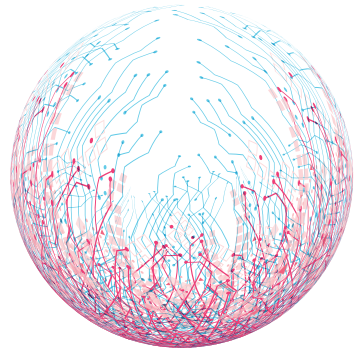


Transnational Advocacy Networks

Twenty Years of Evolving
Theory and Practice



Peter Evans
César Rodríguez-Garavito
Editors

Dejusticia
Series

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De|justicia

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**Introduction: Building and
Sustaining the Ecosystem of
Transnational Advocacy**

*Peter Evans and
César Rodríguez-Garavito*

As the twentieth century came to a close, the practice of global and transnational politics was undergoing a sea change. Understandings of its dynamics were changing along with the practice. Classic paradigms of international relations, which had focused almost exclusively on relations among nation-states, were being expanded to consider the impact of transnational civil society organizations. Recognition of the role of new nonstate actors in global politics was epitomized by the impact of Margaret Keck and Kathryn Sikkink's *Activists beyond Borders* in 1998. Their framework is a foundational reference point for the analyses of recent and future trends that are set out in this book.

In the years since the turn of the millennium, transnational advocacy practices, organizations, and networks have evolved as activists have learned from experience and as they respond to a changing global environment. Activists, particularly those based in the global South, have accumulated a wealth of experience in dealing with a range of transnational networks operating in diverse issue areas. New theoretical understandings have reflected this accumulating experience.

The global context in which local rights activists and transnational advocacy networks (TANs) must work has also shifted. In the years since the publication of *Activists beyond Borders*, the geopolitical system has become more multipolar, presenting activists and TANs with a more complex set of challenges. More recently, a new set of leaders, sometimes labeled "nationalist-populists," has become more salient. Their agendas are the antithesis of a global rights agenda. As César Rodríguez-Garavito (2017b,13) puts it, "the nationalist populism that is proliferating across the world and threatening human rights can be understood as an effort to reduce and harden the definition of 'us' and to expand the definition of 'they.'" These leaders attack TANs in order to delegitimize local advocacy groups and to justify governments' infringements on local rights (Rodríguez-Garavito and Gomez 2018).

The emergence of nationalist-populist leaders makes a clear-eyed analysis of the strategies and structures of TANs even more crucial. Well-grounded understandings of the strengths and weaknesses of past and potential TAN strategies and structures are essential to making these networks more resilient. Analysis of how variations in issue characteristics, organizational features, and political environments contribute to the ability of transnational advocacy to connect international and domestic actors and influence outcomes has become more analytically sophisticated. This analytical work, like the work of the activists themselves, must continue.

This volume brings together a set of ten essays by reflective activists who draw on their experience to provide new insights into what has been happening in the world of transnational advocacy, and by engaged academics who are committed to using the tools of their disciplines to contribute to the same agenda. The essays reflect not only the views of individual authors but also the collective dialogue among the authors at the workshop where the papers were originally presented in the spring of 2015.¹

While “advocacy” might include activities promoting any cause or point of view, this volume follows the main currents of the literature on transnational activism by focusing on advocacy that has emancipatory aims, seeking to secure social justice, human flourishing, and community in ways that are socially and ecologically sustainable. The human rights movement is the archetypal example, but movements aimed at securing dignified livelihoods, preventing the destruction of the nature on which all human flourishing depends, and providing all individuals and communities with a voice in the decisions that affect their lives all fall under our definition of advocacy.

In this introductory chapter, we highlight three themes that, in combination, illuminate the evolution of transnational advocacy. We start out by emphasizing that transnational advocacy must be seen as an *ecology* of organizations, networks, practices, and strategies. The changing relation between *states and transnational advocacy* is the second theme that helps illuminate the twenty-first century evolution of transnational advocacy. In the classic late twentieth-century vision of transnational advocacy, states were, above all, targets. In Keck and Sikkink’s iconic “boomerang model,” however, states also served as allies, channeling demands frustrated at the national level. Both of these roles are now being reconsidered.

1 The workshop, organized by Dejusticia and the Watson Institute for International and Public Affairs, was held at Brown University from April 30 to May 2, 2015.

Finally, the third theme centers on the implications of the changes over the past fifteen years for the future of transnational advocacy. All of the chapters in this volume are forward looking. They recognize negative scenarios: situations where transnational advocacy has lost its ability to promote positive change and is likely to recede as a force for international and domestic change. But they also explore positive possibilities, highlighting the emergence of new structures, strategies, and relationships that hold the promise of an expanded role for and greater impact of transnational advocacy. Each contribution to the volume sheds light on the ecosystem of transnational advocacy, helps us re-envision the relation between TANs and differently positioned states, and offers insights into possible trajectories for changes in both. Below, we deal with each theme in turn, summarizing key observations, insights, and arguments from the individual contributions to each of the three themes and pointing out the connections across themes.

Transnational Advocacy as an Ecosystem

When transnational advocacy emerged as a force in global politics, the first analytical task was to set out the common characteristics shared by organizations and networks engaged in diverse campaigns. One of the key contributions of *Activists beyond Borders* was precisely this. Keck and Sikkink took campaigns focused on environmental sustainability, human rights, and violence against women and set out clearly their shared characteristics, thus creating the concept of a “transnational advocacy network” and enabling scholars and activists alike to better think about transnational advocacy as a general phenomenon.

Seeing transnational advocacy as having “the structure and logic of an ecosystem,” as Rodríguez-Garavito (2014) argues we should, encourages us to look at differentiation within the field of transnational advocacy and at the interconnections among its different elements. The overall prospects for transnational advocacy are enhanced if different parts of the ecosystem system build connections with one another, thus enhancing the prospects of “counter-hegemonic globalization” (Evans 2005). As in any ecosystem, the field’s robustness will depend on the collaboration and complementarity among different types of *issues, frames, organizational structures, actors, and strategies*.

