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The American University in Cairo

School of Global Affairs and Public Policy

**TOWARDS NEW DOMINATIONS:
FLAWED DEVOTIONS TO HUMAN
RIGHTS DISCOURSE AND ITS
CONTINGENT HOPE**

**A Thesis Submitted to the
Department of Law**

**in partial fulfillment of the requirements
for the LL.M. Degree in International and
Comparative Law**

By

Shaimaa Abdelkarim

February 2016

The American University in Cairo
School of Global Affairs and Public Policy

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Dedication

To the family that shaped me; to the self in me.
And to those who prolong our struggles, and those who saw death
and have to live with it.

Acknowledgement

To the endless guidance of my advisor, thank you for your support, allowing me space to not fit in.
And to those who read, reread my drafts, and helped me develop; my friends who continue to exist in my bubble.

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TOWARD NEW DOMINATIONS: FLAWED
DEVOTIONS TO HUMAN RIGHTS DISCOURSE
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Shaimaa Abdelkarim

Supervised by Jason Beckett

ABSTRACT

Human rights movement dominates over how people articulate their interests to be heard. It controls massive resources in the name of those interests. This dissertation articulates a path for new emancipation projects to hinder the domination of the human rights movement. Devotion to the movement maintains the illusion of objectifying people's interests outside politics. Though, the movement fails to deliver on that objectification when activists choose between competing interests, deferring their failures to the future. That temporal space holds the movement's universal claim. The instability of the movement lies in the gap between what it promises and what it delivers, creating its emancipatory and imperial sides. I argue that the present gets filled up with development towards economic growth, which justifies the universal claims of the movement while the movement justifies the absence of development. The movement acquires the role of representing the universal function with the aid of development. Power holds that representation, which becomes contingent. The contingency of the representation of the universal function is hopeful for different emancipation movements to compete along the human rights discourse. I retain the universal as an empty ground to disprove the fullness of the universal function. Then, I move to suggest that the *Other*, with the plurality inside that category, can either struggle for the representation for the universal function or for utilizing the emancipatory side of the rights discourse. I choose the former. I urge new liberation projects to fight for the representation of the universal function, without essentializing the subaltern voices, since all Other(s) can struggle their way(s) towards new forms of dominations. Essentializing the subaltern voices within the plurality gains them recognition within the hegemonic. But, I fight for the liberation in struggling rather than recognition; for the Other(s)' laments to dominate over the rights' laments.

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I. Introduction

Everyday Muslims start their daily prayers with verses of *Al-Fatihah*, the opener.

They start by thanking God for what they have and for his mercy:

In the name of Allah, the Entirely Merciful, the Especially Merciful. (1:1)

[All] praise is [due] to Allah, Lord of the worlds (1:2)

The Entirely Merciful, the Especially Merciful, (1:3)

Sovereign of the Day of Recompense. (1:4)

It is You we worship and You we ask for help. (1:5)

Guide us to the straight path – (1:6)

The path of those upon whom You have bestowed favor, not of those who have evoked [Your] anger or of those who are astray. (1:7)

Muslims are obliged to recite these verses regularly in their prayers. The significance of these verses rests in the life that Islam shapes. Islam does not shape life around relief from struggles but how to deal with struggles.

Material prosperity is not the only goal in the world. Muslims start their prayers by thanking for what they have, not asking for more. The obligation to recite these verses is a reminder that there is another lifestyle that does not revolve around material gain.

While Muslims are encouraged to ask God for material prosperity, or anything else, the Quran stresses the importance of a sense of content with one's current situation. It also notes that material well-being does not relieve all struggles. Islam advocates for a mindset that prepares one for the hardships of life. It is from this background that I write my dissertation.

This dissertation shatters the illusions that revolve around eliminating hardships, to advocate for embracing those hardships and find a way to work *through* them towards new hardships. The human rights movement only works *around* those hardships. It does not address them; nevertheless it claims to solve them. But the movement cannot

solve what it avoids. Human rights movement rejects hardships as if the rights discourse can eliminate them. It cannot face hardships if it defines them around eliminating them for hardships persist with life. Islam highlights that clearly. No matter how hard you pray, though you will be rewarded, but you will always face hardships along with reliefs.

Thus, this dissertation moves closer towards realities with their uncertainties. I frame my path of emancipation around accepting hardships. I reject the illusions of the human rights movement only to see what it can offer the *Other(s)*. But I do not reject the rights discourse but its domination. Nevertheless, I favor new ways of struggling that can bring life to struggling and not reject struggling as part of life.

In part one, I discuss the promises of human rights activists. The first section introduces those promises. Human rights believers act as if rights are the way out of struggles. They promise material well-being as an answer to those struggles. They assume that they attain a rights' space that can maintain its objectivity against states' politics. The next two sections negate the stability of the movement's space and promises. The universality of the human rights movement is contingent. The contingency becomes visible when the movement fails to deliver its promises. Contemporary human rights discourse becomes less utopian and more about political struggles. The assumed concreteness of human rights shatters within its institutionalization.

The third section focuses on the space that activists attempt to disguise. The gap between what the movement promises and what it delivers gets filled up with the promises of development. Development functions as a disguise of the universality of the movement. But development is not a path for all. The human rights movement justifies the failures of development to disguise its particularity. The relationship between the movement and development is symbiotic. Development is a path in which some get the privileges and others get more struggles. And that particularity is natural. Devotion to the universality of the movement and of development is mandatory to attain their rhetorical power. But those devotions can be contested.

Thus, I argue that human rights discourse is not the ‘true’ universal, but rather a representation of the universal function.

In part two, I articulate the emptiness of the universal realm in finitude. The universal I am speaking of is a universal with no ground, an empty one. Human rights discourse is just a representation of the universal function. The universal function is the term I utilize to denote to the role that the human rights movement (or any particular identity) plays when it acquires power. The contingency of representing the universal function allows claims against the identities that fill it up. The articulation of the universal as empty problematizes the identity that personifies the universal; for it is never free of its particularity to become the universal. We strive to a more inclusive rights discourse that is, though we work for it, is impossible to reach.

Thus, I escalate the contingency in human rights discourse towards its emancipatory side. I suggest that human rights discourse needs to engage with its contingency to be more emancipatory and less imperial. The discourse engages with its liberating side when it claims universality and its imperial side when it shows its particularity. It becomes a representation of what the universal can look like. Thus, although we can strive for a better universal than the current one, it will only be better for some, and worse for others.

In part three, I suggest two paths for challenging the movement’s imperial side but I choose one. The *Other*, as a plural category, can utilize rights as a language for their struggles within current dominations. But they will still face the same struggles. They dedicate to the imperial and emancipatory side of the movement. The dissertation urges the *Others* to strive to dominate the universal representation; to utilize new emancipation discourses. The end is not a cheerful result to the eradication of political struggles, but to more possibilities for better uncertainties in favor of the plurality of the Other.

II. On Devotions and Illusions

To overthrow idols (my word for 'ideals')- that's rather my business.¹

UNICEF recently launched a campaign to spread awareness about child abuse under the name: *fight unfair*.² In Egypt, the campaign shows different celebrities with facts on child abuse underneath their pictures. The facts address the rates of physical abuse, healthcare issues, lack of safe shelter, malnutrition, and forced labor. The campaign went viral over social media.

What caught my eyes were the comments that focused on the pointless side of the campaign. "What is the point of this?" "What did the UNICEF do from its establishment till now?" "What can we do?" "Do you know that there are more problems than what you mention?" "We saw worse than what you are describing."³ UNICEF's representatives answer by either "please spread our campaign," or "you can take a look at our website." And of course there were some applauding voices that the representatives thanked gratefully for their good vibes.

But truly what did the UNICEF do? I opened their website on Egypt to see their accomplishments so far. Their "Our Work" section is filled with more facts and their partnerships with ministries and big companies in Egypt.⁴ It is ironic that their accomplishments are facts about child abuse that they try to spread. But it is clear from the comments that people already know that child abuse exists. They even saw worse!

This irony sums up the first part of my dissertation. It is the irony that human rights movement makes us applaud, believe in, and hope to achieve: to spread facts.

¹Fredrich Nietzsche, *WHY AM I SO WISE*, at 4.

²UNICEF, <http://www.unicef.org/fightunfair/>, accessed at 19 December, 2015.

³ I translated all the comments. They can be found in their Facebook page under the hash tag #FightUnfair.

⁴ UNICEF, <http://www.unicef.org/egypt/activities.html>, accessed at 19 December, 2015.

The human rights movement became mainstream because of that irony. It galvanized our devotions to our interests. It colonizes our responses to the injustice of the state administration and the international community.

It claims universality. It claims to protect our interests from political institutions. And it claims its own space above politics

The first part of that claim is the objective of the movement. The movement makes us express our interests in the language of rights. That is its objective. It is to concretize facts about our interests, like the UNICEF does with child abuse.

Thus, our interests become obscured in the language of rights. Rights become the goal. So we get to say we have rights. But we do not have our interests. We are left with “what is the point of this.” We already knew our interest.⁵

To answer that, the movement projects our interest to the future. The answer becomes “spread awareness about our cause and everything will work out eventually.” This temporal space makes it possible for us to believe in the human rights movement. We believe change will come. Change is always deferred to the future. There is a split between what human rights offer us in the present, and what human rights promise us to happen in the future.⁶ We get struggles in the present though we are promised a relief:

What we get in the present is development. It controls our paths of change. But not all of us can develop. Resources on earth are limited. Only some can be labeled ‘developed.’⁷ Though we know that, development seduces us into thinking it is coming. “And yet the vast majority of the world’s natural resources are extracted

⁵ Tshepo makes the same argument about how human rights movement shapes the victims it addresses, forgetting the victim already exists with her interests. He calls it the “theft of victims’ pain”, in: Tshepo Madlingozi, *On Transitional Justice Entrepreneurs and the Production of Victims*, J. of Human Rights Practice, Vol.2.2, 2010.

⁶ See, Barbara Stark, *Jam Tomorrow: Distributive Justice and the Limits of International Economic law*, Third World L.J. 3, 2010.

⁷ *Id.* at 15-22.

from the ‘developing world’, whilst the vast majority of said resources are consumed in the developed world.”⁸

That is why all UNICEF can and will offer is facts. It cannot offer more than economic growth gives a nation.

Thus, the second part of the universal claim, the universal space of human rights, falls. Human rights movement no longer operates in an exclusive space but it shares it with development and economic growth. Therefore, this part of the dissertation concludes with the fall of the universal claim of human rights movement.

A. Institutional Devotion

In exploring human rights right in the contemporary sense, I engage with how it became part of our everyday life engagement with the state. I am interested in how the language of rights became “mainstream;” how it adapts to state bureaucratization and international institutions; how “the reorganization, improvement, development and evaluation of policy processes, so that a human rights perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making” became ‘vital’⁹

I argue that the language of rights was mainstream all along. It did not need to be assimilated by the state to conceive the same spreading effect. Human rights discourse intoxicated our existence ever since the movement started in 20th century. Engle contends:

Since the end of the Cold War, human rights has become the lingua franca of both states and social movements, from the left to the right. With regards to the former, states claim to intervene- even militarily- in other states to protect human rights, and states resist such intervention in the name of human rights. Social Movements

⁸ Jason A. Beckett, *Faith and Resignation, a Journey Through Public International Law*.

⁹ I am taking on McCrudden’s mainstream: “the reorganization, improvement, development and evaluation of policy processes, so that a human rights perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making” in: Christopher McCrudden, *Mainstreaming Human Rights*, at 3.

of all stripes also frame their claims in human rights terms. Even arguments for significant redistribution of wealth and resources are largely made in the name of (economic and social) human rights....¹⁰

For Engle, the language of rights has the same rhetoric whether articulated by the state, social movements, or even leftist critique to the language itself. In that equation of utterance, the language of rights legitimates the neoliberal, market friendly individual.¹¹ These institutions address the consumers in us. And the language of rights addresses the same people with the same neoliberal logic.

But that equation does not differentiate between human rights seizing legitimation from the ruling rationalities and the language of rights as a language of struggles. The language of rights can exist without any institutional powers. It can oppose the mainstream,¹² the legitimated interests, and the dogmatic market friendly individual.

Therefore, I choose to make a distinction between mainstreaming human rights movement, as part of the ruling rationalities, and human rights as a language for struggles.

Mainstreaming human rights addresses rights discourse as a remedy for modern complex relations between individuals and the state institutions. The complexity arises from the way everything is interconnected towards development, in modernity. State institutions invest in standards that guarantee development and economic growth. They follow international standards of governing, including strengthening the rule of law. Laws guarantee the predictability that the market needs to function. But laws had to be less formal to cope with the instabilities of the economy.

“Deformalizing” the rule of law was necessary to balance the complexities of relations that came with modernity.¹³ Courts needed principles that are not rigid to allow a reasonable application of laws. The market requires solutions that are logical

¹⁰ Karen Engle, On Fragile Architecture EJIL 22 2011 at 158.

