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Fighting for the Disability Rights through Vernacularization in Bangkok

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Abstract

In many non-Western societies there are still challenges to the legibility, and hence applicability, of international human rights law. This is partly due to the gap between Western legal regime and local cultural contexts. However, with the process of vernacularization some of this gap has been bridged, especially in issues of relating to women rights. This paper explores how NGOs and Human Rights defenders in Bangkok have adopted the process of vernacularization to enhance disability rights.

Key words: Bangkok, disability, human rights, NGOs, vernacularization.

Introduction

“Thais need a better understanding of human rights. It’s about respecting the right of others, not just disabled people. One other problem is people look at the disabled and assume that they need help, they need sympathy. But the disabled are people, too, with rights like all citizens. We don’t need mercy.”¹

---N. Yoddamnern

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The above quote highlights one of the biggest issues around the concept of universal human rights: how is the normative framework of international human rights law being broken down to ordinary people to understand? The quote by Yoddamnern, a Thai human rights defender focusing on the rights of the people living with disability, indicates that there is a gap between international human rights law and the ordinary people at the grass-root level in Thailand. There are scholars, like Sally Merry, who have been proposing that through the process, called “vernacularization”, international norms could be translated into local contexts. Merry, in her analysis, mostly focused on the appropriation and vernacularization of globally generated ideas and strategies around women’s rights in Hawaii and Hong Kong.² It will be interesting to see if such a wider spread practice as vernacularization apply across the other issues beyond women rights. Merry’s observations can apply to any kind of human rights issues in local contexts where the role of vernacularization has been bridging the universal norms and regional or local contexts. Thus, this paper will explore the following question: does the process of vernacularization apply across issues? To answer this question the paper looks at a disability-rights campaign in Bangkok, Thailand, and poses further three sub-questions that are deemed to be indicators of the process of vernacularization. How do the people at the grassroots consider the “violations” effected on them? How do NGOs/knowledgeable individuals come to play their role and raise awareness? What are the challenges faced by NGOs and human rights defenders in “translating” international human rights norms to resonate with the local communities? The first part will explore the theory and process of vernacularization. The Second part will discuss the important role of the so-called “the middle” sector and how vernacularization looks like in practice by drawing from the above-mentioned case and by highlighting structural parallels between Merry’s women rights case observations. Lastly, I will provide some concluding remarks.

Vernacularization

Vernacularization in general

Article 1 of the Universal Declaration of Human Rights reads, “All human being are born equal and free in dignity and rights.” The normative bottom line of this Article has been further stratified in the various human rights standards we find up to date. However,

universality, cultural imperialism and the question of cultural relativism regarding human rights are part of a lingering debate in the field. It is in this context that Donnelly argues for the “relative universality of human rights.”³ A conceptualization that seems to be closely aligned with what Sally Merry coined as vernacularization; the theory of vernacularization is the process of appropriation and local adoption [of international human rights standards].⁴ It brings global international human rights laws and practices to be adopted by local communities in their advocacy for reforms. Vernacularization as a theory could be applied in many settings. “[V]ernacularization is the process of the extraction of ideas and practices from the universal sphere of international organizations and their translation into ideas and practices that resonate with the values and ways of doing things in local contexts.”⁵ In other words, the universal conceptualization of human rights needs to be locally adopted to be accepted [read: translated] in order to guarantee for human rights on a global, regional and local scale. This is what Donnelly refers to as relative universality. This leads to the question of early adopters and translators. Given the scope of this paper, I will particularly focus on the role of NGOs and human rights defenders as the “translating middle” and using three processual questions to analyze how this “middle” effectively translates international human rights standards into local contexts.