The transnational advocacy ecosystem is defined multithematically. The array of issues that are the focus of different organizations and networks constitutes a central dimension. Geographic dispersion, especially across the North-South divide but also in relation to what Louis Bickford (2014) calls the “global middle,” is another dimension.

In addition, transnational advocates are arrayed across a set of strategic choices with regard to discursive framing and tactics.

Diversity is also evident in the range of traditional and new actors in the transnational advocacy field. Just looking around, we see examples of this ecosystem in motion. For instance, current human rights campaigns involve not only (and often, not mainly) professional nongovernmental organizations (NGOs) and specialized international agencies but also e-activists, social movements, churches, antipoverty coalitions, and many other organizations and networks that frame their causes in terms of human rights language and norms. Moreover, targets have become more diverse as human rights advocacy and standards incorporate nonstate actors, such as transnational corporations, as core objects of mobilization and regulation.

Network ties among different organizations and actors knit together the various dimensions of the ecosystem. As the network analysis in the chapter by Amanda Murdie and colleagues shows in graphic terms, connectivity is asymmetrically distributed, with long-established, well-resourced organizations based in the North still occupying a privileged position. But the shape of this system may be changing. Most obviously, the geographic dimension of the system is shifting.

In his chapter, Bickford argues that “convergence toward the global middle” has propelled a shift in the network architecture of transnational human rights organizations and strategies. The most central organizations in the North, such as Amnesty International, have decided that getting “closer to the ground” requires fostering organizational capabilities in the South. Middle-income countries in the South with democratic regimes and functioning states are the obvious sites for the emergence and expansion of new advocacy organizations.

Transnational advocacy organizations based in this “global middle” are becoming more central to the overall system. This makes South-South collaboration more important to the network architecture. The ability of advocacy organizations in the global middle to develop complementary relations with organizations in the North, on the one hand, and with organizations in poorer and more authoritarian countries in the South, on the other, will be a major determinant of the future of transnational advocacy.

Southern organizations are already developing variations of the classical boomerang model. They have forged “multiple boomerang” strategies whereby nationally based NGOs carefully synchronize their efforts at the domestic level to put simultaneous pressure on their respective states’ foreign policy decisions. A good example, discussed by Rodríguez-Garavito (2014, 505), is the work that a handful of Latin

American human rights organizations did in order to defend the Inter-American Commission on Human Rights from attacks from governments across the region.

The quality of relationships among organizations and campaigns that focus on different issues or frame them in different ways is equally important in defining the cartography of the ecosystem. The most salient current discussions on this dimension explore the relation between a classic human rights focus and a broader focus on economic, social, and cultural rights (ESCR). Daniela Ikawa argues that a broader emphasis on ESCR implies a shift both in the constituencies whose needs are prioritized and the forms of redress required. She explains that the content of these rights varies across constituencies, noting, for example, “The content of the right to health for a white, rich, heterosexual, able-bodied man living in a dictatorship will be different from the content of such a right for a black, poor, pregnant woman living in a democratic but economically unequal country.”

Doutje Lettinga takes the discussion a step further, suggesting that human rights are no longer the lingua franca of political mobilization, having been superseded by grievances expressed in terms of “social justice, human dignity, and democracy.” Lettinga’s proposition echoes the research findings of Isabel Ortiz et al. (2013, 42), who conclude that “the leading cause of protest worldwide between 2006 and 2013 is a cluster of grievances related to economic justice. And, while these grievances are rights-related, many of these protests do not use the language of human rights in pursuit of their goals.”

For Lettinga, the contrasts between the strategies and tactics of “the new civic activism” and those of more traditional human rights organizations are as important as these actors’ different framings of social justice issues. These new mobilizations not only use a different language but also do different things: “Recognized and socially acceptable forms of participation and claim-making that are generally used by [international human rights organizations] and that emphasize collaborative modes of political interaction are sometimes replaced by subversive, unruly, disruptive, or illegal direct action to confront the status quo.”

As Boaventura de Sousa Santos and Rodríguez-Garavito (2005) flagged in earlier discussions of transnational advocacy, a diverse epistemological ecosystem parallels the variegated framings and strategy within the transnational advocacy ecosystem. Cecilia Santos’s analysis of networks seeking redress for violence against women in this volume shows that, like other kinds of diversity within the ecosystem, the interactions among different epistemological approaches can strengthen

the assemblage of actors involved but can also result in tensions and conflicts.

In looking at key cases brought to the Inter-American Commission on Human Rights by victims of violence against women in collaboration with local and transnational feminist and human rights NGOs, Santos distinguishes between the epistemological worlds of transnational legally oriented NGOs and the worldviews of local NGOs focused on organizing and mobilizing women. To these two epistemologies she adds the epistemology of the victims themselves, which is based on “a common knowledge rooted in their bodily experience of physical, psychological, and emotional harm.” She shows how the interactions among these epistemologies can be a powerful tool that enables “cosmopolitan and local actors [to] learn from one another’s knowledges of harm and rights violations, as well as from their legal and political repertoires of action, resources, and strategies.” Yet in other cases, the translation of different forms of knowledge can be divergent, leading to “breaking solidarities.” Santos shows how very similar networks and cases can have quite different results, flagging an important challenge for transnational activists.

The increasing importance of the effective use of communications technology underlines the relevance of the epistemological dimension in a different way, broadening the strategic diversity contained within the ecosystem even further. The tactics of the new set organizations whose terrain is primarily virtual, such as Avaaz, stands in telling contrast to the tactics of older organizations, such as Amnesty International, in which organization, mobilization, and relationships “on the ground” weigh more heavily than reliance on digital communications. This strategic choice has profound implications for the selection of campaigns, the kind of constituencies mobilized, and relative effectiveness in different arenas.

Ideally, diversity within an ecosystem makes it more robust and more resistant to being destroyed by adverse changes in its external environment, but the potential for synergies can also be overshadowed by struggles to demonstrate the superiority of a particular approach. An example of how different approaches may undermine possibilities for collaboration can be seen in the conflicts that emerged in the early regional and global consultations convened by the United Nations working group responsible for implementing the United Nations Guiding Principles on Business and Human Rights.