¹¹ *Id.* at 160.

¹² Similarly, O’Connell argues that new conceptions of socio-economic rights can exist outside their subordination of courthouse, in: See, Paul O’Connell, *The Death of Socio-Economic Rights*, The Modern L.R., 2011, 532-554

¹³ Martti Koskenniemi, *Human Rights Mainstreaming as a Project of Power*, 2006 at 1.

and fit the problem. Laws became like guidelines for these solutions. These solutions were not determinate but based on each case, so the market can function freely. Consequently, the solutions formed new guidelines to solving cases.

Injustice was possible because of the deformed rule of law. Though the solutions were reasonable for the market, they did not care for the interest of the individual. Taking away a property from an individual and giving her compensation is reasonable. Her land transforms to a big manufacturing complex, providing work for thousands and tax revenues for the government. But perhaps she did not want to give up her house.

Rights emerged to articulate interests against the reasonable interests of the state market economy:

Human rights law emerged in the 1960's and 1970s to empower groups and interests that were now well-represented in the bureaucratic or administrative bodies whose task it was to balance conflicting objectives that stood behind legislation. It gave expression to concerns such as: "indigenous groups should not be forced to leave their homes only because it might be cost-effective to set up an industrial area in the place where they live. They have a right to live there", or "the police may not torture crime suspects however efficient that might be in view of the objectives of criminal policy. Torture is just plain wrong".¹⁴

Individuals may express their interests legitimately. The human rights movement presumed authorities should hear 'I have a right to that property' as loud as any other market efficient solution. Rights were the best instruments for advocating against administrative abuse¹⁵:

Rights - entitlements that ground claims with a special force - are a particular kind of social practice. Human rights- equal and inalienable entitlements of all individuals that may be exercised

¹⁴ *Id.* at 3.

¹⁵ Similarly, Dworkin defines rights as trumping utilitarianism, in: Ronald Dworkin, TAKING RIGHTS SERIOUSLY, at 184- 205.

against the state and society- are a distinctive way to seek to realize social values such as justice and human flourishing.¹⁶

Rights were the rhetoric of counter-state power.¹⁷ To claim a right, means to take away something from the state institutions. Rights were concrete, formalized as in “I have *a right!*” They promised to remedy what states did in the name of the market.

The movement assumes its own space apart from the state. It grounds human rights discourse in its universality.¹⁸ Likewise, Habermas invalidates states’ sovereignty, to pursue a global order that foresees the implementation of “cosmopolitan law, a law that is deemed universally valid for all humans in all places at all times.”¹⁹ The rights space claims a ‘true’ universal status because of two reasons.

Firstly the movement differentiates human rights from politics through asserting a ‘rights space’ that is above political order. It creates a ground that is not affected by states’ politics. It also alienates rights from any type of moral claims to sustain the resonance of the universality of its space. For Habermas, “the conception of human rights does not have its origins in morality’ but rather is ‘distinctly juridical in nature.’”²⁰ It cannot be grounded on a certain moral claim that would deny it its own universality.

Secondly, the movement came with an objective to concretize people’s interests against state/world/market injustice. It speaks of determinate interests that have nothing to do with the interests of the state.²¹

Both aspects of the universal claim depend on each other. The objective depends on the existence of the rights space to function outside of state and economic interests. And that objective legitimizes the existence of the rights space to the believers when the movement is functioning within the interests it fights.

I tackle the falsity of the objective of the movement, in the next section.

¹⁶ Jack Donnelly, *The Relative Universality of Human Rights*, H.R.Q. 2007.

¹⁷ *Supra* note 15.

¹⁸ William Rasch, *A just war? Or just a war? Schmitt vs Habermas*, in SOVEREIGNTY AND ITS DISCONTENT, 2004, at 49-62.

¹⁹ *Id.* at 52.

²⁰ *Id.* at 55.

²¹ Similarly *See*, Martti Koskenniemi, FROM APOLOGY TO UTOPIA to at 16- 58.

B. First Illusion: Flawed Objective

The human rights movement maintains the concreteness that came with rights. It promises formality for the interest of individuals. That formality should win against rational market-friendly policies. But sets of rights started to emerge and coincide with each other. There was a lack of authority to tell the authentic rights from those that masked interests motivated by selfish agendas. Thus, human rights activists establish which interests can transform to rights and which interests human rights fight. Also, they choose between contradictory sets of rights when they clash.²²

Activists maintained a reasonable balance between contradicting sets of rights. They dictate what is socially optimal and what is not. “To do good,” they have to define what is good. Is it good to focus on socio-economic rights or to focus on political-civil rights, in Africa? What do African people need? Do they need the right to shelter more than the right to democracy? Do they need the right to democracy, as in more transparent elections? Or do they need the right to democracy, as in freedom of assembly? What does democracy mean in Africa? Activists construct the answers to these questions. They create the issues that need attention:

The entire human rights structure is both anti-catastrophic and reconstructive. It is anti-catastrophic because it is designed to prevent more calamities through the creation of more victims. It is reconstructive because it seeks to re-engineer the state and the society to reduce the number of victims, as it defines them, and prevent conditions that give rise to more victims.²³

Activists define the limits of victimhood. Then they create solutions that eliminate those victimhoods matching their definition.

²² Mieville argues that all efforts towards justice utilizing rights are misleading since activists make the decisions of what constitutes that justice, in: *see Generally*, China Mieville, *BETWEEN EQUAL RIGHTS: A MARXIST THEORY OF INTERNATIONAL LAW*, Brill Academic Publishers, 2004. For critique of Mieville’s proposition of rejecting emancipatory side of international law, *see*, Susan Marks, *International Judicial Activism and the Commodity-Form Theory of International law*, *EJIL*, Vol. 18.1, 2007, 199-211.

²³ *See*, Makau Mutua, *Savages, Victims, and Saviors: The Metaphor of Human Rights*, 42 *Harv. Int’l L. J.*, 2001, 203- 204.

Activists dictate the interests that they pursue. The particularity of the movement shows itself when believers have to decide on what grounds they would apply/ reach/ interpret those interests, which became rights. The believers make decisions. They have to choose who to help; how to help; what is help; when to help. They establish guidelines for help, as they know how to help: by utilizing human rights. They determine what they are doing. They become subjective.²⁴ They privilege the interests of some at the expense of others.²⁵

Thus, activists always justify and legitimate their choices. They validate what they choose to be socially optimal. Their subjectivity cannot be allowed to show, because it destabilizes the constructed rights space. So they justify their subjectivity. Justifications for the subjectivity appear in the form of ‘we need better human rights.’

Devotion to the movement entails covering its own particularity. Whatever goes wrong does not mean the movement itself is flawed. It puts the blame on states intervening or the lack of rights or on wrong implementation or just because we need to try harder!²⁶ People can have the right to water but they still are denied access to clean water. Rights do not give them water. They are only a form of expressing their interests. But still activists presume that entitling people the right to water is the goal not the interests themselves (clean water).

Determinacy of the movement’s objective depends on devotion: on professionalism. “Determinacy depends on the acceptance of the chain of justifications by the relevant reference group.”²⁷ Human rights activists become the reference group who determine what is ‘rationally acceptable’ to reach their goals.

Human rights become a language for experts. Professionalization of the human rights discourse is part of the problem within the movement.²⁸ Professionalization

²⁴ Seriously if you look at different ‘our mission’ pages for NGOs you would find subjectivity all over. In their missions, they dictate what a right means to a certain community. For example how Oxfam thinks it tackles poverty in: <https://www.oxfam.org/en/explore/how-oxfam-fights-poverty>, accessed December 12, 2015.

²⁵ Koskenniemi, *supra* note 13, at 7-8.

²⁶ That would be the part when human rights activists need to take a breath.

²⁷ Koskenniemi, *supra* note 21 at 36.

²⁸ David Kennedy, *The International Human Rights Part of the Problem?*, 15 Harv. Hum. Rts. J., 2002, at 119.

encourages formalization, through relying on solid conventions of human rights, which are inherently ambiguous. Activists fill in the ambiguity. They dictate the interests the conventions hold.²⁹

The methods of the movement are transformed into the objective of the movement. Giving people rights becomes the goal. People think they get access to water after having the right to water. But no, the goal is the right to water and not water itself. But the movement is supposed to give them their interests not labels.³⁰

A refugee for example, in her eligibility to become a refugee is detached both from her original status in her state and the current state she seeks asylum in. She is labeled a refugee. As if that label has magical powers to solve her problem. Recognition of the refugee as a refugee is the main goal. Kennedy acknowledges:

Even very broad social movements of emancipation- for women, for minorities of various sorts, for the poor- have their vision blinkered by the promise of recognition in the vocabulary and institutional apparatus of human rights. They will be led away from the economy and toward the state, away from political/social conditions and toward the forms of legal recognition.³¹

Human rights advocates who want to help get submerged with the demands of this label. They forget the actual needs of the ‘refugee’.

Human rights activists establish the identity of the individual within the institution of human rights. Professionalism creates a chasm between the real human (the actual person who seeks asylum) and the refugee of human rights. They do not speak of the individual’s interests but frame and limit those interests in the category of a refugee. The more bureaucratic and professional human rights movement becomes, the less emancipatory it can be. Activists become the limits of the rights discourse as they

²⁹ The “fantasy” of *solid* conventions is always met with “the unredeemed reality of political machination,” in: See, Jason Beckett, *The Economics of Fantasy*, ESIL, 2012.

³⁰ *Id.*

³¹ *Id.* at 110.

personify the usefulness of those rights. They reflect their own training capabilities within the institutionalized movement.

Thus, rights become empty of what they are supposed to do. They promise more than they can deliver for interests of the person labeled a refugee. They can only deliver a status for the refugee but not a decent life or survival.

Moreover, interests have to be expressed in the language of rights to be acknowledged as interests. They need to attract the movement's resources. So interests transform from the political realm to become a right in its own presumed space, in order to be heard.

Consequently, human rights movement dominates resources in the name of emancipation.

For Kennedy, human rights do not have any whimsy to them:

As a dominant and fashionable vocabulary for thinking about emancipation, human rights crowds out other ways of understanding harm and recompense. This is easiest to see when human rights attracts institutional energy and resources that would otherwise flow elsewhere.³²

Kennedy wants a pragmatic engagement with human rights movement. He acknowledges the distribution of power within the movement.³³ There are political costs for the decisions human rights activists take within the movement.

Thus, Kennedy looks at different sets of human rights to see the distributive outcome of those sets. Everything becomes about competing priorities. Economic and social rights conflict with political and civil rights. Economic and social rights are about development and change as they redistribute resources. While political and civil rights seek to maintain the status quo. The choice between different sets of human rights is unjustifiable but political. So we need to focus on the cost of choosing between them.

³² *Id.* at 108.

³³ *Id.* at 102.

Concretizing interests becomes an illusion when the activists have to either ground human rights in transcendental specter or in a political aporia to reach their goals.

Thus, I will tackle the domain that human rights movement functions in to make its decisions between different sets of rights. The cost of these sets is the inequality between West and Non-West. The inequality is an outcome of liberal/western/capitalist values that assimilate to human rights movement,³⁴ as I will argue next.

C. Second Illusion: Flawed Space

From the start, the human rights movement projects the realization of universality to the fulfillment of its goals/objective. Whatever is flawed now will be solved. Justifications made it possible for the movement to claim a true universal status. Hence, determinacy, in the form of devotion, does not eliminate the particularity but makes it worse. It makes it possible for the movement to claim a 'true' universal status. The movement played on the temporal space to create justifications for its failures when it shows its particularity. The flaws of the present will, surely, be promised resolution in the future to come.

Development and economic growth fills up the temporal dimension that was created by the future goals. Modernity created that temporal space with development and it continued through the uncertainties of existence in post-modernity.

The split between what human rights claim and what they deliver introduces the critical instability of human rights discourse. The split is a product of claiming a rights space above politics. Thus, when contemporary human rights discourse (re)presents itself as the true universal, the split between its claim and its particularity fills up with the rationalities of development and economic growth.³⁵

³⁴ *Id.* at 115-116.

³⁵ Sundhya Pahuja, *DECOLONIZING INTERNATIONAL LAW*, Cambridge University Press, 2011, at 38.

Hence, human rights discourse becomes both liberating and imperial.³⁶ It becomes imperial when it shows that it has a particular ground. It is liberating when it claims its true universality. The tension between both sides creates the critical instability. This critical instability lies at heart of the movement. It cannot be taken away.

