1980s in Africa in particular had dire consequences for women, many of whom were compelled to take up extra work in the informal sector following the mass retrenchment of male workers in the formal sectors of the economy to supplement household incomes. With the global trend of neoliberalism continuing today, women are still largely economically disadvantaged. I have argued elsewhere that worsening economic conditions in low-income countries in Sub-Saharan Africa, including Ghana, help produce the reinforcement of oppressive cultural traditions that affect and degrade the dignity of women and exacerbate gender inequality.<sup>33</sup> For instance, girls are more likely than boys to be pulled out of school when a family is economically struggling. This ultimately increases the chances and risks of early/child marriages in communities where such a practice is culturally acceptable. Women who are struggling economically are more likely to endure spousal abuse and violence than those who have some economic leverage. If the premise that the policies of IFIs negatively impact Third World countries, economies, and peoples is not in doubt, and we agree

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<sup>32</sup> “Canada to spend \$36-million to help improve health of African women and children” *The Globe and Mail* (21 May 2014), online: <<http://www.theglobeandmail.com/news/politics/canada-to-spend-36-million-to-help-improve-health-of-african-women-and-children/article18771292/>>. > [emphasis added].

<sup>33</sup> Sylvia Bawa, “Paradoxes of (dis)empowerment in the postcolony: women, culture and social capital in Ghana” (2015) 37:1 *Third World Q* 119.

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that women are disadvantaged because of the normative expectations associated with their gender, then it is almost trite to emphasize the point that women's rights are violated that much more by the global economic order. Therefore, Canada's engagement with women's rights in Ghana and similarly situated countries needs to evolve to one aimed at systemically stemming the impact of global economic inequalities in those countries. In addition, the uncritical application of western feminist ideals to the situation of African women is imperialistic, colonial, and is more detrimental to women's rights campaigns in the long run.

### **III. WHAT WOULD A FUTURE RESEARCH AGENDA LOOK LIKE?**

It is clear there is a dearth of scholarship specifically on the question of how Canada engages Ghana in the human rights area. Considering how important the topic is and the fact that (as outlined above), human rights have become one of the most important normative framework that structures global, multilateral, and bilateral relations, it is imperative that much more research be conducted on the topic. Among others, such research will provide a clear basis to propose transformative changes to enhance transnational human rights practice between the two nations. The following are some proposed research questions to address in such a future research agenda: How does Canada's stature (never mind its own blemished human rights record) in global affairs provide an opportunity to critically engage the north/south normative divide in human rights? Put differently, how might Canada's willingness to address its historically flagrant violations of the human rights of Aboriginal people, and of women in particular, indicate a seismic shift in addressing colonial injustices in Canada that set the tone for much more egalitarian discourse and normative framework with regards to human dignity around the world. Beyond shifting moral responsibility to corporations through CSR, how does Canada respond to the human rights

violations that its corporations engage in across the world, including in Anglophone African countries like Ghana? How does Canada negotiate the cultural tensions in promoting women's and minority rights in Ghana without further delegitimizing local activist groups working on these issues?

To address these questions in research, I propose detailed ethnographic work to assess, first hand, the myriad of human rights problems corporations, governments and the holders of social power leave in their wake. In addition, it is important to employ critical discourse analyses on texts to understand how governments on both ends address these issues.