The role of NGOs and human rights defenders as the “middle”

The literature shows how international organizations, non-governmental organizations and human rights defenders adopt international human rights law and translate it with regard to the political, cultural and historical context into the locality of focus. The process of translation or vernacularization determines how the local community receives knowledge about their rights. Simultaneously, INGOs/ NGOs and activists working in the local level are engaged with the community and identify any problems and loopholes within their national law and provide suggestions based on the international human rights law.⁶ “A key dimension of the process of vernacularization is people in the middle: those who translate the discourses practices from the arena of international law and legal institutions to specific situations of suffering and violation. Intermediaries or translators work at various levels to negotiate between local, regional, national, and global systems of meaning.”⁷

To transfer the knowledge of their rights, the “middle”, such as human right advocates or NGOs, plays an important role for the distribution to the local level/ grassroots. “Human rights intermediaries put global human rights ideas into familiar symbolic terms and use stories of local indignities and violations to give life and power to global movement.”⁸ It is important that the “middle” is the group that brings global human rights ideas and norms into the local discourses and movements. Also, Merry states that, “Translators negotiate the middle in a field of power and opportunity.”⁹ Why do they need to do that? As the initial quote of this paper establishes for the specific case of Thailand, there is a gap in knowledge because people do either not know about their rights or do lack knowledge on how to apply international instruments. Hence, the “middle” plays a role as a main actor in the dissemination and understanding of human rights.

Vernacularization: Process in practice

In the following passages I will briefly focus on the case of a disability rights campaign in Bangkok, Thailand, before looking at the case through the lens of three questions that are deemed to be indicators of the process of vernacularization.

Fighting for Disability Rights in the case of BTS Transport in Bangkok

In the case of the disability rights campaign for accessible public transportation in Bangkok, Supornthum Mongkolsawadi, a Thai human rights defender, notices that people who do not get access to the public transportation are being denied their human rights¹⁰ There are elevators at BTS stations but they remain closed for public use and Mongkolsawadi sees this as unfair treatment for the people, especially of person who need to use the service for instance persons on wheel chairs.¹¹ Thailand ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2008.¹² The problem at present is that Thailand is in violation of its state obligations under Article 9 of the ICRPD (United Nations, 2006). The Committee found in General Comment 02 on Article 9 that:

Accessibility is a precondition for persons with disabilities to live independently and participate fully and equally in society. Without access to the physical environment, to transportation, to information and communication, including information and

communications technologies and systems, and to other facilities and services open or provided to the public, persons with disabilities would not have equal opportunities for participation in their respective societies” (United Nations, 2006).

There are eight guiding principles that underlie the Convention and each one of its specific articles of Convention on the Rights of Persons with Disabilities (CRPD). “Accessibility” is one of eight principles and it plays very important role for the people living (United Nations, 2006). If they cannot use the public transport, they cannot participate in society. Problems with access to transportation affect people’s ability to work. If they cannot go to work, they do not receive the income. Furthermore, other rights are impacted by this, such as participation in politics and losing their chances to go to voting station or choosing the candidate and so on. Thus, to get access to the transportation is very important for the people with disabilities to get their rights as human beings that are being born equally in dignity.

Processual questions

In the following passages I will apply the questions that are deemed to outline the process of vernacularization of international norms by the “middle,” on the case of the making of Bangkok public transport accessible for the people having disabilities. Those questions were synthesized from Sally Merry’s studies on Hawaii and Hong Kong,¹³ as I consider them as crucial to the process of vernacularization. First, how do the grassroots consider the violations to have had effect on them? There has been little awareness and knowledge among the people in Thailand even though the disability movement has been active since the 1980s. Thai people believe that they are disabled because of their past life (Karma).¹⁴ Supornthum Mongkolsawadi suffered from inaccessibility of public services since he was in school, as he faced problems using stairs without legs. He also faced problems in accessing public transportation services e.g., BTS Skytrain system in Bangkok. The BTS system did not provide any service for people living with disabilities even though the BTS has already had elevators at that time. However, those were not open for the public to use the service. People living with disabilities had to wait to get access with the help from the security. Furthermore, Ms Kirin said to the Bangkok Post that, “Thai society has no idea about

guide dogs."¹⁵ That is the reason why Ms. Kirin started the social media campaign called "My Name is Luther" to encourage people to understand about the people living with disabilities.