For Pahuja, the instability of human rights has a dual aspect to it.³⁷ It is post-colonial and political:

The ‘postcolonial’ quality of international law describes the way the law founds itself (rather than being founded on predetermined categories outside itself) and the way that self-founding plays out in the historical context of the post-war world. The ‘political’ quality of international law describes the gap between the symbolic valence of international law, or its aspirational relationship to an idea of justice and the law as embodied in treaty and custom at any given moments.³⁸

Firstly, the post-colonial aspect of this instability erases the cuts that the universal human rights discourse makes to other values (other particular identities) when it claims universality. So for example, the West creates values that are quite ‘western’ to be applied universally. The Western values exclude all the other values. Though, the West includes the others in their application, erasing their exclusion from the values: “They are universal because they should apply to everyone. And why should they apply to everyone? Because they are universal.”³⁹ It is that circular claim that invisibilises the exclusion of the other.

This exclusion is a post-colonial legacy. After decolonization, new states were expected to fit in what is already there. They became states, in the modern sense. They joined civilization. They engaged with the human rights movement. They become part of the acclaimed ‘universal.’ But they did not (even help to) create that universal.

³⁶ See Generally, *Id.*

³⁷ *Id.* at 25.

³⁸ *Id.*

³⁹ *Id.* at 30.

So the instability here appears in the split between the claim to universality, and the particularity of human rights movement that silences other values.⁴⁰

Secondly, the political aspect of the critical instability promises justice. The human rights movement articulates calls for justice. It promises a transcendental justice that works for everyone. It articulates a justice that we all share. But we do not share this justice. This justice does not come from outside the rights discourse. It comes from within the movement.

Accordingly, the justice of human rights is a constructed justice. The movement controls justice. It delivers a version of *its* justice; not transcendental justice. Likewise Koskenniemi argues what is just is read institutionally by “what seems to be required by justice.”⁴¹ And what justice requires is read by what is just. It is up to the state institutions to decide and produce justice in International law.⁴²

There is a gap between the justice that human rights create and justice as a transcendental notion that human rights promise. The gap between rights and justice constitutes an “autoimmune logic”⁴³ meaning that rights’ own immunity, embodied in justice, is its own destruction. Human rights self-destruct when they call on justice to legitimize their promises because their transcendental justice does not exist. But they are still dependent on their claim of transcendental justice.

Thus, the gap between the justice human rights offer, and justice as a transcendental ground creates the critical instability. The promises of human rights movement become deferred, because of the gap. The promises become a justice “to come,”⁴⁴ since it cannot be present. The deferral is not just to the future but also to the critical instability. The deferred promises stabilize the present towards development.

⁴⁰ *Id.* at 31-32.

⁴¹ Koskenniemi, *supra* note 21, at 588.

⁴² *Id.* at 583-589.

⁴³ Jacques Derrida, *ROGUES: TWO ESSAYS ON REASON*, Stanford University Press, 2005, at 36.

⁴⁴ Derrida argues the same for democracy since it depends on sovereignty but by evoking the concept of sovereignty is self-destructs because sovereignty takes away the ‘demos’ (people) out of democracy but still it needs sovereignty to have an effective ruling. So democracy becomes not only impossible but also differed towards uncertainty that is inside democracy: “The Democracy to come: it is necessary that it give the time there is not” *See, id.* at 1, 28-41.

Development and economic growth stabilize and fill up the splits of the critical instability. They feed on the split between what human rights movement promises and what it delivers. Development happens everywhere not just in the West. It affects the whole world and its institutions but the results are not the same for all nations.⁴⁵ It has different outcomes. It implies that all humans are on a never-ending track towards growth.⁴⁶ Development articulates a ‘true’ universal path in which human kind can escape to modernity where salvation centers on economic growth. Everyone must be on this track.

Also, it implies a “desire to help” those who fall behind: “Europe will make a world of Africa.”⁴⁷ Firstly, development was a reason to civilize, industrialize, and save the colonized territories.⁴⁸ Colonial rules depended on the rational of good intentions towards the colonized to justify colonialism to their own people and to maintain the colonized elites. The colonized elites maintained the colonized masses.

Then, development was naturalized with the League of Nations.⁴⁹ The introduction of the mandate system as “sacred trusts of civilization”⁵⁰ continued with development as the norm. It was the duty of the developed nations to make sure the new states are not deviating again to their ‘barbarism’. They had to look after them.

Continuing the same rational with the Universal Declaration of Human Rights, everyone has a share of what development has to offer. We all become equal. The infamous Point Four of President’s Truman inauguration marked the new age of development. In Point Four, “‘Underdevelopment’ was not the opposite of ‘development’, only its incomplete ... an acceleration of growth was thus the only logical way of bridging the gap.”⁵¹

⁴⁵ See generally, Gilbert Rist, THE HISTORY OF DEVELOPMENT: FROM WESTERN ORIGINS TO GLOBAL FAITH, 1997.

⁴⁶ *Id.* at 27.

⁴⁷ Words of Victor Hugo in Rist: *Id.* at 51.

⁴⁸ *Id.* at 47-56.

⁴⁹ *Id.* at 58-65.

⁵⁰ *Id.* at 65.

⁵¹ *Id.*, at 74.

So being ‘under-developed’ is a stage that will wither away. The underdeveloped had new hopes of becoming more than they were. The hopes are deferred to a development, which is not present; but to a development to chase after in the future.

Development justifies the failures of the present. “The strength of ‘development’ discourse comes of its power to seduce, in every sense of the term: to charm, to please, to fascinate, to set dreaming, but also to abuse, to turn away from the truth, to deceive.”⁵² It plays on the temporality of the rights discourse, through justifying the gap between the underdeveloped and the developed by promising a flourishing future. The underdeveloped have a future to look at amidst their current status.

But, development brought with it a hierarchy of states according to their development status, which instantly gives power to the ‘developed’ over the ‘underdeveloped.’ It formalized hierarchies between new underdeveloped countries and the already developed West.⁵³ Development meant power. Development also proclaimed economic growth as the universal goal. As a consequence, development is not empty. It has a goal to reach, regardless of whether that goal is attainable (for everyone) or not.

Development hides the unattainability of its goal, economic growth. It focuses the attention on outcomes in the future. It depends on the temporal space that human rights create by their universal claim. It acts as if economic growth is coming. So, economic growth can happen if all nations just strive for it. Thus, it justifies the failures of economic growth in the present.

Development stabilizes the present space of human rights discourse to utilize the discourse’s universal claim. Accordingly, development brought with it more than hope. It became the legitimate universal path to follow. It maintains its universal application through the temporal dimension of the rights discourse: through its always-deferred outcomes.

⁵² *Id.*, at 1.

⁵³ Pahuja, *supra* note 35, at 75-77.

There is mutual dependency between human rights movement and development. The movement depends on the deferred promises of development to justify its own failures in the present. Additionally, devotion to human rights movement also justifies the failures of economic growth; as adherence to human rights standards will presage development. So even as development justifies the shortcomings of the present by deferring its promises to the future utilizing the universal claim of human rights; the human rights movement justifies the universality of development when it disguises the unattainability of its goal.

The goal, which development promises and human rights movement universalizes, is a lifestyle based on consumption of resources in a high rate. If everyone lived that way, we will need more resources than our planet can handle:

The fact is, however, that this is not an achievable objective. Today 20 per cent of humanity consumes 80 per cent of the planet's resources, and finds itself having to boost growth to keep the system going. But it is not possible to mobilize at least four times more extra resources; the environment simply could not sustain it. Still one is required to act as if the belief were reasonable and the goal attainable.⁵⁴

Though, economic growth is unreachable for all. Earth cannot sustain us all to live like average Americans. Development becomes one of the myths of our time.

Consequently, development constitutes the limits of human rights discourse. When Third World countries articulate their struggles with rights language, their voices have limited outcome. For example, when third world countries wanted to establish their sovereignty over their natural resources, their arguments over political sovereignty got displaced to consolidate with the ruling rationale.⁵⁵ Their arguments transformed to foreign investments not political sovereignty. The outcome of establishing full political sovereignty over natural resources would affect foreign

⁵⁴ Rist, *supra* note 45, at 44-45.

⁵⁵ See, Pahuja, *supra* note 35, at 95-118

investments.⁵⁶ Thus, the argument moved to a domain that conforms to development and economic growth. It became an issue that hinders foreign investments.

Economic growth establishes the domain where human rights function. The rights space becomes not exclusive but flawed. The particularity of that space becomes visible. Though human rights discourse claims its own universal space, it still resonates between power struggles mystifying its justice that echoes in development.⁵⁷ It engages with its particularity, destabilizing its true universal claim.

Pahuja wants to continue working with the contingency of International Law and human rights. She wants to reshape their relation to the universal. She argues for a strategic engagement with this “critical instability” of human rights discourse, so the emancipatory nature of human rights is enhanced.⁵⁸ Similarly Koskenniemi calls for a strategic return to human rights, as a language for struggles. To do so, the human rights movement has to stay away from assimilating with ruling rationalities and become a language that resists those rationalities.⁵⁹

I utilize those voices that want to rework a new understanding of rights discourse to shape an understanding of the universal realm that elevates differences rather than homogenise them. I sympathize with this path because it opens up the rights discourse to more than the current movement offers, which is beneficial for those who cannot afford to fight outside the rights discourse. It is less drastic than what I will propose in part three. I reformulate the human rights discourse’s universal claim to become a realm of contingent hope, in the next part.

⁵⁶ *Id.* 95-118

⁵⁷ *See*, Koskenniemi, *supra* note 21.

⁵⁸ *Id.* at 42-43.

⁵⁹ Koskenniemi, *supra* note 13, at 11.

III. A Realm of Contingent Hope

“This universalism which is not One is no homecoming: a nostalgic return to a lost object which once (supposedly) provided a common origin or ground.”⁶⁰

On December 10, 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights by 48 votes. But the Commission on Human Rights drafted the declaration with only 18 members.

The Declaration is praised as the “holy writ within the human rights movement.”⁶¹ It marks a new vision for humanity. Everyone belonged to that vision. It is:

A common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.⁶²

The Declaration assumed a status of universal truth. It is made for everyone everywhere. All humans are part of this Declaration. But the logic of this universal vision falls short. Certain people constructed and adopted it. It is a product of a committee and a vote. It is not universally inclusive as it claims. The world is more plural than the 48 States that voted on this Declaration, or the 18 representatives who negotiated it; or the one man who drafted it. In finitude, there are a lot of different identities that did not take part of this Declaration.

In finitude, there is no true universal realm to embody. The Declaration assumes it embodies a true universal. But that space does not exist. It assumes that it can

⁶⁰ Linda M.G. Zerilli, *The Universalism Which Is Not One*, *Diacritics*, Vol. 28.2, 1998, at 19.

⁶¹ Mary Ann Glendon, *Knowing the Universal Declaration of Human Rights*, *Notre Dame L. Rev.*, 1998, at 1153.

⁶² Universal Declaration of Human Rights, 1948, Preamble.

represent all the plural identities of the world in one document. But that cannot happen. A lot of values are left out of what the Declaration dictates. The Declaration represents the universal function. It acts as if it is universal. It convinces everyone it is universal. It believes everyone should adopt it.

What is holding this version of universality is a power structure, as I will argue in this part. The continuing political hegemony of the values that went into the Declaration guarantees that the Declaration continues as the representation of the universal function.

But power can be taken away from the values that the Declaration stands for. The representation of the universal function becomes contingent. Any competing values can prove that the Declaration is a product of those who constructed it. The occupation of the universal function does not mean that the Declaration is universal. It means the Declaration is powerful enough to dominate over other emancipatory languages. The universal function becomes important for different identities to compete for its representation.

Thus, the universal function is the role in which dominant identities can claim universality but without betraying their particular values. It is the role that they play to maintain their universal claims through power. They act as if they are universal but anyone can disprove their particularity.

However, any claim to displace the representative of the universal function needs to defer to the universal as an empty ground. An empty universal is the realm, which proves that any representation of the universal function is contingent. We retain the empty universal to make sure that we can always strive for new dominations.⁶³

All identities become equal in their particularity because they lack the empty universal. They are all values that matter and exist.

⁶³ Gillian Rose, *MOURNING BECOMES THE LAW*, 1996.

A. The Realm of hope

Through history, the relationship between the universal and the particular identities commenced in terms of opposites.⁶⁴ The two realms contrast each other. So both realms do not interact: “the particular can only corrupt the universal.”⁶⁵ There has to be choice between both.

There was a dividing line between the content of the universal and the content of the particular: “Either the particular realizes in itself the universal- that is it eliminates itself as particular and transforms itself in a transparent medium through which universality operates- or it negates the universal by asserting its particularism.”⁶⁶ The particular either becomes the universal or it embraces its particularity. It cannot be both a particular identity and a universal one.