These consultations were characterized by a highly polarized debate in which both sides staunchly defended their positions. On the one side were those who defended a soft-law approach to the Guiding

Principles. On the other were those who refused to use the principles and demanded a binding international treaty. In cases such as this, “silos” are not an option because the same substantive terrain is in question. But instead of an effort to build synergies based on the different comparative political advantages implied by each approach, there is conflictive competition in which advocates of each approach devote a substantial part of their energy to attacking the other approach and defending the superiority of theirs (Rodríguez-Garavito 2017a).

As we look across the different dimensions of the transnational advocacy ecosystem, the key questions remain the ones raised by Rodríguez-Garavito (2014): Will relations among diverse actors, strategies, campaigns, and approaches be characterized by collaboration and complementarity? Or will they generate conflict and competing claims that pit different actors against one another? The balance between the synergy and conflicts that grow out of competing claims will be central to determining the future of transnational advocacy in human rights and other related arenas.

The contributions to this volume demonstrate that thinking about transnational advocacy’s evolution as an ecosystem is a more fruitful way of thinking about the future than looking at the trajectories of individual organizations, campaigns, or themes. But the evolution of this ecosystem cannot be analyzed without considering the changing global political and ideological terrain within which the ecosystem is situated. In this landscape, individual states and the ecosystem of states stand out as prominent features.

States and Transnational Advocacy

State actors are only one set of protagonists with which transnational activists must deal, and the ecosystem of states is only one aspect of the global terrain in which transnational advocacy operates, but states and their ecosystem are central to the successes and setbacks of TANs. Bickford’s convergence toward the global middle looks at the growth of multipolarity from the point of view of international relations. But it is not just the ecosystem of states that is changing; also undergoing an evolution are the prevailing definitions of the relation between state and nonstate actors.

Despite the recent pushback by nationalist-populist governments and movements (Rodríguez-Garavito and Gomez 2018), the Westphalian world in which the rights of sovereigns in relation to their people and territories was almost sacred is no more, thanks in good measure to the work of transnational activists. To be sure, sovereignty is not

dead—it is still a powerful political force, not easily abrogated even in cases of egregious abuse and malfeasance. And invoking nationalist identities is still an attractive strategy for politicians who try to legitimize rights abuses. Nonetheless, the idea that there are rights and norms that supersede the rights of sovereigns is a potent countervailing influence.

When the main goal is to hold political leaders accountable for human rights violations, the lack of state capacity may not be a focal concern. Instead, the lack of political will is the issue. However, it would be misleading to envision the relation between TANs and states simply in terms of contestation. Transnational advocates depend on capable states—even those they are challenging—to achieve their ends.

Even when violations of classic human rights are the issue, the capacity of the state to find and deal with the public officials involved, to control its own repressive apparatus, and to provide redress or compensation is key. When the focus is on redressing economic and social grievances, an absent state capacity can be crippling. As Ikawa points out, an ESCR approach, which is more likely to focus on alleviating concrete disadvantages experienced by underprivileged groups, shifts attentions to the state's positive obligations. State capacity thus becomes more important in an ESCR framing than in a classic human rights perspective.

Enrique Peruzzotti illustrates the high degree of variability that exists in the translation of formal state acceptance of human rights norms into positive state action. While most Latin American states have accepted the Convention on the Rights of the Child by ratifying the treaty, implementation of this commitment runs the gamut. Ecuador has invested in building its capacity by promoting "significant institutional changes," including "creating an interdepartmental agency to coordinate public policies for young people and children." In Argentina, on the other hand, it took fifteen years for the state to go beyond *pro forma* ratification. This variation has been driven in part by the interaction of civil advocacy networks with the state, but it has also been a function of attitudes and capacity within the state apparatus.

Maritza Paredes's analysis of the protection of indigenous territories in Peru via the institutionalization of the prior consultation process is a good example of the central role played by local state capacity in successful advocacy. Transnational advocates were essential to constructing a global norm on prior consultation, but its effective implementation in Peru depended on the construction of an exceptionally innovative and effective organizational node within the state—the ombuds office.

Analysis of the role of the state must go beyond transnational advocates' interactions with individual states. By definition, transnational advocacy involves relations with multiple states. In any given advocacy campaign, some states are targets and other states are potential allies. States as allies were essential to the original boomerang model in *Activists beyond Borders*. The ability to recruit other states as allies in struggles against a targeted state was an important resource for TANs. This, in turn, depended on the accessibility of potential ally states to advocates and the vulnerability of the target state to pressure originating from the ally state. The archetypal example was the Amazon ecological reserve case in *Activists beyond Borders*, in which advocates based in Brazil were able, through TANs, to use the United States as an ally in pressuring Brazil. Generalizing from this example, the typical ally state is an economically and politically powerful democratic country in the North, while the typical target state is an authoritarian country in the South.

The range of campaigns to which this model applied was always a relatively small subset of transnational advocacy campaigns (Sikkink 2005). Looking more closely at the role of the United States shows the limits of generalizing from the archetypal case. If outlawing child labor, abolishing the death penalty, or prosecuting torturers are the issues, the United States is the target state rather than an ally. And for every campaign in which the United States has been part of the solution, there have been at least an equal number in which it was part of the problem. (In Latin America, the contrast between the role of the United States in Argentina in the late 1970s and early 1980s and its role in Central America throughout the twentieth century illustrates the point.)

Regardless of whether the original boomerang model applied historically to a wide or narrow set of campaigns, the ecology of states has changed since the turn of the millennium. Convergence toward the "global middle" — in other words, the growth of multipolarity — means that transnational advocacy campaigns looking for effective state allies now must deal with a different array of state actors. Put another way, the United States is becoming less salient as an ally, and the global middle (ranging from China to India to Brazil to Korea) is becoming more salient.