Second, how do NGOs/knowledgeable individuals come to play a role and operate to start raising awareness? NGOs and regional activists are a platform for the community to promote the ideas of human rights. "Vernacularization can take a more interactive form, with symbols, ideologies, and organizational forms generated in one locality merging with those of other localities to produce new, hybrid institutions."¹⁶ In the case of Bangkok, activist Supornum Mongkolsawadi realized that the case of the BTS system is in fact a human rights violation, based on his thirty years of working experience with The Redemptorist Foundation for People with Disabilities. He explained to the BK News that the general public lacks knowledge on disability rights and does not provide services to people living with disabilities when they go outside. Mr. Supornum Mongkolsawadi found this to be a problem which he brought back to the community. He informed the community about the international standards and organized the meeting every two months to discuss and monitor the cases. In the process he builds capacity around human rights and translated the international rights language into the local community.¹⁷

Third, what were the challenges faced by NGOs and human rights defenders in "translating" international human rights norms to resonate with the local communities? NGOs need different ways to translate international human rights norms into the local context, which depends on the country and the situation. "Human rights vernacularization is a process of translation within the context."¹⁸ Activists translate human rights claims into frameworks that relate to the lives of locals. Such translators are a means of communicating grievances widely, which can receive national and international support.¹⁹ However, the translation of international views is translated through a bottom-up approach. NGOs are inevitably interpreting or redefining, and adapting to new settings, moving from one social context to another. They have to match the local context on their translation of human rights, which are composed of human rights, political and social conditions, cultural background, and historical experiences in the country.²⁰ Sally Merry argues, "They translate transnational ideas and practices. As ways of grappling

with particular local problems. In words, they remake transnational ideas in local terms.”²¹ The knowledgeable person or “middle” has to interpret for the locals to understand human rights. So is the case in Thailand around the issue of disability rights. According to Supornnum Mongkolsawadi, “Thais need a better understanding of human rights.”²² Judging from interviews with him, a knowledgeable “middle” is important to provide awareness because local people still do not understand what human rights are. Furthermore, Orapin shared about her experience, “Thai culture can be very nice in many ways, but it’s hard to change attitudes based deeply on Buddhist ideas, which say that it’s your fault if you’re disabled, based on karma from a past life,” and further, “people might say you are good and smart and on the same level, but they treat you differently.”²³ It is an example that there is still a need for awareness-raising and capacity building, which seems to be the biggest challenge in the vernacularization process.

Vernacularization: A universally applicable process?

In developing the process of vernacularization, Sally Merry heavily draws from her study on women’s rights in Hawaii and Hong Kong. As this paper wants to answer whether the process of vernacularization applies across issues and regions/localities, I will now briefly turn to assess possible parallels between Merry’s findings and the case of the disability rights movement in Bangkok.

In both Hawaii and Hong Kong, grassroots activists mentioned that women got accused of failure to abide by the cultural norms by their relatives, and the women were angry at the way they have been treated differently by their relatives. It took a long process and time to consider before people understood that domestic violence and unfair-treatment are, in fact, a human rights violation. To fight for that, those women needed the help of the “middle” to translate the language of rights. Grassroots women got help from the women center in Hawaii and an elites’ women group in Hong Kong.²⁴

In the case of Hawaii, women have seen violent crime and asked for legal help in the years of the 1990s. Before that, those women did not see violence is a human right violation, and they have seen it as gendered relationships and a natural fact of life.²⁵ Domestic violence was considered a crime, and only eventually, laws were passed that criminalized gender-based violence. Women have come to realize

that they have rights and stood up for themselves. Battered women in Hawaii didn't know that they were facing a women's rights violation until they got help from the women center – the “middle.”²⁶ The indigenous women in Hong Kong came mostly from backgrounds with limited education and lower classes. It took time for them to understand the differences between the class and gender since they saw themselves as they got discriminated not only because they are women, but because they are poor, too. However, those women reconsidered their experiences and turned out complaining to their relatives for unfair treatment of the family inheritance system toward women.²⁷ Eventually, those women started to notice that unfair treatment is considered to be gender based-discrimination and a violation of their rights. Thus, the grassroots women in Hong Kong, demonstrate for legal reforms of their rights in front of the legislative council building by using “the language of rights and gender equality” and join forces with a variety of women's group which include elites in Hong Kong.²⁸ In the process, the “middle” was a transnational elite' women group, and that developed the grievances of grassroots into a human rights language to provide the lawmakers and political leaders. They also taught to those grassroots women how to use the rights languages.²⁹