But, the line dividing between the universal and particular cannot belong to either the universal or the particular realm. We cannot contrast both realms on a ground that belongs to either of the two realms. The dividing line cannot be particular because the particular becomes part of the universal erasing the dividing line. It becomes the definition of the universal. Also, the line cannot be universal because the particular becomes part of the universal. It erases the particular identity. Laclau argues:

The very possibility of formulating this last question [on the dividing line between universal and particular] would require that the form of universality as such is subjected to a clear differentiation from the actual contents to which it is associated. The thought of this difference, however, is not available to ancient philosophy.⁶⁷

⁶⁴ Ernesto Laclau, *EMANCIPATIONS*, 1996, at 22.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

In order for the two realms to differ, they must contrast and interact at the same time. Both realms need to mediate. In Secularity, we need a relation between the universal and particular identities that does not make it about a choice between them.⁶⁸

In religion in contrast, the universal is the realm of God. It is a realm that does not overlap with the finite human world: it is outside of it. There is no need for a relation between both realms. So the universal is a realm that does not have any presence of the particularity. It is pure: true.

In religion, the “logic of incarnation” mediates between the universal and the finite pluralistic world.⁶⁹ Revelation incarnates the universal within the finite world. It transforms the universal into a space that humans comprehend. That incarnation marks the line between the finite world and what is beyond existence.⁷⁰ God is the mediator between both realms through revelation.

Thus, humans do not access God’s universal through reason.⁷¹ They do not control the mediation. The mediation is not a rational one and does not have to be, as it does not come from the human world.

But with the negation of God as a source of truth and all existence, the universal starts to emanate from finite pluralistic humans. Finite pluralism is the realm of human existence. It is all the different particular identities that need to mediate or struggle with each other.

The universal is no longer exclusive to God in secularism. Humans no longer need revelation to access universality. They access it themselves. Hence, the universal shares the same space of the plurality:

For prejudice, superstition, subjective whim,
illegitimate authorities, received tradition and

⁶⁸ *Id.*

⁶⁹ *Id.* at 13.

⁷⁰ *Id.* at 22-24.

⁷¹ *Id.* at 22-24.

revealed religion, reason substitutes the disinterested truth and the objective criterion of judgment, grounded on independence on the resolution and courage to use one's own reason.⁷²

Within the Enlightenment tradition, reason embodies the universal. The universal found a particular body to embody it through reason, the replacement of God. Reason became the new mediator between universality and particularity. It made the totality seem reachable.

Reason made everyone subject to its universality. The European secular individual became in control of creating the world and had to protect that world against anyone who opposes it.⁷³ European values became a civilizing mission, subordinating other values.

Any opposition to the established universal becomes irrational. Whatever identity realizes its claims to universality becomes the privileged self.

European values internalized the subordination of other 'irrational' values to disguise its own particularity. They normalized their supremacy and their subordination. "Relativism of authority does not establish the authority of relativism: it opens reason to new claimants."⁷⁴ So any claim against particularity of European values becomes not about the values but about who utilizes them.

Thus, reason defers its particularity towards the subjectivity of the user. On that note Laclau asserts,

In the case of a secular eschatology... as the source of the universal is not external but internal to the world, the universal can only manifest itself through the establishment of an essential inequality between the objective positions of the social agents. Some of them are going to be privileged agents of historical change, not as a result

⁷²Gillian Rose, *LOVE'S WORK*, New York Review Books Classics, 1995 at 123.

⁷³ Laclau, *supra* note 64, at 122-123.

⁷⁴ Rose, *supra* note 72, at 124.

of a contingent relation of forces but because they are incarnations of the universal.⁷⁵

This happened, as the universalized reason did not differentiate between God's universalism and universalism that emanates from within finite plurality. For Laclau, "the universal had found its own body, but this was still the body of a certain particularity- European culture of the nineteenth century." Reason did not differentiate between representing the universal function and its particular identity.⁷⁶

Thus, reason *embodies* the universal it does not *represent* it through that logic. It cancelled the distinction between the universal realm and the particular realm.⁷⁷

But this universal can never be true as it comes from within finitude. A certain particular dominates the function of the universal, while spreading its content as universal.

Thus, I differentiate between the universal function that human rights, through sharing the logic of reason, represent and human rights as a particular identity. Human rights' particular identity exists within the finite pluralism. So a concrete universal cannot exist.

The dichotomy between true and false universal does not exist since in finitude plurality cannot be taken away. We cannot reach a true universal if we only speak of finitude.

Human rights only represent the universal function; it does not embody a true universal. Human rights act as a God who is human: asserting its domination over and from within humanity's pluralism.

⁷⁵ Laclau, *supra* note 64, at 25

⁷⁶ *Id.* at 24.

⁷⁷ *Id.*

The universal function is the role the human rights movement acquired when it claimed universality. It acquired a totalizing role with its devotions. Struggles had to be addressed in forms of rights.

Differentiating between the universal function and the particularity of human rights creates a universal that can incarnate through different bodies. The universal function is open for all identities and not just human rights. Any identity can acquire the role of representing the universal function. The universal function is a realm of hope for domination over other particulars.

But, the universal function, now represented by human rights, is a contingent realm. It is contingent because claims against its representation are logical. Claims can contest the domination of human rights over the representation of the universal function.

Accordingly, to represent the universal function, competing identities have to fight for it, as I will argue in the next section.

B. Contingency in Hope

Any particular representing the universal function is always going to be contingent. The differences between identities shape the contingency of the representation of the universal function. Thus, any claim to universality will be met with, and limited by, other claims to universality:

(T)he tension and ambiguities surrounding all these so-called 'universal' principles: all of them have to be formulated as limitless principles, expressing a universality transcending them: but they all, for essential reasons, sooner or later become entangled in their own contextual particularism and are incapable of fulfilling their universal function.⁷⁸

⁷⁸ *Id.* at 57.

Identities embrace and work with the power struggles to represent the universal function. They fight over the universal function. They compete for their values to dominate.

Hence, power shapes the results of the contingency of representing the universal function. The contingency is stabilized by supremacy of certain identities in a terrain of politics.

So, human rights discourse has to deny its particular identity to acquire that supremacy.⁷⁹ It represents itself as a universal forgetting its own particularity. It has to forget its particularity in order to fulfill the functions of universal representation: to claim power, to resonate above and at the same time be utilized by the politics/ states/ corporates/ individuals/ subalterns.

The discourse's particularity is only apparent to other particulars. Once the movement claims the universal function it also has faith in its universality. It believes in its representation.

But human rights discourse does not 'reason'⁸⁰ its universality. Human rights movement has a passion to faith in its universality to fulfill the universal function. The passion to faith entails the believer to experience her belief by herself. She throws herself into her beliefs with all she has, not thinking it through.⁸¹ Human rights activists have to believe they are doing good to sell it to the non-believers. They have to justify their devotions, as I mentioned in part one.

So human rights force their representation of the universal function:

It is not a matter of weighing each particular claim to the universal against some transcultural or transhistorical universal, or of deciding which claim will be authorized as the "true

⁷⁹ *Id.* at 54.

⁸⁰ That must be shocking?!

⁸¹ Kierkegaard contrasted the passion to faith with the reflection on faith. The reflection on faith is about intellectual articulation, which can be taught by others and does not have to be felt like passion, in: Soren Kierkegaard, CONCLUDING UNSCIENTIFIC POSTSCRIPT TO PHILOSOPHICAL FRAGMENTS, 1846, at 26-28.

universal” according to some preexisting normative, ethical, or cognitive criteria. It is a matter, rather, of mediating the relation between the particular and the universal in a public space, with every mediation remaining open for further mediations.⁸²

Power becomes the way to force the content of human rights on everyone. It forces its domination over other languages of emancipation.

Hence, the human rights movement does not abstract or abandon its particularity once it fills the universal function. It acquires power. It cannot take away the particularity of development and economic growth when it assimilates to them. It just spreads their flawed promises around.

So, fighting over the representation of the universal function is in the name of domination. It cannot be justified in the name of humanity or any transcendental justice. Claiming the universal function becomes a source for power domination.

But we cannot exist in a state of pure differentiation and abandon the universal function. The state of pure differentiation,⁸³ or finitude pluralism as I referred to earlier, means that all identities claim that their particularities are the essence of existence. Western values become the definition of humanity and other values become savagery.

In pure differentiation, the ontological differences between identities cannot be experienced by each other. Identities do not understand realities similarly. They become enemies to one another. So when they come together it is always a violent clash:

We would only have either a complementarity of differences which would be totally neo-antagonistic, or a totally antagonistic one, one where differences entirely lack any commensurability, and whose only possible

⁸² Zerilli, *supra* note 60.

⁸³ Laclau, *supra* note 64, at 27.

resolution is the mutual destruction of the adversaries.⁸⁴

Different identities would fight the identity of human rights and not fight the domination of the human rights discourse. So they do not reject human rights' domination but the identity itself:

When attention is focused at the beginning of a work on discrediting the System, its historicism, its closure etc., in the name of existential 'freedom' or the released 'other', this, in effect, proudly obsolesces 'freedom and otherness- political or existential. Such apparent house-clearing amounts to a recollection which is itself a refusal, an unreadiness, for anxiety. It awards itself a certainty while claiming to breed no certainties.⁸⁵

Rose warns if the rights discourse were rejected completely, we would create new concrete universals in the name of the other. We create new definitions of humanity that claim to be the only existing one to fight the human of human rights.

Consequently, identities with power will always be powerful and the undermined identities will always be alien.⁸⁶ They all become stuck where they are, in the chain of power. The new definitions of humanity do not have access to the power of human rights. They cannot claim the human of human rights is just a possibility of the shape of humanity.

We need to keep the contingency of the universal function in order to fight illusions of human rights movement that I mentioned in first part, or any new illusions. We need it to reject the status of the hegemonic:

To destroy philosophy, to abolish or to supersede critical, self-conscious reason, would leave us resourceless to know the difference between fantasy and actuality, to discern the distortion between ideas and their realization.⁸⁷

⁸⁴ *Id.* at 61.

⁸⁵ Gillian Rose, *THE BROKEN MIDDLE*, 1992 at 88.

⁸⁶ Laclau, *supra* note 64, at 27.

⁸⁷ Rose, *supra* note 72, 117

The realm of hope is important for its contingency. For Rose, the aporetic universal, or the universal function as I refer to it, is a space that rejects the abstraction of rights (their true universal space) and embraces the rights discourse as a space for recognition of all other particulars lacking in the discourse.

The universal function keeps the struggles between identities, as a necessity to represent it. It gives access points to new versions of humanity to claim that the human of human rights is just a possibility. In speaking of differences and power struggles, the universal function must always be present.

Moreover, it is impossible to stay in a pure differential state when identities deal with one another. Each difference hinders all other differences: “On the one side, the externality of otherness is within the something’s own inwardness; on the other side, it remains as otherness distinguished from it; it is still externality as such, but *in* the something.”⁸⁸ Identities destabilize and oppress each other, when they interact.

For example, human rights discourse would differentiate itself from within other emancipation discourses. So when the discourse juxtaposes itself to all other identities, it asserts at the same time all other identities.⁸⁹ They are part of its particular identity. Human rights discourse would dominate over other emancipation discourses and embrace them all when it contacts them. Identities become asserted and destroyed through their particularities.

A universal ground is important to constitute the identity of human rights as a full particular different from all other particulars. A ground that pre-exists the differences is essential to establish all particulars fully.⁹⁰ Thus, identities differ from a ground that is not particular but more than that. On this note, Hegel articulates existence as not only a determination from all other identities but also an instantiation of the universal.⁹¹ “The assertion of one's own particularity requires the appeal of something

⁸⁸ Georg Wilhelm Friedrich Hegel, SCIENCES OF LOGIC, 1871, at 103.

⁸⁹ Laclau, *supra* note 64, at 49.

⁹⁰ *Id.* at 27.

⁹¹ Hegel, *supra* note 88, at 95-109.

transcending it.”⁹² The plurality of finitude needs the universal to establish the particular identities by differing to that realm.

Nevertheless, the universal function cannot exist without that appeal to being different. When a particular differentiates itself from another it does so by appealing to a universal ground. The particular exist as part of “a complex and elaborated system of relations with other groups,”⁹³ mediated through power struggles.

Thus, the universal function is a place of struggles between identities.⁹⁴ There are no true agreements between identities that are different. The representation of the universal function is a sign of power. It is not a sign of acquiescence between all particulars, as “acquiescence is, of course, the hallmark of hegemony”⁹⁵:

There is nothing that we all share by virtue of being human or of living in a particular community that guarantees a common view of the world; there is nothing extralinguistic in the world that guarantees that we all share a common experience; there is no Archimedean place from which we could accede to a universal standpoint.⁹⁶

Similarly, Rose does not reconcile the differences between particulars. She preaches towards viewing the fullness in the contradictions and suffering in the world.⁹⁷ She engages with the power struggles between identities. She articulates a way to deal with the suffering under domination that does not tell us that our struggles are not important.⁹⁸

Firstly, she asks us to “mourn” the lost promises of the dominating identities and engage in a critical reflection of their promises.⁹⁹ Mourning requires constant criticism of what rights offer and deny us and to see their actuality around us: “Mourning draws on transcendent but representable justice, which makes the

⁹² Laclau, *supra* note 64, at 48.