In her chapter, Kathryn Hochstetler takes a set of cases analogous to the original *Activists beyond Borders* environment case (in which pressure on funding for development projects was created by using the United States as an ally state) and shows why the same pattern is unlikely to be replicated if China or Brazil are the potential ally states. She

emphasizes that “variation *among* Southern states may be as significant as the lines that divide South and North.” One of the consequences of focusing on the global middle is to shed light on variations in the domestic political climates of the major countries of the global South. Hochstetler notes that in the early 2000s, during the final years of the Workers’ Party government in Brazil, “NGOs’ ability to pressure [the Brazilian Development Bank] depend[ed] on their access to a number of tools of democratic governance and on the bank’s inclination to respond with increased transparency and accessibility (within limits) to activists.”

Harsh Mander’s chapter on India complements Hochstetler’s analysis by qualifying in a different way the positive expectations of the contributions made by states in the “global middle” to TANs. Mander sets out the positive accomplishments of past alliances between Indian civil society organizations and transnational advocacy groups but underlines the negative impact of the current ideological climate in which “any disagreement with the market-led economic policies of the state, or concerns about their environmental or labor right consequences, is considered ‘antinationa[li]st,’ designed to keep India in a “state of underdevelopment.” This capital-dominated nationalist version of “development” turns TANs into agents of a nefarious “foreign hand” while defining foreign corporations as agents of development.

The rise of civil society advocacy organizations in the countries of the “global middle” has unquestionably been central to creating a more robust and vibrant TAN ecosystem. The increasing importance of states in this middle requires a more differentiated analysis. States in the global middle, like states in the global North, play a variety of roles that evolve over time depending on national political regimes. Taken together, the analyses of the role of the state in these chapters make it clear that while relations with individual target states have become more complex—including by emphasizing the importance of building states’ capacity instead of simply getting them to stop violating norms—using other states as allies has also become more complicated. New variations on the “boomerang” are likely to require multistate strategies as well as leveraging the international organizations that have been created since *Activists beyond Borders* was written.

The Future of Transnational Advocacy

Will transnational advocacy become an increasingly central part of global, national, and local struggles for human rights, social justice, and sustainable dignified livelihoods? Or have changes in the structure

of the global political economy and in the global ideological climate turned transnational advocacy into a threatened species of political animal? The cross-currents are complex, and the possibilities for a dystopian future in which states and global capital create a pincer movement that crushes rights and social justice are real. Nonetheless, the overall assessment that emerges from this volume is that the transnational advocacy ecosystem has adapted to its changing environment and continues to respond impressively to the challenges it confronts. The authors represented here have a robustly positive view of the future of the ecosystem.

Negative projections of the future of transnational advocacy depend on negative assessments of the impact of recent shifts in the field. We will focus on three of these negative assessments. First, there is the “unfavorable shifts in the global political economy” assessment (Hopgood 2013). Second, there is the “failure to deliver results” assessment (Moyn 2018). Third, there is the “failure to adapt to new agendas” assessment. All of these reflect real challenges, but as this volume shows, all are exaggerated.

The “failure to deliver results” assessment is addressed most directly in Kathryn Sikkink’s chapter (see also Sikkink 2017). She takes on the pessimistic view that the continued existence of repression and human rights violations around the world is evidence that human rights law has not worked and should be abandoned, arguing that the effectiveness of advocacy with regard to issue creation and information politics has had the unintended negative consequence of people perceiving that human rights behavior has worsened when it has actually improved. Building on the “information paradox” idea that was central to the analysis of campaigns targeting violence against women (Keck and Sikkink 1998, 194–95), Sikkink argues persuasively that the very success of transnational advocacy has led many people to conclude the world is worse off because we care more and know more about human rights than ever before in human history.

The chapter by Murdie and colleagues summarizes a quite different set of evidence that also counters the “failure to deliver results” critique. Drawing on a methodologically sophisticated analysis of quantitative data, they find support for three of the original *Activists beyond Borders* claims, noting that (i) “when domestic and international advocacy are joined, human rights practices improve”; (ii) “human rights advocacy by international nongovernmental organizations increases local protest”; and (iii) “human rights organizations ‘network’ together in ways that increase their advocacy output.” The findings reported in the chapter by Murdie and colleagues make it easy to

understand why the new “nationalist-populist” regimes want to cripple TANs without uncovering evidence that these regimes have succeeded in doing so.

The “failure to adapt to new agendas” assessment is raised in different ways in the chapters by Ikawa, Lettinga, and Bickford. The basic question is whether the increasing salience of framings that focus on “social justice, human dignity, and democracy” rather than “human rights” constitutes a debilitating fissure in the transnational advocacy community. From an ecosystem perspective, this is an open question. The answer depends on whether organizations that have been using a human rights framing can incorporate “social justice, human dignity, and democracy” framings into their work without losing focus and effectiveness and, even more important, whether they can develop symbiotic relations with groups for whom these other framings are primary.

The “unfavorable shifts in the global political economy” assessment has been covered in part in our discussion of transnational advocacy and states. Assessments that the declining influence of the United States and Europe spells fatal trouble for transnational advocacy (Hopgood 2013) are based, in our view, on overblown assumptions about the role of Euro-America as a bulwark of human rights. Assertions that the historical effectiveness of TANs depended on the disproportionate power of the United States and Europe were built on a “rose-colored” view of these countries and historically selective examples in which these countries were supportive. As Sikkink (2017, 230) puts it bluntly, “the international protection of human rights did not emerge from the Global North and . . . the concept of human rights does not necessarily derive from or align with the geopolitical and economic interests of countries in the Global North or of global capitalism more generally.”

Overvaluing the past centrality of dominant countries in the North to the progress of transnational advocacy simultaneously fails to recognize the key contribution of the global South to the development of human rights norms and practices (see Sikkink 2014). These arguments also neglect the construction of a large and differentiated apparatus of global institutions, ranging from the International Criminal Court to regional bodies such as those of the inter-American human rights system. While these transnational institutions do not have the power of sovereign states, they are more plausible and comfortable allies for TANs and local rights advocates.

As detailed above by our discussion of the relationship between the ecosystem of states and the transnational advocacy ecosystem, the role of emerging powers vis-à-vis the agendas of transnational

advocacy is ambiguous and sometimes negative but cannot be summarily pronounced to spell “the endtimes of human rights.” The states that populate the “global middle” may be less prone to sanctimonious condemnations of the behavior of other states than the traditionally dominant powers and therefore less available as rhetorical allies, but most have incorporated the normative framework of rights. If they often apply this framework in a way that is self-serving and cynical, they are no more prone to doing so than the traditional powers of the North.

