Unexceptional Exceptionalism: The Use of Force by Great Powers and International Instability

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ANDREA MARIA PELLICONI, SEP 8 2024

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In their 2022 essay *In Defense of Comparisons: Russia and the Transmutations of Imperialism in International Law* , Kotova and Tzouvala contend that the future of the international order needs to be 'anti-imperialist' (Kotova and Tzouvala, 2022). This would require a critical change in the way in which Western powers justify their external military politics and abandon 'civilizational' and 'exceptionalist' interpretations of the law on the use of force and self-defence. This is because, besides being illegitimate in their own rights, these interpretations of *jus ad bellum* are replicated *mutatis mutandis* by other actors to justify their own military activities. For example, the Russian Federation (Russia) referred to several instances of unlawful use of force by the United States (US) and other NATO powers to justify its aggression against Ukraine. Western powers' 'leading by example' role in using force in international relations – despite the use of idealistic language– provides multi-polar competitors with pretexts to legitimise their own transgressions.

Two years after this essay, there seems to be more evidence substantiating a comparison between Western and Russian 'justifications' of their military operations abroad. Building upon Kotova and Tzouvala's suggestion, this article seeks to corroborate this claim by looking at Russia's arguments justifying its invasion and *de facto* annexation of eastern Ukraine, showing that they are symmetrical – albeit different – to those of their Western counterparts. This article will explore the concept of regional imperialism within Russia's 'sphere of influence' by analysing Russia's justifications for its military interventions, particularly in Ukraine, and comparing these to similar actions in other post-Soviet territories. It will critically examine the pseudo-legal arguments deployed by Russia, such as self-defence and the protection of nationals abroad, and their continuity with Russia's historical and geopolitical strategies. Next, the essay will contextualise Russia's actions within a broader framework of Western exceptionalism and the normalization of the pre-emptive use of force. It will draw parallels between Russia's justifications and those used by Western powers, particularly the US, in interventions in Kosovo, Iraq, Libya, and Syria. It will also highlight how they have historically justified the use of force on humanitarian grounds and as part of the 'war on terror,' often leading to selective applications of international law.

This analysis will show how the erosion of standards in international norms has led to these distorted but symmetrical approaches in the multi-polar landscape, especially when it comes to international relations between great powers and (politically) smaller states. This proves that the future of international relations necessitates an anti-imperialist approach where power is not concentrated in the hands of a few dominant states but is distributed equitably among all nations. This new order should reject practices of intervention and domination, foster genuine multilateralism, and respect national sovereignty and the right to self-determination and equality.

Regional Imperialism within Russia's 'Sphere of Influence'

Russia's latest aggression against Ukraine started on 24 February 2022 (in continuation of the war that began in 2014), prima facie goes against the prohibition of unlawful use of force included in Article 2(4) of the Charter of the

United Nations (UN). To justify the aggression both at UN fora and in the eyes of its own population, Russia has deployed an array of justifications alluding to legal exceptions to the prohibition of Article 2(4), albeit factual and legal substantiations appear weak (Hilpold 2023). These justifications can be first of all traced in the speech of President of the Russian Federation, Vladimir Putin, immediately transmitted to the UN Secretary-General, launching the so-called 'special military operation'. The same arguments were then repeated by Russian lawyers, politicians addressing the Russian public opinion, and legal agents in their submissions and oral statements during the pending proceeding of *Ukraine v. Russian Federation* before the International Court of Justice (ICJ).

These justifications all revolve around the concept of protecting Russia and its nationals from the dangers posed by the West, NATO, and the pro-European government of Ukraine, which Putin considers illegitimate since the 2014 Maidan Revolution that sparked the Russian invasion of Crimea and the start of the separatist war in Donbas. First, Russia claims to have the right and indeed the obligation to protect its own nationals residing abroad from genocidal campaigns allegedly committed by the Ukrainian 'neo-Nazi' government. This prerogative is grounded in Russia's domestic law, particularly Art. 61(2) of the Russian Constitution which states that 'The Russian Federation shall guarantee its citizens protection and patronage abroad.' Under international law, this argument combines the prerogative of States to conduct targeted and surgical rescue operations to save nationals abroad from imminent threats, and the doctrine of the Responsibility to Protect (R2P), which enables measures to protect civilians from atrocity crimes (genocide, war crimes, ethnic cleansing and crimes against humanity), including in other States, under certain conditions and upon authorisation of the UN Security Council (which is lacking in this case).