⁹³ *Id.*

⁹⁴ Chantal Mouffe, *Artistic Activism and Agonistic Spaces*, Art & Research, Vol.1.2, 2007.

⁹⁵ Vassos Argyrou, *THE LOGIC OF ENVIRONMENTALISM*, Berghahn Books, 2005, at 169.

⁹⁶ *Supra* note 60, at 8.

⁹⁷ Rose, *supra* note 85, at xi-xii.

⁹⁸ Rose, *supra* note 63.

⁹⁹ *Id.*

suffering of immediate experience visible and speakable.”¹⁰⁰ So we do not romanticize them but engage critically with what they do. Struggles should be out in the open and not hidden or forbidden just because we have ‘rights’.

Thus, mourning results from failures of post-modernity. Postmodernity failed because it misplaced mourning in the lack of rights or laws. It is fixated on the losses without mourning those struggles. Rose frames the failures of postmodernity mistakenly around an assumed search for uncontaminated ethics. Nevertheless, her version of mourning is what interests me.

In Rose’s example of Phocion’s wife, the political actions taken by the wife are an example of enduring mourning.¹⁰¹ Phocion was a noble statesperson, who was executed for treason. His burial was forbidden in Athens. So, his wife with her servant took his ashes and consumed them burying him within her body.¹⁰² She undid the disgrace that was done to her husband by mourning him through her own political actions. Thus, she did not succumb to the powerful orders of not burying him in Athens. She did not give in to hatred for the tyrants. She mourned regardless of the orders unfolding new tragedies to be mourned.

Phocion’s wife actions are not an opposition of love to political corruption. It is an action on its own; to be understood as it stands as a political action. Her actions display the necessary, willful, entanglement of/in politics. She does not gain anything from it but dealing with her struggles.

Mourning cannot be taken away. Phocion’s wife mourns because she is human and laws do not take that away. So the choice was actually whether she mourns “within or without the law.”¹⁰³

But if Phocion’s wife abrogated mourning, she would be “exposed to the unmitigated power of the state.”¹⁰⁴ She would be vengeful. It reminds me of the reaction that the

¹⁰⁰ Rose, *supra* note 63, at 36.

¹⁰¹ *Id.* at 22-26.

¹⁰² *Id.* at 25.

¹⁰³ Rose, *supra* note 72, at 115.

world had after the November 2015 Paris attacks. The French authorities did not mourn the losses. They flaunted their powers. They had to blame someone to revenge. No one addressed why the events happened because it would mean that the French authorities are to be blamed for their foreign policies. So the authorities opposed what happened to but for political gain not to work through the incidents. Butler addressed the same issue in the context of 9/11 attacks.¹⁰⁵

Butler explains that the 9/11 attacks were ethically bad but logical at the same time.¹⁰⁶ September 11 was a perfect rational response to the United States' foreign policy.¹⁰⁷ By suspending the ethics, we can eventually analyze why it happened regardless of the nature of the event. But, to critically analyze September 11 would be read as trying to find excuses for the perpetrators.¹⁰⁸ September 11 is framed as an exceptional event that was not seen before that needs to be condemned.¹⁰⁹

The US could have mourned the losses as serious deaths, not as an attack on its national security. It could have grieved them as individual human beings accepting that we are all humans who suffer and die.¹¹⁰

But what the US did was increase the suffering and pain not accepting the human vulnerability to others creating deaths that are not grievable.¹¹¹ The US refuses the pain: the mourning. It refuses to come face to face with itself, moving away from human vulnerability, marking that vulnerability as abnormal though it is part of life. It channels that pain into rage and revenge. The US publically grieved with anger and pride, like the winners of war who publically grieve the few losses but secretly celebrate the grand win.¹¹² It should have engaged with the reality it created leading to those losses, instead of creating an endless war on terror.

¹⁰⁴ Rose, *supra* note 63, at 21.

¹⁰⁵ Judith Butler, *PRECARIOUS LIFE: THE POWERS OF MOURNING AND VIOLENCE*, 2004.

¹⁰⁶ This argument and the next two paragraphs are based on a paper submitted for human rights class. *Id.* at 15-17.

¹⁰⁷ *Id.* at 9-10.

¹⁰⁸ *Id.* at 2.

¹⁰⁹ *Id.* at 6.

¹¹⁰ *Id.* at 19-21.

¹¹¹ *Id.* at 17.

¹¹² *See, id.* at 19.

Thus, mourning cannot be escaped to move on to the next step. Lose is an opportunity to grow, to change as we come face to face with ourselves. So if we accept that possibility of growth, we accept the pain. Accepting the consequences of the US actions that led to 9/11 is enduring mourning.

Secondly, after mourning we find a way towards influencing political struggles. Once we complete the task of mourning, our struggles formulate around how to engage with the dominant identities. Different emancipation movements have to engage with human rights movement when it shows it failed in delivering what it promised:

When completed, mourning returns the soul to the city, renewed and reinvigorated for participation, ready to take on difficulties and injustices of the existing city. The mourner returns to negotiate and challenge the changing inner and outer boundaries of the soul and of the city; she returns to their perennial anxiety.¹¹³

Enduring mourning means we influence the political, to gain power but not assimilate to the dominant particular. So, we strive to and fight for a better representation of the universal function.

Though, enduring mourning creates new reasons to mourn. In political actions, mourning prevails because new representations of the universal function will fail to deliver for everyone.¹¹⁴ But we need to strive for what is to come, a future of this constructed present, which is both better and worse. It is worse because there will be a new subordinated group. But it is would be a new form of subordination.

But, there must be a ground that disproves the fullness of the representation of universal function. Any claim against the politics that brings an identity to the universal function has to rely on the emptiness of the universal signification: “The aporia or gap is the Janus-face of the universal.”¹¹⁵ I proceed towards this predicament.

¹¹³ Rose, *supra* not 63, at 36.

¹¹⁴ Rose, *supra* note 72, 122.

¹¹⁵ Rose, *supra* note 63, at 10.

C. The Struggle to the Empty

For Laclau, the human rights movement becomes the empty signifier of the universal function. An empty signifier denotes to no present object but to the lack of it.¹¹⁶ The object that lacks is a universal form of acquiescence between all identities.

But in Laclau's empty signifier, there is no ground to defer the emptiness of signification to. An empty signifier is a powerful concept (like justice) that lacks content or has an unstable definition. It signifies the absence of its content. But it is powerful because it lacks content (a signified). Laclau does not tell us how to differentiate between the emptiness of the signification (the lack of the universal) and the fullness of the signification (the universal claim of human rights through representing the universal function).

In his empty signifier, the universal is both empty and filled:

The universal is certainly empty, and can only be filled in different contexts by concrete particulars. But, at the same time, it is absolutely essential for any kind of political interaction, for if the latter took place without universal reference, there would be no political interaction at all.¹¹⁷

However, filling up the universal negates its emptiness. If human rights currently dominate the universal function, how can we prove that it is actually a contingent domination?

Thus, I differentiate between the emptiness of the ground and the fullness of the universal function. The empty universal shows that the domination of human rights movement is an act of violence against other identities. Human rights do not fill up the empty universal but they represent the universal function.

¹¹⁶ Laclau, *supra* note 64, at 15.

¹¹⁷ *Id.* at 61.

The empty universal makes human rights' authority contingent. It asserts the contingency of the universal function. The human rights movement exercises its prejudices with the authority of the universal function. These prejudices are both just and unjust. The prejudices rest on "mystical foundations,"¹¹⁸ since they do not have their own space, as I argued in part one. They are political. We use human rights "not because they are just but because they have authority."¹¹⁹

Likewise, Pahuja moves to the universal as an empty space, with her critical belief in human rights discourse. She wants to keep the universal empty so values that fill the universal function are never fully universal.

The empty universal is thus a new promise of justice, one that means that all differences matter. Derrida's "deconstruction is justice"¹²⁰ shapes a new kind of justice, a plural contingent one. He introduces deconstruction as a path to follow for embracing all uncertainties towards a promise of justice that is to come but we can never reach.¹²¹ It is a new deferred promise; a promise that changes its content (unlike the one development offers with economic growth). Plurality, which is inescapable, is celebrated in striving towards the empty universal. Once we deconstruct the unquestionably full universal, the contingency of the human rights movement is revealed.¹²²

Though Rose critiques poststructuralists' justice, specifically Derrida's, I choose to combine their work. I do not reconcile them. Their arguments are irreconcilable as a whole. Rose opposes Derrida's deconstruction, for it offers an endless mourning process with no where to go:

Yet, by disqualifying universal notions of justice,
freedom and the good, for being inveterately

¹¹⁸ I would critique Derrida for promising too much with the uncertainties that deconstruction offers (it doesn't change what's on the ground) but at the same time I would also want to utilize his work for the same reason I critique it (there is always a derridean justice to strive for with the instability), in: Jacques Derrida, *Force of Law*, 11 Cardozo L. Rev., 1989-1990, at 939.

¹¹⁹ *Id.* at 939.

¹²⁰ *Id.* at 945.

¹²¹ *Id.*

¹²² Pahuja builds on Derrida's 'democracy to come' to highlight the contingency of human rights movement, in: Pahuja, *supra* note 35, at 10-43. See, Derrida, *supra* note 118.

‘metaphysical’, for colonizing and suppressing their others with the violence consequent on the chimera of correspondence, ‘post-modernism’ has no imagination for its own implied ground in justice, freedom and the good.¹²³

I reject Rose's critique of Derrida because the contingency that Derrida offers is the widest space to introduce the ideas that do not fit in the current representation of the universal function. I utilize them as a step towards those new ideas of. More importantly, Rose and Derrida share the same production of knowledge. They have echoes of the West speaking to those who suffer. I take the bits that I can speak through. Thus I focus on their complementary sides rather than their contradictions. Resolving their squabble is unnecessary for my purpose, since their work is structured around the same idea of knowledge that they critique.

The human rights movement differs its representation of the universal function from other particular emancipation movements, which by turn defers to the empty universal. This is the concept of *differance*.¹²⁴ Derrida defies the certainties of signification in structuralism with it. It is an essential concept for deconstruction. *Differance* is not only accessing the infinite possibilities that a word can denote through differentiating it to its opposite (here representation of universal function v. particularity of human rights movement). But also, it is deferring their opposition to each other so they are dependent on one another¹²⁵ (introducing the third realm: the empty universal to defer the fullness of the universal function to an emptiness). It is hard to articulate the definition of *differance* without embracing the wholeness of the differed/deferred that is why Derrida introduces the concept of trace.¹²⁶

The concept of trace is the invisible path that allows differance to work.¹²⁷ Pahuja shapes that path in the critical instability of human rights discourse (when it shows its particularity though it represents the universal function) that I have discussed in

¹²³ Rose, *supra* note 63, at 7, 11-12.

¹²⁴ Jacques Derrida, *OF GRAMMATOLOGY*, 1976, at 62-63.

¹²⁵ *Id.*

¹²⁶ *Id.* at 62.

¹²⁷ *Id.* at 70-71

part one.¹²⁸ It is an invisible trace that only shows its logic for us to work with. The particularity of human rights movement is traced through the empty universal and through the universal function. What is traced is not their opposition to each other but their incompatibilities interacting with each other.¹²⁹ When the path of trace does show its logic, it effaces itself. For we only see the particular in the universal function (the liberating side of the critical instability) but we know that the particular lack the empty universal (we see the imperial side of the critical instability).

The empty universal is a ground that is not present. Its absence represents the possibility and impossibility of its representation.¹³⁰ The possibility of representation is the lack of the universal within all particulars. It is the lack of the justice of embracing the uncertainties of deconstruction.¹³¹ Hence, any particular can be the representation of the universal function (of the contingent promise of justice). The impossibility of representation resides in the universal, as an empty realm. The justice is always “to come;” never present.¹³² The empty universal becomes the signifier for the absence of the universal. Thus, the contingency of the momentary content/conquering of the universal function resides in offering possible grounds for critiquing the present representation of it.

Accordingly, particular identities strive to what they lack. The empty universal in this relationship is important precisely for its impossibility through its lack: through representing the universal function:

(T)he impossibility of a universal ground does not eliminate its need: it just transforms the ground into an empty place which can be partially filled in a variety of ways (the strategies of this filling is what politics is about).¹³³

Human rights discourse becomes a representation of what we lack. The experience of not having rights becomes a signification for the objects of the interests that the oppressed lack in society. So the language of rights becomes about those who struggle in the logic of the empty universal.

¹²⁸ Pahuja, *supra* note 35, at 25.

¹²⁹ Derrida, *supra* note 124, at 65.

¹³⁰ *Id.* at 37.

¹³¹ Derrida, *supra* note 118, at 945-947.