Even the increasing global power of China is more ambiguous in its impact on transnational advocacy than it might appear. The most uncontested negative impact of the Chinese state is that it removes both the possibility of one-sixth of the world’s population from active participation in transnational campaigns and the possibility of those campaigns having an impact on targets within its borders. Yet China is less likely than the United States or the traditional European powers to automatically back global businesses when local or transnational activists defend themselves against intrusive investments by Northern capital, simply because Chinese ties with global capital are less comprehensive—at least at present.

Just as the contributions to this volume cast doubt on some of the prevailing negative assessments of the future of transnational advocacy, they highlight factors supporting a promising future. The most obvious point is that pessimistic discussions fail to weigh the extent to which the global context is, in multiple ways—technologically, normatively, and organizationally—much more amenable to transnational advocacy than the mid-twentieth-century world or even the world at the time *Activists beyond Borders* was written.

Facilitative changes in the technological environment are most obvious. The emergence of essentially costless content-intensive global mass communication is a huge advantage for those trying to build power by mobilizing large numbers of geographically dispersed groups and communities. This change addresses the most fundamental problem confronting transnational advocacy: surmounting the immense collective problem involved in uniting large numbers of people from a range of social, cultural, and geographic locations around a specific agenda. Indeed, although Keck and Sikkink coined the concept of transnational advocacy networks to theorize and document this type of cross-border collective effort, it was the advent of information and communications technologies—especially the massive adoption of the internet, email, social media, free long-distance phone calls, and video streaming—shortly after the publication of *Activists beyond Borders* that

created the ideal technological conditions for TANs to operate and multiply.

In normative terms, the basic principle that sovereigns may not legitimately violate human rights and that the international community may contest sovereign power when it does violate them is firmly established. This is not to say that efforts to implement this normative rule are not sometimes misguided and counterproductive, especially when they are driven by the geopolitically defined self-interest of nation-states. Indeed, it makes sense that this would be the case. The historical lag between establishing norms and learning how to implement them is never short. In addition, as Ikawa emphasizes, the transition of ESCR from “quasi-rights” to fully legitimate rights is a relatively recent phenomenon.

Organizationally, the growth of transnational advocacy organizations, networks, and coalitions continues not just in quantitative terms but also in terms of the diversification of the geographic bases of operation. The “convergence toward the global middle” is more than a redistribution of power within the ecosystem—it is a diversification of the sources of power that generates a greater ability to make connections with new sets of allies and more accurately access the strengths of opponents and the structural constraints that stand in the way of success. In short, the shift to the global middle within the transnational advocacy ecosystem endows the system with greater capacity and robustness. At the same time, the proliferation of new global governance organizations and institutions and the increased relative autonomy of existing international organizations such as the International Monetary Fund and the World Bank vis-à-vis dominant nation-states gives transnational advocates a more diversified set of global interlocutors to work with.

Recognition of these encouraging prospects must be weighed against candid acknowledgment of the strength of countervailing forces (Rodríguez-Garavito and Gomez 2018). The negatives, however, are nothing new. The continued accumulation of resources by entrenched political and economic actors determined to preserve their power and protect their interests by curtailing the exercise of rights is an old story. The historical cases in *Activists beyond Borders* reminded us that TANs have always been beleaguered and overmatched by the power of their adversaries. Yet it is not hyperbole to say that they managed to change the world despite this. The analyses presented in this volume show that they still have the potential to do so.

Perhaps the most important lesson to be derived from the chapters in this book is that activists cannot afford to concentrate simply on the

successes or failures of their own organizations, approaches, and strategies. They must keep their focus on broader interconnections and the health of the ecosystem as a whole. Within the human rights field, for instance, it is an open question whether the emerging new shape of the ecosystem will be able to counter the persistent asymmetries between Northern and Southern organizations, the disproportionate role of lawyers and legal discourses in the field, and the tendency to focus on standard setting as opposed to actual impact on the ground (Rodríguez-Garavito 2014), but working collaboratively with groups and networks experimenting with less traditional approaches is a way of moving forward. Success more broadly is contingent on the full spectrum of TANs making it a priority to discover synergies with groups whose framings, tactics, and strategies differ from their own.

The evidence and arguments in the following chapters offer good reasons to be confident that transnational activists are capable of reconfiguring the transnational advocacy ecosystem in ways that will defend its efficacy. There are no assurances of future success to be found in these chapters, but they push back strongly against those who underestimate the creativity and adaptability embedded in the ecosystem of transnational advocacy. We hope that the kind of reflective dialogue between academia and advocates that this volume represents contributes to innovation, adaptability, and the long-term staying power of the transnational advocacy ecosystem.

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**1. The Information Paradox:
How Effective Issue Creation and
Information Politics Can Lead to
Perceptions of the Ineffectiveness
of Transnational Advocacy**

Kathryn Sikkink

Introduction

The third central theme of this volume focuses on projecting the future of transnational advocacy (see Evans and Rodríguez-Garavito in this volume). Some of the factors that influence the future of transnational advocacy are beliefs about its impact or effectiveness. Recently, there has been increasing pessimism about the continuity and effectiveness of human rights advocacy, norms, and law, as reflected in vigorous debates among scholars and practitioners. A number of new books, blogs, and op-eds bear titles such as *The Endtimes of Human Rights*, *The Twilight of Human Rights Law*, and “The Demise of International Criminal Law” (Hopgood 2013; Posner 2014; Osiel 2014). In particular, Eric Posner, author of *The Twilight of Human Rights Law*, stresses again and again that the continued existence of human rights violations is evidence that human rights law has not worked and should be abandoned.