This argument could also be understood as an application of the controversial doctrine of humanitarian intervention, which would enable military intervention without a State's consent on humanitarian grounds to protect foreign populations from gross human rights violations. This doctrine differs from R2P because it is not codified in any instrument, it does not require the presence of atrocity crimes but merely gross human rights violations, and it has been invoked in cases of military intervention without the UN Security Council's permission. However, nowadays there is consensus that unilateral humanitarian interventions violate the prohibition of use of force of the UN Charter and only duly authorised operations under R2P can be considered legitimate. As seen below, Russia itself has always rejected the validity of the humanitarian intervention doctrine and has not used it to justify its own actions, preferring to refer to the protection of compatriots abroad and, moreover, self-defence. President Putin has consistently stated that the 'special military operation' was conducted 'in accordance with Article 51 of Part 7 of the UN Charter' (self-defence) to protect people against Kiev's genocidal and military and 'Nazi' regime. This was echoed by the President of the Russian Branch of the International Bar Association, and has been the central legal argument deployed by Russia's lawyers in the ICJ proceedings (Pelliconi 2024a).

Under international law and the UN Charter regime, self-defence can only be used against an actual armed attack or, at minimum, to anticipate an imminent attack. In President Putin's words, the invasion of Ukraine was an act of self-defence 'connected with the protection of Russia itself' against the threat of an 'imminent attack' by Ukraine or NATO. This may indicate that he qualified the invasion as an act of individual anticipatory self-defence, although this argument appears preposterous in the absence of reliable evidence that such an attack was about to be launched (Hoffmann 2022; Schmitt 2022; Cavandoli and Wilson 2022; Hilpold 2023). President Putin also hinted to Russia's role in defending not only itself, but also the self-declared 'People's Republics' of Luhansk and Donetsk. This would make the invasion an exercise of collective self-defence (or of intervention by invitation) to support two purported neighbouring States against military actions from Ukraine. Provided that foreign States cannot provide support in collective self-defence to military groups, rebels, and other illegitimate non-state actors engaged in non-international armed conflicts or civil wars, Russia strategically recognised the 'Republics' as States immediately before the launch of the invasion. This recognition, however, does not render the 'Republics' *de facto* and *de jure* States under international law, and ignores that Article 51 UN Charter allows for a necessary and proportionate exercise of collective self-defence only in the case of armed attack 'against a Member of the United Nations'.

Be it individual or collective, Russia's invocation of self-defence appears based on a remedial approach to the right of people to external self-determination (Pelliconi 2024a). More specifically, Russia's rhetoric construes self-defence as a means to uphold self-determination giving rise to a right to separate from a State (in this case, Ukraine) that is purportedly committing genocide or other widespread violations of human rights against a victimised people (in this

case, 'Russian people' in Ukraine). By raising a self-determination claim, Russia appears to imply that States have a right to intervene in the territories of other States, even by force, if necessary, when these do not conduct themselves in compliance with such principle (Kattan 2022). This approach means that in Russia's view, the right of people to self-determination prevails over territorial integrity and separatist entities can be supported and recognised as legitimate States. The day before the invasion of Ukraine, the Permanent Representative of the Russian Federation to the UN in New York, Mr. Vasily Nebenzia, explained that 'the principle of sovereignty and territorial integrity of states … must be strictly observed with regard to states that are 'conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour''. By this, Nebenzia implied that Ukraine was not respecting the right to self-determination of Russians in its eastern provinces. The following day, in the speech launching the military campaign, President Putin stated that Russia's decision was based on 'the freedom of choice for everyone to independently determine their own future and the future of their children'. Documents submitted to the ICJ in Ukraine v. Russian Federation confirmed that the recognition of the 'Peoples' Republics' of Donetsk and Lugansk was 'related to the right of self-determination of peoples under the United Nations Charter and customary international law' (Pelliconi 2024a). The Russian Constitutional Court later confirmed the constitutionality of the treaties on the annexation of the occupied provinces of Donbas arguing that their peoples had the right to self-determination and, thus, the right to secede and join the Federation ('self-determination *à la russe*' (Masol 2022)).