¹³² Derrida, *supra* note 118, at 945-947.

¹³³ Laclau, *supra* note 64, at 59.

To retain diversity in power struggles, we accept the ‘impossible but necessary’¹³⁴ paradox.¹³⁵ We cannot resolve this paradox because its solution would mean that we had found a true body to become the universal in finitude.

Accordingly, the empty universal equates all particulars together through its own necessary absence; their shared lack(ing). This is possible either by making all particulars equally important in their demands or by making one particular represent the universal function.¹³⁶ The choice between both is quite political.

Current social structures choose to compete for the representation of the universal function. So, the philosophical enquiry of the relation between universal and particular shifts to the political realm.¹³⁷

In a society (and this is finally the case of any society) in which its fullness - the moment of its universality - is unachievable, the relation between the universal and the particular is a hegemonic relation.¹³⁸

As human rights discourse occupies the representation of the universal function, the discourse cannot escape its homogenizing role. The discourse is only a representation of the missing totality of the empty universal. Thus, it starts to totalize everything to fit into its particularity.¹³⁹ It cannot escape that role.

But it becomes easy to build new realities to face the totalizing role of human rights discourse when we retain the contingency that comes with the emptiness of the universal.¹⁴⁰ The presence of the contingency prevents human rights discourse from being fully totalizing.¹⁴¹ The empty universal entails the disruption of totality by elevating the struggles between particulars.

¹³⁴ Jason Beckett, *Faith and Resignation, A Journey Through PIL*, 2012.

¹³⁵ Laclau, *supra* note 64, at 35.

¹³⁶ *Id.* at 57

¹³⁷ *See*, Zerrilli, *supra* note 60, at 7.

¹³⁸ Laclau, *supra* note 64, at 53.

¹³⁹ *See*, Ernesto Laclau, Chantal Mouffe, *HEGEMONY AND SOCIALIST STRATEGY: TOWARDS A RADICAL DEMOCRATIC POLITICS*, Verso, 2nd edition, 2014, originally published 1985, at 79-101.

¹⁴⁰ On formation of hegemony or new realities: *See, id.*, at 120-143, 165-168.

¹⁴¹ *Id.* at 111.

The empty universal becomes a space for agonism or “new antagonism”.¹⁴² It is antagonistic because the plurality of identities prevents each identity’s totality (the negative aspect of antagonism).¹⁴³ The positivity comes from the lack in all identities, which makes them all equal in their lack.¹⁴⁴ The antagonism disrupts the differences between the identities by showing that they all lack totality. I highlighted this lack in the previous section, as it is integral to keep the contingency in the momentary representation of the universal function. All identities are in flux not because of their differences but because what they all lack. The antagonism is new because it is not a negative opposition of identities, rather a positive one. So in the struggle towards the empty universal, the identities do not fight one another as “enemies” but fight with each other.¹⁴⁵

Thus, the empty universal is a place of struggles, which do not have predictable outcomes. It celebrates all differences not for being contradictory but for being equally lacking in their totality. So when the role of representing the universal function is challenged, it is opposed on the basis of that lack. What is challenged is the role the rights discourse plays when it represents the universal function.

In *this* relation between the universal and particular, human rights discourse embraces its critical representation of the universal function. Striving towards an empty universal means human rights discourse dominates over, and at the same time stands for, finitude plurality.

¹⁴² Laclau and Mouffe do not utilize the term agonism but the term reflects their idea of antagonism. *Id.* at 150-155.

¹⁴³ *Id.*

¹⁴⁴ Laclau and Mouffe employ here “the logic of equivalence” to highlight the positivity of the social in their idea of antagonism, which is when the oppositional groups are equated to each other through their rejection of the tyrant. This logic does not assume that there is any commonality between particulars but that the differences of particulars are reduced to the fact that any particular cannot represent the universal fully. But Laclau and Mouffe’s theory would do without the flawed logic of equivalence because though subordinated identities can share a momentary rejection of the hegemonic some subordinated identities can be built on the same logic of the hegemonic (like for example emancipation projects that choose to assimilate to the rights discourse though they do not have the same powerful resonance of the rights discourse). I choose to highlight the positivity in Laclau and Mouffe’s antagonism through the lack of the empty universal in all identities, them all being empty or floating signifiers. On logic of equivalence: *See, id. Also see, Laclau, supra* note 61, at 54.

¹⁴⁵ Laclau and Mouffe reject Schmitt’s enemy/friend categories of his political system. *Id.* at 59-60. *See, Carl Schmitt, THE CONCEPT OF THE POLITICAL, 1996.*

In standing for plurality, human rights abandon its particularity to become a language of struggles. It favors its emancipatory side as discussed in part one. It no longer expects the coopted influence of international institutions like the WTO or on the market economy. It becomes excluded: a language of the Other that mourns within the political.

But the Other are not limited to the human rights movement to express their struggles. They can fight its domination from within its emancipatory side or from outside. The empty universal makes that possible. They can fight to represent the universal function, as I will argue in the final part.

IV. Struggles within the Other

In Upper Egypt, there is a form of folkloric songs, referred to as ‘mat and cover’.¹⁴⁶ The name symbolizes talking about your struggles openly, spreading them around, like how you spread a mat. Then you heal, covering them.

The singers reply back and forth to each other with lyrics they form impromptu in short sentences. They sing through a rhythmic tone accompanied by the tunes of a hand drum.

They sing about daily life struggle and give their insight of the way to deal with the struggles. Those insights are learned from experiences, traditions, and reality. For example, they sing:

The Free loses, when time demeans from his humanity,
So he forcefully resorts to the vile, hurting himself.
He mourns and laments to move on,
Asking God to ease what comes
If fate throws any new struggles,
So he gives to the poor from what he has, rising above the vile.
O child, there is shame in the vile
That your high status does not take away,
I am telling you the truth,
Brother let the vile be and forget them,
Like time forgot you.¹⁴⁷

They sing of how they resolve their struggles. When there are harsh times, they reflect on their actions within their beliefs. They have their language of struggles. They have a language for their Otherness.

The *Other* are not just the folkloric singers in Upper Egypt. Inside the category of the Other, there are different identities. Those people are one identity within the Other, who struggle against dominations of the West.

¹⁴⁶ By Prominent Folk voices: Mohamed Al-Agouz and Ahmed Barrain.

¹⁴⁷ I translated this excerpt to denote to the same meaning as the Arabic verses but the translation does not show the beauty of the rhythm. The whole song can be found only in Arabic, in: <https://www.youtube.com/watch?v=euAT70q4vxM&list=RDeuAT70q4vxM#t=7>, accessed at December 22, 2015.

The homogenization of the Other means that the elites will be representing those folkloric singers in Egypt. But, the singers are not the elites in Egypt, who mingle in the intellectual community. They both struggle differently. They have different realities.

Thus the folkloric singers are the subaltern. Their fights are low-key. They speak to a small audience and influence only a small fraction of Egypt. They do not engage with the intellectuals frequently, but might influence them when their struggles are essentialized and brought to light, like they influenced me.

My war with human rights discourse relates to allowing those people to influence their lives when they encounter the hegemonic. When they clash with the human rights movement they fall prey to its imperial side. Their songs do not have the same influence as the human rights discourse.

If they could utilize the emancipating side of the language of right, they would have a better chance of influencing the political order. They might become recognized

However, they lose their free territory of struggle. They lose their songs. They fight from within the human rights discourse.

To maintain their freedom, they fight against the domination of human rights discourse. They battle to become the new universal function. So they fight from outside the movement. I urge them to continue singing.

A. The Plurality in the Other

“O my body, make of me always
a man who questions!”¹⁴⁸

¹⁴⁸ Frantz Fanon, *BLACK SKIN, WHITE MASKS*, 1967.

The world is not about the West and the Rest. The Rest are more plural than the frames they are put in. The Rest here references to all Non-West. They are the Other, the subject of Western domination. The Other are the object of judgments. The Other are the people who want to be more developed like the West. They are also the ones who want to reject Western values. They are living under oppression. The Other here include those whose oppression is not heard.

The Other are plural in their identities and their interests. They do not exist as a stable identity. They are not a coherent homogenous category but a plural one.

In defining the Other as a homogenous category, the identities that constitute the Other become signified by the most powerful voice within the category. Crenshaw frames that as the downside of the “embrace of identity politics.”¹⁴⁹ The downside is “not that it fails to transcend difference...but rather the opposite- that it frequently conflates or ignores intra group differences.”¹⁵⁰ The plurality within the Other is obliterated.

This hinders the identities that do not speak loudly enough. For example, battered women are recognized in the form of white women not women of color. So when the battered women are recognized as a collective/coherent identity, the “identity- based politics” become what speaks of that violence.

The white women are the ones who speak. The identity-based politics is the dominant identity that shapes the identity of all abused women. So this identity speaks about white women who face violence, but when the women are of color, the violence against them gets ignored, because it is relocated elsewhere in another dimensions, like racism.

Thus, Crenshaw suggests that the categorization of battered women is socially constructed around white women. The women of color are the Otherness in the

¹⁴⁹ Kimberle Williams Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, Stanford L. R. 1991.

¹⁵⁰ *Id.*

homogenous Other. She highlights the subordination of women of color in that categorization.¹⁵¹

The dominant identity ignores other dimensions, like class, race, gender and many more, to shape violence around the identity politics of a few.¹⁵² Thus, the abuse against women of color gets shifted to the domain of racism that deals with the environment. Being colored means instantly that your abuse is normal in your environment, so it is more about the environment than the violence against you.

The omission of those dimensions of abuse mutes and ignores the different factors that shape violent experiences for women. It is not only about the violence the women are subjected to. But also it is about the prejudices against them and their social status. Violence against women of color is not constructed the same way as the abuse white women are subject to. They are both constructed differently and need different approaches to tackle them.

It gets worse for the women of color if they are poor and unemployed. Social status intersects with the experience of the abused women of color. But when it is highlighted, social status becomes the issue to the abuse. Intersectionality denotes to the interaction between different dimensions of the experience of women of color in regards to their abuse.

Crenshaw wants to re-conceptualize the identity of battered women. “The identity of the group” cannot be “centered on intersectional identities of a few”, for “strategies (to fight violence against women) based solely on the experiences of women who do not share the same class or race backgrounds will be of limited utility for those whose lives are shaped by a different set of obstacles.”¹⁵³

Crenshaw problematizes the consequences of the categorization of race and gender problems around white women, for the women of color. There are two levels of

¹⁵¹ *Id.* at 13.

¹⁵² *Id.*

¹⁵³ *Id.* at 3, 15. (Brackets added)

subordination for women of color. One, when the categories are formed around white women's experience. The other, when those categories have social consequences that affect not only white women but women of color.

Women of color need interventions that reflect their experience with violence not the experience of a homogenous category. Crenshaw wants to find a way for the women of color to "find expression" in the already constructed identity politics.

Likewise, Abu Lughod attacks the authority that Western views speak with on how Muslim women live.¹⁵⁴ She contends, "Projects of saving other women depend on and reinforce a sense of superiority by Westerners, a form of arrogance that deserves to be challenged."¹⁵⁵ Westerners assume they can comprehend what Muslim women demand: Muslim women need to be liberated from wearing burqa that Taliban regime is forcing on them.¹⁵⁶ But Abu Lughod introduces burqa outside the Taliban regime, as an ethnic representation of modesty.¹⁵⁷ Burqa is not a Taliban invention but traditional clothing.¹⁵⁸

Thus, she links forms of savior missions to masked colonialism. To say that Muslim women should be saved from wearing the burqa is to force a lifestyle on them.

Abu Lughod wants recognition of different forms of living as justice.¹⁵⁹ She rejects the homogenizing view of what is harmful and what is not. The choices of Muslim women ought to be respected not rejected as harmful. The recognition of those choices is an acceptance of their significance. Consequently, the Westerners must abandon their authority in dictating what Muslim women need.

¹⁵⁴ Lila Abu Lughod, *Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others*, *American Anthropologist*, Vol. 104. 3, 2002, 783-790.

¹⁵⁵ *Id.* at 789.

¹⁵⁶ *Id.* at 784.

¹⁵⁷ *Id.* at 785-787

¹⁵⁸ Abu Lughod links that to the actuality of 'the war on terror' in Afghanistan; how Laura Bush justified American intervention in the name of saving women, in: *id.*

¹⁵⁹ *Id.* at 788.

That will not happen unless we acknowledge the plurality of the Other's voices. To take in the plurality of experiences of violence means to address them differently with no sets of prejudices that speak of some experiences over the other.

On this matter, Spivak critiques the assumption that the 'homogenized' Other (the battered women) is accessible through their unified interests and desires, in post-structuralism.¹⁶⁰ She argues against the equation between all interests, all desires, and all power struggles in one understanding of the Other. She negates the desire to understand "society's Other" as a coherent identity within the plurality of relations.¹⁶¹ So, she asserts the plurality of the relationships between powers, interests and desires (the plurality of experiences of battered women). She retains the plurality of power relations just like Crenshaw wants to retain the plurality of experiences of battered women.