In our 1998 book *Activists beyond Borders: Advocacy Networks in International Politics*, Margaret Keck and I anticipated this issue and tried to define how the effectiveness of transnational advocacy should be measured. We identified the following types or stages of transnational advocacy influence: (i) issue creation and agenda setting; (ii) influence on the discursive positions of states and international organizations; (iii) influence on institutional procedures; (iv) influence on policy change; and (v) influence on state (or other target) behavior. We also spoke of four kinds of politics common to transnational advocacy networks (TANs): information politics, symbolic politics, leverage politics, and accountability politics, clarifying that the most common was information politics (credibly producing politically usable information and moving it to where it can have the most impact). Finally, in our chapter on transnational women’s networks, we introduced the term “information paradox” to describe how activists, by creating new issues and producing new information, could sometimes give the impression that

practices were getting worse, when actually they were just becoming more visible (Keck and Sikkink 1998).

Although much of the reaction to *Activists beyond Borders* focused on the “boomerang effect,” as the introduction to this volume points out, the book developed a variety of other concepts that continue to be useful in discussions about network effectiveness. Some of these concepts serve as a starting point to address this issue of the effectiveness of transnational advocacy around human rights—in particular, issue creation, information politics, and the information paradox. In this chapter, I argue that when we ask questions about the impact of transnational human rights advocacy, it is increasingly the very effectiveness of the advocacy with regard to issue creation and information politics that has led to the perception that human rights behavior has worsened rather than improved. The information politics of transnational human rights networks has succeeded in raising awareness of an ever-growing range of rights violations around the world; yet because of this, to many people, the world appears worse off. Although this chapter focuses on human rights, I believe that these issues are relevant for many different kinds of transnational advocacy.

In an article I wrote in 2013 with Ann Marie Clark, we developed further the idea of the information paradox and spoke of a broader issue of “information effects” of transnational advocacy. Information effects are “patterns in the data that stem from the process of information collection and interpretation, rather than from the process that actually gives rise to human rights violations” (Clark and Sikkink 2013, 540). This is not a problem limited to human rights research; it plagues many other areas of research as well. Take, for example, current debates over autism. Researchers are still uncertain whether there has actually been an increase in autism or merely an increase in the reporting of autism, or some combination of both. In the field of public health, researchers call this “surveillance bias” or “detection bias,” where the closer they look at some health issue, the more likely they are to find problems. Human rights researchers, however, seem for the most part to be unaware that such a phenomenon as surveillance bias might also affect our field.

The field of human rights is also affected by another, more specific kind of information effect—namely, a changing standard of accountability—that occurs when human rights activists and lawyers begin to expand the notion of what constitutes a human rights violation. Both increased information and higher standards are good news for human rights victims, but they can be bad news for datasets that try

to compare numbers about human rights performance from the 1980s with numbers produced last year.

To illustrate a changing standard of accountability, let us examine the evolving definition of rape. The notions of “date rape” and “marital rape” created a higher standard of accountability than previously, when attention was focused almost solely on stranger rape. Both domestic and transnational campaigns succeeded in creating the issues of both date rape and marital rape and in changing the rape laws in many countries to reflect these issues. As date rape and marital rape were added to the definition of what constituted rape, the number of possible rapes that could be reported increased.

This increased access to information can change the perceptions and values of ordinary people. Consider the transnational network on violence against women—discussed in chapter five of *Activists beyond Borders*—that emerged in the 1990s and started doing what TANs do: information politics. Originally, violence against women did not exist as a global issue; it was created and put on the agenda by activists who provided more information about the violence that women were suffering and who linked together previously disparate types of violence from many parts of the world to create a single category that was called violence against women. As these activists highlighted violations, it sometimes appeared that violence against women was getting worse when, in fact, it was not—we simply had more information about it (Keck and Sikkink 1998, 194). Not only that, but women around the globe had access to new information about what constituted a human rights violation. For instance, women who once thought that being beaten by their husbands was just the nature of their lives began to report abuse for the first time. These processes—increased information through information politics and changing standards of accountability—led in turn to instances of the information paradox, where the work of human rights activists to reduce human rights violations by documenting them and calling attention to them was later used by observers to show that human rights law and activism was not effective.

The information paradox thus takes two main forms. The first is a more straightforward response in which members of the public, scholars, or policy makers who read these human rights reports and follow the news are left with the impression that violence and human rights violations of all kinds are increasing in the world. A second form, more hidden but very relevant, involves more technical issues of how human rights information gets coded into quantitative measures then used by scholars to measure the effectiveness of human rights law, policy, and activism. Quantitative human rights research is particularly

susceptible to this information paradox because of its heavy reliance on some measures coded from the documents of human rights organizations themselves. Activists are producing the data that is used by scholars to argue that activists do not make a difference in the world.

This chapter focuses on this second, more technical issue and suggests new ways in which scholars can be more savvy users of this data. But it also discusses how the information paradox challenges TANs to make sure that their increasing virtuosity in information politics and issue creation does not become a tool for demonstrating their lack of effectiveness in leading to behavioral change.

Quantitative Researchers and Information Effects

One of the most serious issues with which empirically minded human rights scholars must grapple is problematic documentation and data. This is particularly acute for scholars who do only quantitative analysis and rely on only one or two key measures of repression. This data is not intentionally wrong or distorted but may nevertheless be misleading because of our increased knowledge about human rights violations.

In 2009, Emily Hafner-Burton and Jim Ron wrote a review essay entitled “Seeing Double: Human Rights Impact through Qualitative and Quantitative Eyes,” claiming that scholars who did qualitative field research were more optimistic about human right progress, while scholars using quantitative research were more pessimistic (Hafner-Burton and Ron 2009). The undercurrent of the article was that those who relied on numbers were more objective and more pessimistic. Yet the information paradox suggests that relying on certain kinds of numbers may not make a person more objective but rather might introduce information bias.

The following year, Beth Simmons’s prize-winning book on this topic, *Mobilizing for Human Rights*, exploded the dichotomy between optimistic field researchers and pessimistic number crunchers. Drawing on a wide range of data to measure the effectiveness of various human rights treaties, and using sophisticated quantitative techniques, Simmons showed that human rights treaties do lead to advances in human rights if a country’s type of government is taken into account. In fully authoritarian regimes, for example, human rights treaties are often ratified just for show, while in countries transitioning to democracy many human rights treaties have a positive effect on the ground (Simmons 2009).