Russia's justifications before the ICJ also consistently argued that Russia's 'inherent right of self-defence' at the basis of the invasion is 'in realization of the right to self-determination'. The argument purports that if a State violates the right to self-determination, other States can use force against its territorial integrity in support of the separatist entities that would have a right to self-defence against such violations – particularly in case of a special historical, cultural, and ethnic connection between them. The exercise of self-defence is thus viewed as an instrument to realise self-determination. This argument configures a right to self-defence for non-state actors engaged in non-international conflicts and, in fact, posits that such non-state actors would have a right to be legitimately recognised as States because of their victimisation by the parent State. In other words, this presupposes that Russia accepts a remedial approach to external self-determination or the so-called 'remedial secession' doctrine (Pelliconi 2023; cf. Radpey 2022).

All these justifications – protection of nationals abroad, R2P on humanitarian grounds, self-defence through the lens of self-determination – are not unique to the situation of eastern Ukraine. On the contrary, there is a certain degree of continuity in Russia's arguments justifying the use of force in adjacent territories in the post-Soviet space (Pelliconi 2024a). Russia used similar arguments in the context of the military operations in Crimea, Abkhazia and South Ossetia (Allison 2009; Van den Driest 2015; Sparks 2023; Hoffmann 2022; Cavandoli and Wilson 2022; Pustorino 2022). In addition, in all these contexts, Russia paved the way for these arguments by carefully altering factual grounds such as the presence of Russians in the separatist territories. For instance, Russia has engaged in long-term processes of demographic engineering to establish or maintain Russian majorities in liminal post-Soviet spaces through displacement, deportations and forcible transfers, programmes of 'Voluntary Resettlement' and economic incentives, policies of ethnic dilution and settlements, and the unilateral issuance of Russian passports. This way, Russia – and its historical predecessors – strengthened or manufactured the existence of large numbers of Russian compatriots whose presence in the disputed territories purportedly justifies the need to intervene militarily in their protection. These 'demographic facts on the ground' serve as self-made premises for military interventions and purported legal justifications, and are the first step for the affirmation of territorial control and sovereignty in border and disputed territories (Pelliconi 2024b; cf. Bescotti et al. 2022).

A certain pattern of regional imperialism is thus discernible in Russia's approach towards the territories within its sphere of influence. Russia's pseudo-legal arguments – and particularly self-defence as an exercise of remedial external self-determination – are repurposed and deployed to justify using force to support the territorial separation of seceding entities in post-Soviet spaces, sometimes resulting in their *de facto* annexation by the Federation. Yet, Russia neither condones the use of force by other States in pursuing their own securitization efforts nor admits territorial separation from the Federation itself and its allies (Poghosyan 2021). In the view of President Putin, the mine that destroyed the Soviet Union was the 'virus of nationalist ambitions' and the right of secession based on self-determination that the 1977 Constitution provided to the Soviet Republics. Separatism is thus encouraged in foreign

policies but not tolerated internally.

This 'exceptionalist' and selective approach to recognising the right of States to territorial integrity, non-interference, and self-determination-based secession is explained by Russia's attempt to re-expand its influence and imperialistic power over some of the post-Soviet territories on which it claims to have special, historically-justified intervening prerogatives (Mälksoo 2021). In other words, Russia pursues a hegemonic regional sphere of influence where external incursions are not tolerated. This buffer space is built by facilitating the emergence of putative 'transitional' independent States which may then be annexed by the Federation (Pronto 2016). Russia's attempts to re-expand its sphere of influence and territorial outreach have also intensified in response to the expansion of NATO towards the east and the 'Westernisation' of some post-Soviet countries, such as Ukraine. This reaction reflects Russia's 'revisionist, conspiratorial and anti-Western' fears of 'encirclement' (Dagi 2020), to which the State is particularly sensitive when it comes to post-Soviet countries.