In addressing power as a totality, we can lose sight of who is in power: "The plural but total way of conceiving power leaves the individual more not less exposed to the unmitigated power of the state."¹⁶² When everything is seen as part of power relations, it becomes quite hard to locate power and revert it; is it white men, colored men, or white women that we need to address? But the oppressed are always easy to locate. They are the subjects of domination: the women of color. I am interested in Spivak's critique of poststructuralists to give an alternative (her essentialization of the subaltern) to the drastic suggestion that I choose in the final section of my dissertation.

It is like the idea that different sets of rights mean different things in different contexts. The dogmatic understanding of what democracy entails, consists of transparent elections, political parties, freedom of assembly, freedom of speech, a system of checks and balances... But for certain groups it has a different connotation. For example, democracy for Ghanaian women means predictable outcomes from the

¹⁶⁰ Gayatri Chakravorty Spivak, *Can the subaltern speak?*, in Cary Nelson and Lawrence Grossberg eds. *MARXISM AND THE INTERPRETATION OF CULTURE*, Macmillan Education: Basingstoke, 1988, at 272-273.

¹⁶¹ Spivak, *id.* at 272-273.

¹⁶² Rose, *supra* note 63, at 21.

authorities of their country.¹⁶³ The women cross borders frequently to get products for businesses to support their families. The right to democracy for them means better institutions that do not encourage bribes to get things done. It means a guarantee for their safety while crossing borders.

Ghanaian women are not represented in their idea of democracy. There is plurality in what the women would want as individuals. Theorizing opens up space for the Ghanaian women to speak when they must. The intellectual lets the Ghanaian women do the substance of the theory.

The theorizer understands Ghanaian women can express their oppression but they are not heard because they lack power, for poststructuralists.¹⁶⁴ So the theorizer becomes their voice. The oppressed had the knowledge to speak of their oppression but lack the means. So the intellectual becomes the tool for the oppressed to shift the relations of force, not the representation of the oppressed.

For Spivak, this is a unification of desires and interests of the theorizer and the Other in the name of power.¹⁶⁵ Poststructuralists view theorizing as schematic rather than textual. Schematic means that theory has a function that does not change: a mean towards shifting power. On the other hand, textual means different theories can be more than means towards shifting relations. Spivak criticizes that they view the relationship between desires and interests as *schematic*.

When the divisions between the desires of the oppressed and the interests of the intellectual in theorizing are unified within the subject of the intellectual, poststructuralists “restore the category of the sovereign subject within the theory that seems most to question it”.¹⁶⁶ Spivak attacks the “generalized ideological subject of the theorist,”¹⁶⁷ which attempts to collect heterogeneous interests in one category and

¹⁶³ See, Charlotte Wrigley-Asante, *Survival or Escaping Poverty: the Perspectives of Poverty and Well-Being among Ghanaian Women in Cross-Border Trading*, 2012.

¹⁶⁴ See, Michel Foucault, *Language, Counter-Memory, Practice: Selected essays and interviews*, trans. Donald F. Bouchard and Sherry Simon, Cornell University Press, 1977, at 205-17.

¹⁶⁵ Spivak, *supra* note 160, at 274.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* at 273.

introduce that category to the discourse of power.¹⁶⁸ Poststructuralists equivocate between subjectivity and representation. The subjectivity is the intellectual's assumption of the interests of the Other. The representation is that of the intellectual when theorizing on the Other.

The desires of the oppressed are conflated with the intellectual's interests in theorizing.¹⁶⁹ The identity of the subject is constructed of interests which gets dislocated in power struggles to maintain the hegemonic.¹⁷⁰ The interests of the Other become assumed by the intellectual. The intellectual dislocates the interests of the Other towards her categorization of a coherent Other. Thus, what is actually happening is a dislocation in the consciousness of the Other. The plural identities get displaced into one consciousness that speaks as the unified oppressed, like the white battered women identity that speaks through the intellectual about – *for* – all other battered women.

For Spivak, poststructuralists equate representation, *Vertrenten*, as in the political sense, and re-representation, *Darstellen*, as in transformation of one's identity once it has undergone representation.¹⁷¹ She deconstructs 'representation' and denotes that poststructuralists cannot ignore both sides of representation, because it makes them fall into the problems of re-representation. They ignore the subjectivity of the intellectual once she starts theorizing because they only see her as means of projecting experiences of subaltern-battered-women of color. Spivak engages with both sides of representation so she can introduce her essentialization of the subaltern within the Other.

Relatedly- but in contrast though for the same purpose- Rose critiques postmodernists' immediate desire of representing the essentialized Other, in the binary opposition to the Self.¹⁷² She rejects binary oppositions. She wants to mourn

¹⁶⁸ *Id.* at 274.

¹⁶⁹ *Id.* at 279.

¹⁷⁰ *Id.* at 276-280.

¹⁷¹ *Id.*

¹⁷² Rose, *supra* note 63, at 41-62

the failures of modernity by taking political actions as existing identities.¹⁷³ She gives the example of the ‘ineffability’ of the Holocaust. The ‘ineffability’ is the uncomfortable position that we are in if we attempt to understand that the Holocaust is not an exception: “we fear that it may be all too understandable, all too continuous with what we are- human, all too human.”¹⁷⁴ She does not want to represent what happened in the Holocaust but to overcome the uncomfortable representation (in a binary opposition of victim/perpetrator- especially the uncomfortable position of a surviving Jew and that of the probable non-Jews perpetrators) towards understanding the existing identities.

Understanding the Holocaust as an existing identity means engaging in an inner relation with the experience of the Holocaust, on an ontological level: “Philosophy would abolish representation. The translation of modern metaphysics into ontology involves...the overcoming of representation as the *imperium* of the modern philosophical subject.”¹⁷⁵ I understand Rose’s position as overcoming representation in the philosophical sense to let the surviving identities mourn rather than be deemed to a role (victim or perpetrator).

On the other hand, Spivak utilizes post-structuralism towards the same goal of understanding the existing identities. Spivak introduces Derrida to decenter the intellectual subject that constructs the Other. She introduces the “blankness” of knowledge within intellectual subject,¹⁷⁶ to open up the Other to what the West cannot articulate. The blankness within the human rights discourse becomes the plural substance of the Other. The discourse cannot, or chooses not to, see the blankness. The plurality of the Other gets introduced to the movement through its lack of knowledge.

Spivak wants to locate certain oppressions within the oppressed and essentializes them in power struggles within the language of rights. I propose to undo the muting of the silence of the subaltern in the current human rights discourse as a plausible

¹⁷³ *Id.* at 53-58

¹⁷⁴ *Id.* at 43

¹⁷⁵ *Id.* at 55

¹⁷⁶ Spivak, *supra* note 160, at 295.

alternative to fighting outside of the discourse, in the next part. Though I reject it in the final section of this part.

B. The Otherness in the Other

There are people whose consciousness we cannot grasp if we close off our benevolence by constructing a homogenous Other referring only to our own place in the seat of the Same or Self.

To confront them is not to represent them but to learn to represent ourselves.¹⁷⁷

To fight within the human rights discourse, the subaltern struggles can be essentialized to have access to the hegemonic power. This strategy reduces all struggles to those of the subaltern which in itself become a new hegemonic, therefore it can be an intentional strategy to fight within the human rights discourse.

The subaltern are those who are not only oppressed but are unable to access the hegemonic power. The hegemonic power affects them but they do not affect it in any significant way. For Foucault, power is present in the mundane, so subaltern do have a relation with the hegemonic:

All these lives, which were destined to pass beneath all discourse and to disappear without ever being spoken, have only been able to leave behind traces – brief, incisive, and often enigmatic – at the point of their instantaneous contact with power.¹⁷⁸

So though they are not visible in power structures, they still exist in them.

The subaltern can resist against the hegemonic. But if they resist the hegemonic, they die. Their deaths are meaningless, not at all heroic. Though death in itself can be seen as a form of resistance.

¹⁷⁷*Id.* at 288.

¹⁷⁸ Michel Foucault, *The life of infamous Men*, in POWER, TRUTH, STRATEGY, 1979, at 80

Subaltern do not fit in the Other who are identified by their difference or the possibility of assimilation¹⁷⁹ to the West because they do not matter. They are the battered women of color. Their oppression is even more oppressive because it is unrecognized and invisible. They have no value to the oppressor; no relation that leverages them. There is no “object of seduction”¹⁸⁰ to leverage the subaltern to have it their way, but there is an object of subordination to coerce them into the system.

Spivak argues the subaltern does not have a voice in the generalized Other because they do not belong to it.¹⁸¹ The women of color do not belong to the category of battered women. The subalterns are not the dominant white women, so they lack the means that are given through being oppressed as the battered white women. The women of color lack significance to the society. They are the people who are constitutively differed from the battered white women and the intellectual’s idea of battered women’s experience that is based on white women’s experiences. Thus, they are the muted because their experiences are unacknowledged; invisible.

Spivak argues that inside the oppressed, as a plural category, there is representation. The battered white women represent the women of color. The subaltern, or Otherness in the Other, is represented by the oppressed that can have the means to speak themselves through the intellectual theorizing about them. The subaltern identity does not belong to the oppressed because the oppressed participate in the relay with the intellectual theorizing, while the subaltern do not participate.¹⁸²

The subaltern can never be the signified because they do not have contact with the theorizer. They do not utilize the language of rights. The subaltern are not recognized as oppressed or recognized at all, but represented and muted by their masters:

The small peasant proprietors cannot represent themselves; they must be represented. Their representative must appear simultaneously as their master, as an authority over them, as

¹⁷⁹ Todorov terms that “the prejudice of equality” which deems understanding the Other in terms of “one’s own ‘ego ideal,’” in: Tzvetan Todorov, *THE CONQUEST OF AMERICA: THE QUESTION OF THE OTHER*, 1984 at 165.

¹⁸⁰ Spivak, *supra* note 160, at 283-285.

¹⁸¹ *Id.*

¹⁸² *Id.* at 276.

unrestricted governmental power that protects them from the other classes and sends them rain and sunshine from above.¹⁸³

The subaltern peasants lack the means of their masters. They are unrepresented. Hence, “Representation has not withered away,”¹⁸⁴ for there is still a signifier/signified. This time, the signified is the subaltern. And the signifier is the homogenous Other.

Spivak contrasts the Indian women, as a subaltern, to the Indian elites that constitute the Other, in her example of codification of Hindu Law. She explains that in order for the British to control the population, they created an Indian self-regulating system. The law became a mechanism for the epistemic violence of control as the British created “a class of persons, Indian in blood and colour, but English in taste, in opinions, in morals and in intellect.”¹⁸⁵ The Indian elites were indoctrinated into Western ideologies so they can serve the functions that the British demanded: to control the masses.

Spivak addresses the epistemic violence that the British did by codifying Hindu law. They prohibited sati to civilize the Indian society. She uses the example of sati ritual to form Indian women as subaltern. In the ritual, the widow sacrifices herself when her husband dies as a sign of love and loyalty.

When the British came, they criminalized the sati practice because “White men are saving brown women from brown men.”¹⁸⁶ White men are the saviors of the Indian women from savagery. The subaltern women are portrayed as the victims of that savagery.

The muting of the subaltern Indian women is traced by contrasting the culture speaking for the women with the British speaking for them. In the cultural scenario, “the women actually wanted to die.”¹⁸⁷ In these two scenarios, of the ritual being

¹⁸³ *Id.* at 276-277.

¹⁸⁴ *Id.* at 308.

¹⁸⁵ *Id.* at 282.

¹⁸⁶ *Id.* at 297.

¹⁸⁷ *Id.*

criminalized or ritual being held, women do not have accessibility to the hegemonic colonial power, but only are represented by it.

The subaltern women are the signified of what the intellectual in these two scenarios dictates on her: her protection. The practice being criminalized means that the colonizers have spoken for the women and the practice being allowed means that tradition has spoken for them.

No one asked the women what they wanted: “One never encounters the testimony of the women’s voice-consciousness.”¹⁸⁸ These options mystify the women’s voice: either “women as object of protection from her own kind”¹⁸⁹ or sati as a “reward” for her faithfulness to her husband.¹⁹⁰

Those women, if asked, wouldn’t give the same answer to the question. Their answers would have been numerous. In my opinion, there lies the problem. The hegemonic would not only recognize that the subaltern women can speak of their desires, but also recognizes their desires as valid. It would mean that the colonizers would allow the sati ritual for those women who wanted it, and recognize the validity of their opinion as well. It would also mean, that the holders of tradition would have recognized that not holding the ritual does not anguish the soul of the women so their cultural devotion would be contingent.