The important division may be between not quantitative and qualitative human rights researchers but rather quantitative researchers who unproblematically rely on a small number of standard-based measures more prone to information effects and those like Simmons, who use a wider range of data to test their hypotheses. To explain how more information and higher standards affect our evaluation, let us turn to the case of Brazil as an illustration. In Brazil, the work of activists in creating awareness of rural violence by death squads linked to landholding elites and of police brutality in *favelas* led to a perception of the ineffectiveness of human rights measures.

Human Rights in Brazil: An Illustration of Information Effects

Brazil had an authoritarian military regime from 1964 to 1985 and experienced its most repressive period from 1968 to 1974, when General Emílio Médici held power. Almost 2,000 individuals later testified in military courts that they had been tortured during interrogations during this period (Archdiocese of Sao Pãulo 1986, 79). The period from 1974 to 1985 was less repressive and began the long process of Brazil's transition to democracy, which was completed in 1989, when Brazil elected a president by popular vote. For our purposes, we can think of the decade of the 1970s as authoritarian rule, the 1980s as a period of transition toward democracy, and since the 1990s a period of democracy.

Brazil would appear to be an example of exactly the kind of change that the human rights movement hopes to promote. Brazilians elected former opposition figures as presidents, and their administrations carried out policies of political and economic inclusion. Most experts on Brazil know that human rights problems continued after the transition to democracy, but virtually all would argue that the democratic period has had better human rights practices than the military regime. In spite of this, the main quantitative measures of repression—the Political Terror Scale (PTS) and the Cingrinelli and Richards (CIRI) Physical Integrity Rights Index—indicate that the physical integrity human rights practices during the final years of the military government were better than those of the current democratic period. How do we explain this puzzle?

To read the data correctly, we have to discover more about the process through which these measurements are created. Reliable information about some human rights violations is difficult to secure. Governments, both democratic and authoritarian, often hide information

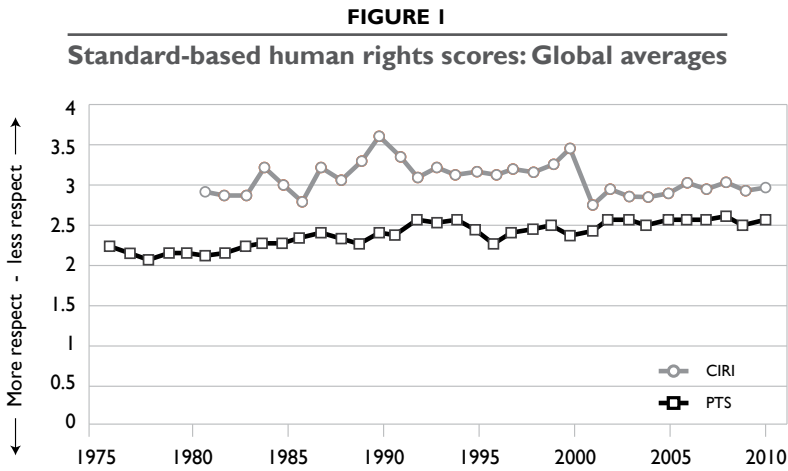
about their human rights violations. During the military dictatorship in Brazil, for example, the government concealed its practices of torture, disappearance, and summary execution of political opponents. Because of this reluctance, analysts turn to nongovernmental organizations, international organizations, and at times other states for reports on human rights practices. We have good reason to believe that the reports of outside monitors, however imperfect, come closer to revealing the nature of repression than states' self-reporting. Knowing this distinction improves the situation somewhat but still does not solve the human rights data problem.

The two most commonly used sources by academics for measuring state repression are Amnesty International's annual reports and the US State Department's annual country reports on human rights practices, both of which have been issued regularly for several decades. Each year, these reports try to summarize the human rights practices of most of the countries in the world during that year. We are fortunate that two such series exist, one by a government and one by a respected nongovernmental organization. Still, we cannot ignore certain failings. The US State Department has political goals that may affect human rights reporting, although its reports have become more accurate over time. For its part, Amnesty International is committed to a human rights ethos that may make it difficult for the organization to speak of "improvement" in the context of serious ongoing violations of human rights.

For researchers, the value of these two sources cannot be overstated, as they are produced every year in a similar format and thus can be used to provide what we call a "time series" on human rights practices, allowing us to compare change over time—in this case, from 1980 to the present. The PTS and CIRI human rights data projects use the reports to produce scales of human rights violations of physical integrity rights. Both of these scales are composite measures of four human rights violations: torture, extrajudicial killings, disappearance, and political imprisonment. We call them standard-based measures because they assign human rights scores to every country in the world each year, based on subjective criteria applied to primary sources. In other words, research-assistant coders, for example, read the narrative text on Brazil in the Amnesty International or State Department report for every year and assign it a number on a scale created by the project. The PTS has a numerical scale from one to five, with five as the worst human rights performance and one as the best. The CIRI physical integrity index is a somewhat more complex eight-point scale, with its own set of coding instructions that are precise but sometimes problematic.

The CIRI measure of extrajudicial killings, for instance, is designed in such a way that the index simply cannot measure any improvements until the number of violations falls below fifty. Thus, a country that has 200 extrajudicial killings one year and 80 such killings the next year would not show any improvement. These scores accumulate to produce databases of core human rights practices that are available online for researchers to use.

When charted over time, these popular datasets tend to show unchanging global levels of repression. Figure 1 shows that despite minor fluctuations, global average scores on PTS and CIRI stayed mostly flat from the late 1970s to 2010. This is the main evidence that has led many scholars to point to the failure of the human rights movement.



Note: The CIRI physical integrity scale is 0–8, and the PTS scale is 0–5. The PTS line here represents the average combination of PTS scores derived from Amnesty International and State Department reports.