Western Exceptionalism and the Normalization of Pre-emptive Use of Force

It should thus be questioned whether this 'exceptionalist' approach to secession and use of force and this 'imperialist' approach towards the adjacent macro-region is a unique feature of Russian international relations. The American commentators Brunk and Hakimi have argued that the invasion of Ukraine and the annexation of the provinces of Donbas are exceptional and unprecedented (Wuerth Brunk and Hakimi 2022). However, as critical scholars have pointed out, Russia's justification for the invasion of Ukraine and other adjacent territories is not 'aberrational or anomalous' but rather 'part of a broader range of imperialist uses of international law, past and present' (Kotova and Tzouvala 2024). The implications of the Russia-Ukraine war cannot be understood in isolation but must be examined in comparison to, and in the context of, previous instances of the use of force by other military powers (Kanetake, Prévost, Wouters 2024).

The instances of use of force by Russia are 'part of a broader pattern of imperial powers' deployment of international law in inter-imperialist rivalries' (Kotova and Tzouvala 2024). There are many examples of violations of the prohibition of the use of force by Western countries, which have attempted to justify them by framing them as 'exceptional' (Burra 2023). Russia's arguments are in continuity with discursive unilateral deployments of the use of force by Western powers during the 1990s and early 2000s (Kotova and Tzouvala 2022; Knox 2022; Burra 2023). These can be analysed in two groups of actions: the use of force on humanitarian grounds under the guise of the doctrine of humanitarian intervention, and the use of force against non-State actors in the 'war on terror'.

As mentioned, unauthorised humanitarian interventions are widely considered as not compliant with the requirements for the use of force under the UN Charter (Milanovic 2022), although notable exceptions remain (for instance, the UK has consistently been championing humanitarian interventions since the early 1980s). The development of this doctrine reflected the universalist and civilisational approach to international relations, based on an alleged moral superiority of Western powers as 'wise saviours' as well as the primacy of their own domestic security concerns over other State's affairs, independence, and integrity. This has often been seen as an unwarranted unilateral intervention in the domestic affairs of third countries without their consent to uphold universalist Western values and worldviews on human rights, democracy, economic system, and security interests. This approach is a residue of colonial times when colonial States embarked on 'civilisational missions' in the colonial world which does not sit well within the UN system of equal sovereign States and should fall into obsolescence.

Russia viewed the Western-led humanitarian interventions, like the 1999 bombing of Kosovo by NATO despite China and Russia's veto at the Security Council, as calculated infringements of the principles of non-intervention and the sovereign equality of States under the guise of purported universal interests (Dagi 2020). As a result, Russia never endorsed the doctrine of humanitarian intervention (and never explicitly referred to it as a justification for its own operations). Because of its unilaterality and selectivity, the doctrine of humanitarian intervention is now widely regarded as illegitimate. In its place, UN members adopted the doctrine of the R2P, which provided clearer normative grounds and, at the same time, legal constraints to external interventions based on humanitarian grounds. Mindful of its concerns about humanitarian intervention, at the 2005 World Summit, Russia required the R2P doctrine only to be applied with the authorisation of the Security Council and in extreme circumstances such as the commission of

atrocity crimes – although, as seen above, its approach to the requirements for its own military intervention is much more relaxed.

Exceptionalism is thus 'unexceptional' when it comes to one-sided military operations. Western states justified using force by mentioning, for example, the humanitarian crisis in Kosovo and the repeated use of chemical weapons in Syria (Burra 2023). These arguments are not entirely dissimilar to Russia's narrative of genocide in Ukraine. In fact, the military operations in Kosovo, Iraq, Libya, and Syria – all without the Security Council authorisation – were mentioned by President Putin as examples of Western exceptionalism when justifying the military operations in Donbas, Crimea, Abkhazia and South Ossetia (Allison 2009; Sparks 2023).

The other instance of Western exceptionalism is the use of force as a counter-terrorism strategy. The 'war on terror' saw the deployment of torture, denial of the protection of Geneva Conventions to detainees, targeted killings blurring the distinction between civilians and combatants, and lowering the threshold of necessity and proportionality – all serious violations of international law and peremptory norms which should not be justified even in exceptional circumstances. The 'war on terror' also saw the development of the so-called pre-emptive (or preventive) self-defence – an extremely controversial doctrine that goes against the core principles of international law regulating the use of force and the provisions of the UN Charter. Pre-emptive self-defence is controversial for three reasons: first because it extends self-defence to non-State entities; second, because it lowers the threshold for self-defence, enabling a State to use force without being attacked or threatened with attack; and third, because it enables extraterritorial use of force against terrorist groups under the 'unable or unwilling' doctrine.