However, such women do not have a structure in order for them to speak for themselves against those who speak for them. Each is represented within the Other, but in this representation, she cannot benefit from the tools the Other has in connection to the hegemonic.

So the subaltern are voiceless. The subaltern woman exists outside of the system of representation between the Other and the West, not because she represents herself but because her identity is not recognized in the system (she is not re-presented through

¹⁸⁸ Gayatri Chakravorty Spivak, *Can the subaltern speak?*, in Cary Nelson and Lawrence Grossberg eds. *MARXISM AND THE INTERPRETATION OF CULTURE*, Macmillan Education: Basingstoke, 1988, at 298.

¹⁸⁹ *Id.* at 302.

¹⁹⁰ *Id.* at 302.

the intellectual). She is represented (in political sense) by the Indian elites. But her representation is also her muting. Spivak's lament, "the subaltern cannot speak," is because of the dislocation of the identity of the subaltern women within the category of the Other.

Going back to the sati ritual, the woman's widow status is the initiator of the practice and its criticism. Even when the woman disappears from the world of patriarchy, she is still present because she is the ground for legitimating the practice of sati itself.

But that is also the "violent aporia" that the subaltern woman exists/disappears in.¹⁹¹ It means that though the subaltern woman is the origin of the practice and its criticism, she is the non-origin of the discourses on sati.

So intellectual interventions subordinate the subaltern identity when they try to redeem its dislocation. What the intellectual does is speak *about*, speak *of*, speak *at*, and speak *for* the subaltern. The intellectual ought to acknowledge her responsibility for theorizing. Likewise, Spivak ends by remarking, "The female intellectual as intellectual has a circumscribed task which she must not disown with a flourish."¹⁹² Thus, the subaltern emancipation is not attributed to the intellectual.

Subaltern women's dislocated identity within the Other requires recognition. To make her desires visible, the Other, as opposed to the hegemonic power, should be viewed as a signifier/signified structure. That shows they do not influence the hegemonic.

So we, as intellectuals, trace the subaltern identity within the Other but then relocate it within the representation system inside the category of the Other. The goal is not to find out how the subaltern woman engages with power productively, but to see what happens to her voice in current chains of power so they can utilize the existent language of rights for their freedom.

¹⁹¹ *Id.* at 306.

¹⁹² *Id.* at 308.

The subaltern women own their own liberation when their struggles are essentialized within the language of rights.¹⁹³ They need to acquire their own liberation; to utilize the rights discourse to fit their struggles.

Nevertheless, I argue that the relocation of subaltern voices within the language of rights does not mean they are free. Hegel, in his master-slave dialectic, goes to assuming that the slaves have to own their liberation.¹⁹⁴ The master is dependent on slavery for his wealth. So slaves cannot depend on their masters to give them their emancipation because that would mean the masters would give up their sources of wealth.

Slaves have to risk it all and put their lives on the line to be truly liberated. Hegel goes further to saying that slaves are responsible for their slavery because they chose to live as slaves and not to die for freedom.¹⁹⁵ He deems Africans in colonies to slavery. It is a step necessary for the realization of their own personality, as their homelands are quite premature.¹⁹⁶ So in order to fully be emancipated, slaves have to take down slavery, as a system.¹⁹⁷

To unfold Hegel's dialectic, his master/slave dialectic should be read in the light of Haitian revolution. Hegel was witnessing the revolt through his daily readings of a journal that spoke of it.¹⁹⁸ His Eurocentric privileges along with witnessing of real action of revolting help us understand the tension in his version of freedom.

For Fanon, freedom ends "the colonists' way of thinking",¹⁹⁹ it destructs the "epistemic mastery of the master."²⁰⁰ Liberation is more drastic than assuming the role of the master. Becoming the master represents integration into the master's structure.²⁰¹ Slaves need to annihilate the constructs that they live in to liberate

¹⁹³ See, Frantz Fanon, *THE WRETCHED OF THE EARTH*, 2004, at 1-62.

¹⁹⁴ Susan Buck-Morss, *HEGEL AND HAITI*, 2009, at 53-55.

¹⁹⁵ *Id.* at 54.

¹⁹⁶ *Id.* at 68.

¹⁹⁷ *Id.* at 56.

¹⁹⁸ *Id.* at 56-57.

¹⁹⁹ Fanon, *supra* note 193, at 47

²⁰⁰ Words of Professor Jason Beckett.

²⁰¹ *Id.* at 22-24

themselves.²⁰² But once the oppressed revolt against the masters, there is no end to the struggles.

Freedom is not the opposition of slavery. The opposition of slavery is recognition. Recognition is the unmuting of the silence. The slaves and subaltern women become un-muted within human rights discourse. But not free. Freedom entails a fight against the human rights discourse.

C. Towards New Dominations

Listen to me! For I am thus and thus. Do not, above all, confound me with what I am not!²⁰³

This part encapsulates the previous words of this dissertation towards the goal I paved the way for.

Human rights, as a language for emancipation and a language for experts, can accept the plurality of voices inside of them. Those voices are capable of using rights to inflict change in power struggles. But though they are capable of inflicting change. The change never comes as drastic as it is assumed to be.

Though, we can never forget about the imperial side of the human rights discourse: the movement itself. I referred to human rights movement as the imperial side of the discourse because the word movement addresses the devotions and illusions; contrary to the word discourse that embraces the imperial and emancipatory side at the same time.

The essentialization of the subaltern forgets the humanity in the subaltern. The subaltern are “enraged and invested.”²⁰⁴ They are not ideal, something that Spivak

²⁰² *Id.* at 50.

²⁰³ Nietzsche, *supra* note 1, at 1.

²⁰⁴ Rose, *supra* note 63, at 69.

misses as a strategy to bring their silenced identities together into the light.²⁰⁵ She glorifies the subaltern though the subaltern are not only victims nor perpetrators but actors in the political struggle that lack power but strive for it. So they “may initiate a unilateral and fundamental change in the terms of relating without renegotiating them, and further, refusing even to acknowledge the change.”²⁰⁶

They are now less powerful than the hegemonic and vulnerable to it, but they are also powerful in their Otherness and in their resistance to the hegemonic. They utilize power against each other and against the hegemonic. They subordinate even now in their subaltern lives.

The subaltern would have their causes recognized if they were essentialized against the hegemonic. They will get sympathy and people may start to help them. They will have attention from NGOs and businesses that are looking to lessen their tax pay through charity. That is change. That is them not being ignored. But the subaltern still exist within a system of development and economic growth that inherently does not work for them. There is no better here, only more struggles for them. They just found a way to participate in the political system.

I do not agree that participation in the power struggles is enough. I urge for more. I will not urge the West to give up the domination of their identity to make all identities equal in their demands from universal, because that would be a belief in a false contingency that the powerful would give up their powers. In the modern state structures, all identities have to fight for their demands to be heard. I urge for an escalation of the fight.

Thus, I argue for the Other to be seen as a plural category with different interests and desires from the ones human rights discourse offers. The Other do not have to be more like the West. They can create discourses that fight alongside human rights discourse.

²⁰⁵ I presume her essentialization of subaltern is on purpose, since she is the one who coined the term ‘strategic essentialism’ in order for the marginalized to help each other: See, Gayatri Chakravorty Spivak: *Neocolonialism and the secret agent of knowledge an interview with Robert J.C.Young*, 1991.

²⁰⁶ Rose, *supra* note 63, at 69.

In order to truly get the drastic change to escape the imperial side, I argue that the Other, as a plurality, need to create discourses to fight along with *and against* the human rights discourse. There would be no need to essentialize the subaltern within the Other. The subaltern would exist and would be heard within the plurality of the Other. The Other(s), in their otherness would have each other, but in their differences would have themselves.

I strive for emancipation discourses that have an imperial side in favor of the Other and an emancipatory side that the West can strive to utilize. I have not obliterated inequalities nor have I striven to in my goal. But I demand new inequalities. I demand new sources of domination. I demand new forms of domination; new forms of hope.

How will those new inequalities come to be when the current dominating universal is quite ‘established’ with its international orders and “justified” domestic intrusions? It is going to be the escalation of the fight that I have mentioned.

The Other can speak of freedom in their own terms. The Other can speak of different forms of liberation. The Other know they do not need economic growth. Human rights discourse can only bring them as much as its imperial side would allow. At the end, that side always reminds us “the well-being and the progress of Europe have been built up with sweat and the dead bodies of Negroes, Arabs, Indians, and the yellow races.”²⁰⁷ The emancipatory side can be effective for a short-term relief, but it does not mean more power in the political struggles. To gain power, the Other need to fight not only within the human rights discourse but also outside the discourse.

Outside the human rights discourse, there is a brutal fight. It is a fight that does not ask for permission to power but takes power. They fight not for rights or for development but for their own struggles. The fight is not against domination. They do not fight to catch up with the West but fight with the West. “We must refuse outright

²⁰⁷ Fanon, *supra* note 193, at 53.

the situation to which the West wants to condemn us.”²⁰⁸ Fighting does not have to be bloody but it will be. For it not to be bloody, “European masses must first of all decide to wake up, put on their thinking caps and stop playing the irresponsible game of Sleeping Beauty.”²⁰⁹ But if they do not, new languages of emancipation need to rise, dominate, acquire power and fight alongside and against the dominant in an endless power struggle.

The fight is hopeful and liberating. Though the fight also has its losses. I do not refute that it can equate to death. I acknowledge that there are people that cannot afford to fight outside human rights discourse. But I also know that rights can only give them too little. Though, I cannot urge those who are fighting for survival to fight their own way when human rights movement can offer them their survival. I can only tell or ask what happens when they survive today to live the same struggles tomorrow. There lies hope. Hope is not necessarily a guarantee of survival. I like to articulate hope between life and death. Hope lies within the struggles of life. Hope does not lie within the fight. It lies in what is after and before the fight. Thus, the fight is temporary, a step towards change.²¹⁰

The tension between life and death is hope. In Islam, martyrdom is celebrated with a high place in heaven. But life is also celebrated with all its struggles. The more struggles you endure righteously, the more reward you get in your afterlife. I pray for both. I pray to live a full life though I strive for the places martyrs go to.

I am relieved that the current political structure is full of rage so mine is not shocking; except that it comes from the side deemed to be the Other, for now. Folkloric songs must live on.

²⁰⁸ *Id.* at 57.

²⁰⁹ *Id.* at 62.

²¹⁰ See, Josh Pallas, *Fanon on Violence and the Person*, 2016.

V. Conclusion

In this dissertation, I directed my rage towards the limits of contemporary human rights movement. Firstly, I opened up the movement to new voices and new languages within the human rights discourse. Then I offered a more radical fight for acquiring power outside the human rights discourse.

In part one, I introduced the claims of human rights movement: having its own space and its concrete objectives that are above politics and morality. I argued that both claims are flawed. The movement's objective entails the activists to choose from different interests politically. They favor certain interests to recognize though they do not deliver them. They work in a politically institutionalized space. The contingency in human rights shows when the movement delivers political gains despite promising universal justice. The rights discourse becomes both liberating and imperial. The liberating side is jeopardized by the stability of development's goal: economic growth. The rights space is flawed because the movement is grounded through its contingency in development and economic growth. Development serves to stabilize the universal claim of human rights movement towards its goal of economic growth. Development disguises its particularity with the movement's assumed universality. This determination, though promised for all, is unattainable because there are not enough resources for us all to live like average Americans. The movement also justifies the failures of development. The justifications are part of the devotion to the acclaimed universality of the movement. The particularity of the devotion is natural, because the rights discourse needs to keep its rhetoric of power. Once the illusions of the devotion are shattered, human rights discourse becomes not a true universal but acquires the role of representing the universal function.

In part two, I traced a relationship between the universal realm and human rights discourse that escalates the contingency in human rights towards its emancipatory side. The universal comes from within the plurality of our existence. Our plurality does not allow for a true universal. Thus, human rights represent the universal function and not true universality. The universal function allows different emancipation languages to fight in power struggles for its representation. They can

fight within human rights discourse towards a better version of it. In finitude, we strive to a better human rights discourse, towards an empty universal, which is impossible to reach. Thus, Human rights discourse breaks the assimilation to development rationality, in the path towards the empty universal. But there is another way to fight. Different emancipation languages can fight against the domination of human rights discourse to acquire its status of representing the universal function.

In part three, I urged for a fight outside the human rights movement for creating new emancipatory discourses that would fight with human rights discourse to acquire power and not just a voice within the movement. I argued the Other should be seen in plurality and not in a homogenous identity against the West. The plurality of the Other breaks the silences of the weak identities within the category of the Other. Nonetheless, I introduced the essentialization of the subaltern identity as a strategy to bring struggles to light and unmute them in the plurality within the human rights discourse. But, I argued recognition is not enough. It is only a temporary relief in power struggles. Projects of emancipations can all fight against the domination of human rights without the essentialization of particular identities. They are more powerful in their plurality if they choose to fight for domination.