Although women rights issues in Hawaii and Hong Kong represent different rights violations as in the case of Bangkok, Thailand, there are some apparent parallels if we look at it through the lens of the processual questions outlined above. Firstly, the salient human rights violations had notable impacts on the lives of the rights holders, and the violations as such have been acknowledged by the “middle.” Secondly, the women elites' group and the “middle” in the case of Hawaii and Hong Kong played a similar role in identifying a salient human rights violation as the Redemptorist Foundation for People with regard to the disability rights violations in Bangkok public transport. Mr. Supornum Mongkolsawadi had knowledge he fed back into the community and built a network with people with disabilities with the aim to translate international human rights norms into the local context, the local language, built on trust, and understanding on participation. Lastly, in both cases, the “middle” faced the same problem, which is bridging a gap in knowledge about those international norms among the local communities and people. This means we are likely able to

apply Merry's conceptualization of vernacularization any given human rights issues in any given local context and likely find similarities across cases regarding the role of the so-called "middle."

Conclusion

What does this mean for our understanding of vernacularization process when it comes to a wide range of human rights issues beyond women rights? What insights and conclusion have achieved by analyzing women rights issues and the role of "middle" as in Merry's approach? Drawing from a case study on disability rights violations in Bangkok's public transport system, it has been shown that vernacularization as a process applies beyond Merry's case on women rights in Hawaii and Hong Kong and in fact across issues in regions/localities. Furthermore, it has been shown what crucial role the so-called "the middle" or NGOs and human rights defenders plays in the process; a knowledgeable "middle" identifying a human rights violation and translating international norms into the local context in order to remedy the violation. Merry's conceptualization of vernacularization hence plays an important role to the understanding of the relative universality of human rights, which are applied in differing local contexts without opening themselves to the critique of cultural relativity.

Notes:

¹ Yoddamnern, "Meet the Disability Rights Activist Campaigning for Fairer Access to the BTS."

² Merry, "Transnational Human Rights and Local Activism"; Merry, *Human Rights & Gender Violence, Translating International Law into Local Justice*.

³ Donnelly, "The Relative Universality of Human Rights."

⁴ Levitt and Merry, "Vernacularization on the Ground: Local Uses of Global Women's Rights in Peru, China, India and the United States," 446.

⁵ Levitt and Merry, "The Vernacularization of Women's Human Rights," 3.

⁶ Merry, *Human Rights & Gender Violence, Translating International Law into Local Justice*.

⁷ Merry, "Transnational Human Rights and Local Activism," 39.

⁸ *Ibid.*, 42.

⁹ *Ibid.*

¹⁰ Yoddamnern, "Meet the Disability Rights Activist Campaigning for Fairer Access to the BTS."

¹¹ *Ibid.*

¹² Srisuppaphon et al., "Effective Implementation of the UNCRPD by Thailand State Party."

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- ¹³ Merry, "Transnational Human Rights and Local Activism."
- ¹⁴ Srisuppaphon et al., "Effective Implementation of the UNCRPD by Thailand State Party."
- ¹⁵ "Make Bangkok Disabled Friendly."
- ¹⁶ Merry, "Transnational Human Rights and Local Activism," 46.
- ¹⁷ Yoddamnern, "Meet the Disability Rights Activist Campaigning for Fairer Access to the BTS."
- ¹⁸ Merry, "The Global Travel of Women's Human Rights."
- ¹⁹ Merry, "Transnational Human Rights and Local Activism."
- ²⁰ Ibid.
- ²¹ Ibid., 42.
- ²² Yoddamnern, "Meet the Disability Rights Activist Campaigning for Fairer Access to the BTS."
- ²³ Cadigan, "Unseen Survivors, Living with Disabilities in Thailand."
- ²⁴ Merry, "Transnational Human Rights and Local Activism."
- ²⁵ Merry, *Human Rights & Gender Violence, Translating International Law into Local Justice*, 183.
- ²⁶ Ibid.
- ²⁷ Ibid., 201.
- ²⁸ Ibid., 193.
- ²⁹ Ibid.

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