While the UN Charter only allows for the use of force against other States, the doctrine of pre-emptive self-defence has extended the ability to use force against non-state actors such as terrorist groups. The UN Security Council Resolution 1373 of 28 September 2001, adopted in the aftermath of the terrorist attacks on the World Trade Centre on 11 September 2001 by members of the al-Qaeda network (9/11 attacks), established that all States shall take the necessary steps to avoid the commission of terrorist acts. This has provided a normative and political foundation for the deployment of force against terrorist organisations and their members even when there has been no attack or imminent expectation of attack.

Following the 9/11 attacks, the Bush Administration in the US adopted a National Security Strategy based on the doctrine of pre-emptive self-defence, which assumes the right to use force without international authorisation in order to prevent possible future attacks and emerging threats before they are fully formed. In particular, due to the threat of weapons of mass destruction and the claim that traditional deterrence did not work against terrorists, it was argued that the US has the right to act pre-emptively even if the time and place of the attack remains uncertain (Kattan 2019). This is a lower standard than the evidence of an imminent attack that the UN Charter requires for legitimate anticipatory self-defence against another State. According to Kattan, Bush's proactive counter-terrorism strategy in the 2002 National Security Strategy was taken from George P. Shultz's broad pre-emptive counter-terrorism doctrine declared following the 1983 bombings of the US Embassy and Marine Corp barracks in Beirut when he was Secretary of State in the Reagan Administration. In turn, the Shultz doctrine was taken from Israeli doctrine, such as the policy of 'preemptive attack' announced by Ezer Weizman, Israel's Minister of Defence, in Lebanon in 1979, and Israel's invocation of its inherent right of self-defence to justify its pre-emptive strike on an Iraqi nuclear reactor outside Baghdad in 1981 (Kattan 2019).

Israel has played a landmark role in mainstreaming the extension of the label of 'terrorists' to political opponents and indeed civilians and even children, unlawfully blurring the line between legitimate targets and protected persons under international humanitarian law. Israel's policy also gave rise to the extraterritorial application of self-defence against terrorist groups. According to the Netanyahu doctrine, it is legitimate to use force in the territory of a State that harbours terrorism as the right of self-defence always takes precedence over another State's territorial sovereignty. This was used to justify Israel's raid on Tunis in 1985, and was followed by the US in its raid on Libya in 1986 (Kattan 2019). This approach has been utilised to justify 'extraterritorial self-defence' against terrorist groups located in another sovereign State when the latter is unable or unwilling to suppress the threat itself (Deeks 2012). Some have argued that States have invoked the right to use force extraterritorially in self-defence against non-State actors for centuries and that State practice and *opinio juris* indicate that this doctrine exists within customary

international law (Jordan LV 2024). Nonetheless, the doctrine remains highly contested and many have noted how it has been used by powerful States in the Global North victim of unattributable terrorist attacks to expand the notion of the inherent right of self-defence legitimising predatory force against primarily weaker host States in the Global South, infringing upon the principles of territorial integrity and non-interference (Bhaskaran 2021).

Russian President Vladimir Putin has used the justification of combating terrorism to rationalize aggression against other States. This rationale has been particularly evident in the context of Russia's military actions in Georgia and Ukraine. Although the 2008 intervention in Georgia was based on the assertion of its right to defend its nationals abroad, Russia had used the rhetoric of self-defence as a counter-terrorism strategy in its previous attempts to justify military operations on Georgian territory. For instance, on September 11 2002 – the first anniversary of the 9/11 attacks – Vladimir Putin asked the UN Security Council to recognise Russia's right to self-defence in the face of terrorism in Georgia under Resolution 1378 and Article 51 of the UN Charter. The letter pointed to the dangers of 'territorial enclaves outside the control of national governments… unable or unwilling to counteract the terrorist threat', asserting Russia's right to self-defence against Chechen attacks and threatening unilateral action and special operations against supposed 'terrorist bases' in the lawless Pankisi Gorge in northern Georgia without Georgia's permission (Allison 2013). Putin, defining Georgia as a 'terrorist country' due to its inability or unwillingness to crack down on Chechen fighters, had hoped that the US would accept this argument as it echoed American justifications for the operations in Iraq. Instead, following the announcement by Georgian President Eduard Shevardnadze on September 30 that all terrorist elements had been cleared from the Pankisi Gorge and that the Georgian anti-terrorism campaign had come to a conclusion, the US and the European Union States rejected Russia's attempt to invoke self-defence against terrorism in this case.

Putin's 2022 speech announcing the 'special military operation' in the Ukrainian Donbas also referred to Russia's previous interventions in Georgia and Crimea to combat 'terrorists'. While the primary justifications for Russia's actions in Ukraine, particularly the annexation of Crimea and the Donbas 'Republics', have centred around protecting ethnic Russians and Russian speakers, combating terrorism has also been part of the rhetoric on self-defence. Russian officials have at times described the Ukrainian government as being influenced by nationalist and extremist elements, which they label as terrorists or fascists. This has been used to justify their support for separatist movements in the regions.

Conclusion

In conclusion, great powers within the multi-polar world have employed exceptionalist and unilateral approaches to the use of force, often under the guise of intervention on humanitarian grounds or self-defence, including in the context of the war on terror. This pattern highlights a broader issue within international law where powerful States exceptionalise their disapplication or distortion of legal doctrines to serve imperialistic and geopolitical objectives. There appears to be a clear symmetry between Russia's military operations and Western practices, particularly the United States and its allies.

Some difference remains between Russia's approach to justifying its military interventions in adjacent territories in the post-Soviet region and the universalist endeavours of Western powers, which are often framed within civilizational or global security arguments. While Western powers tend to justify their interventions on the basis of exporting moral values, political ideologies, and socioeconomic perspectives, or securitizing unstable situations according to their own worldviews and interests, Russia's justifications are more regionalised within its perceived sphere of influence. However, these actions should be viewed within the broader context of Western powers' long-standing practices. Historically, Western powers have exerted authority during colonial domination and have invoked 'just war' theories to legitimize their interventions on the global stage. They have often used international law selectively, to support their interventions while promoting their own moral and political agendas. This has included military operations justified by doctrines like humanitarian intervention and pre-emptive self-defence, both of which have been used to legitimize unilateral actions that align with their strategic interests, to the detriment of the independence, equality, and territorial integrity of smaller States.

Regardless of their geopolitical alignments, great powers show little interest in advancing international law to more

effectively regulate State responses to military invasions (Kanetake, Prévost, and Wouters 2024). This reluctance perpetuates double standards enabled by the indeterminacy and conceptual instability of international law, whereas powerful States are able to exploit legal ambiguities to justify their actions, creating a disparity in the application and enforcement of international norms and destabilising international relations. This double standard has led to different reactions to conflicts such as the war in Ukraine between the Global North and the Global South. The Global North has predominantly condemned Russia's actions, while reactions in the Global South have been more varied, reflecting historical grievances and differing geopolitical interests. This divide was further highlighted in the differing responses to the conflict in Palestine, where many in the Global South have shown strong support for Palestinian self-determination against perceived Western double standards in unrestrained support for Israel despite growing and undeniable evidence of atrocities and violations of international law.

To avoid the risk of descending into a state of permanent global war, the future of international relations must be grounded in anti-imperialism from all sides, ensuring that power is not concentrated in the hands of a few dominant states but distributed equitably among all nations. This means rejecting the practices of intervention and domination that have characterized much of the 20th and early 21st centuries, and instead fostering a global environment where all countries, regardless of their economic or military power, have an equal voice in international affairs. An anti-imperialist international order would prioritize genuine multilateralism, respect for national sovereignty, and the right to self-determination, moving away from the selective application of international law that has often justified imperialistic endeavours.

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About the author:

Andrea Maria Pelliconi is a lecturer at the University of Southampton (incoming), having previously worked at the University of Nottingham, the London School of Economics, and City, University of London. Andrea completed her PhD in International Law at the City Law School, University of London, and is the winner of the 2024 Georg Schwarzenberger Prize in International Law. She held visiting fellowships at the University of Bologna and at the Max Planck Institute in Luxembourg. Andrea is a qualified lawyer in Italy and has worked for the International Bar Association's Human Rights Institute and the Business & Human Rights Resource Centre.