After the databases are published, quantitative researchers take these scales and insert them into their models, usually to measure whether positive human rights change has occurred. The numbers are used to address several important questions: What impact does human rights law have? Do human rights prosecutions improve human rights? Can transnational advocacy groups lead to positive change? These researchers then use quantitative methods to test their hypotheses. Perhaps most important, they can control for a series of other factors that we also know affect human rights practices, such as poverty, democracy, and civil war. Not only do they ask about the effects of human rights law, but they also try to discern the independent effect of human rights law, controlling for these other factors. For example, we

know that inequality can contribute to human rights violations (Landman and Larizza 2009). Brazil continues to have significant inequality, so perhaps this inequality explains why Brazil's human rights record does not seem to be improving, despite democracy and human rights activism. Quantitative research lets us address important questions such as this one in sophisticated ways. But in the end, the models and conclusions are only as good as the data they rely on.

The main problem with the data is that so much more human rights information is being produced today than when the reports first started. Today, when the reports are written, there are hundreds of groups working on human rights in Brazil in situations of relative security, making it possible to document and publish much more far-reaching reports than ever before. Human rights officers in US embassies are now often in routine contact with the large range of human rights groups inside Brazil and outside of it. Compare this to when Amnesty International and the State Department first began reporting on human rights in Brazil in the late 1970s. Then, there were few sources of human rights information either outside or inside the country, so the two entities relied on a small number of in-country sources and communicated with only a handful of human rights organizations. Furthermore, in the US Embassy in Brazil, new human rights officers were just getting used to reporting on human rights. The reports were mandated by Congress in 1976, and US diplomats were initially not very good at producing them, nor did many even think it was a good idea. Their data was also skewed because diplomats got most of their information from their counterparts in the Brazilian government, who would tell them that accusations of human rights violations were exaggerated and that things were getting better. To gather better information about human rights violations, embassy staff would have needed to talk to human rights organizations or to the political opposition, and in the 1970s they were not used to doing that. Especially in the early years, the State Department's reports were widely perceived as politically biased, particularly with regard to authoritarian regimes that the United States considered its allies in the struggle against communism. As a result of these factors, the early years of the CIRI and PTS measures are particularly problematic because the Amnesty International and State Department reports were shortest during this time, fewer human rights organizations existed to produce good source information, and the political bias in the State Department reports was the strongest (Clark and Sikkink 2013).

Thus, according to CIRI and PTS, the human rights situation in Brazil was a full point better during the authoritarian and transition

period than it has been during the recent democratic decades. Brazil has an average PTS score of three for the authoritarian and transition decades of the 1970s and 1980s and a score of four for the fully democratic period of the 1990s through 2013.¹ The average CIRI physical integrity rights score for Brazil for the military government period (1981–1985) is also almost a point better than the average score for the democratic period of the 1990s and 2000s. Because CIRI breaks the score down further by specific type of violation, we can see more precisely the kinds of violations that are driving the scores. Although the democratic Brazilian governments rarely practiced disappearances or held political prisoners, they appeared to be engaged more in extrajudicial killings and torture.

The PTS and CIRI scores are measures of repression, not of civil liberties and democracy, so they disregard regime type and look only at gross violations. This distinction allows for the fact that there are indeed cases where repression is worse during democratic regimes than authoritarian ones. I believe, however, that other factors are at stake here. A Brazilian government report in 2007 on deaths and disappearances makes clear that the worst period for deaths and disappearances was 1971–1974, that the state rarely killed or disappeared its political opponents after 1979, and that there have not been any cases of disappearances after the 1985 transition to democracy (Secretaria Especial dos Direitos Humanos do Presidência da República 2007). Why, then, do CIRI and PTS record more killings and torture under democracy? The difference lies in the changing standard of accountability. Earlier reports focused only on the *government-sponsored* killing and torture of *political opponents*. But by 1985, human rights organizations and the US government expanded their focus from a narrow concentration on direct government responsibility for the death, disappearance, torture, and imprisonment of political opponents to a wider range of rights, including the right of people to be free from police brutality and the excess use of lethal force, and the duty of the state to prevent, investigate, and prosecute violence by nonstate actors.

In their first reports on Brazil, both Amnesty International and the State Department focused on gross human rights violations, especially political imprisonment, torture, and summary executions committed directly by state officials. The early State Department reports on Brazil were short and largely positive, commending the government on reductions in state-sponsored deaths and disappearances in the early 1980s. By 1987, however, during the transition to democracy, both Amnesty

1 This score begins in 1976, so it excludes the worst years of repression.

International and the State Department began to take a harsher tone. Amnesty International gained the ability to travel to Brazil for on-site visits and, as a result, produced a specific report on rural killings. The organization clarified that such killings were carried out by “hired gunmen in the pay of local landowners” but also stressed that it was concerned about the “persistent failure by local and state authorities to investigate these killings effectively or to bring criminal prosecutions, with the result that those responsible acted with impunity and further abuses were encouraged” (Amnesty International 1987, 137). A second Amnesty International investigation looked at the torture and ill treatment of detainees in police stations and prisons throughout the country, as well as the killing of suspects. This was a new departure because it focused on the treatment of criminal suspects rather than political prisoners, previously the organization’s core mission.

The organization’s expansion of its mandate and better capacity to conduct on-site investigations led to an increasing documentation of human rights violations that could make it seem like the situation in Brazil was getting worse after democratization, when it is possible that the situation was the same or even better—it only seemed more severe because we knew more about what was happening. This expanded attention to a wider range of victims translated into worse PTS and CIRI scores because both indexes now count extrajudicial killings and torture, regardless of whether these acts are against political opponents or against criminal suspects.

Similar changes were made in the State Department, which, taking its cue in part from nongovernmental organizations, was also expanding the range of its focus in Brazil to include the treatment of common criminals, campesinos involved in land disputes, and indigenous people.

The problem is that we do not know if the Brazilian police kill and mistreat more victims today than they did in the 1970s and 1980s, because our only good source of information on these topics is human rights publications with their changing standard of accountability. In the 1970s and 1980s, human rights organizations were not collecting data on rural violence or the excess use of force against common criminal suspects.

Since that time, organizations within Brazil have turned their attention to police violence. For example, the Observatório das Violências Policiais-SP (Observatory of Police Violence in São Paulo) uses news sources to compile a monthly report of all victims of police brutality. The Observatório argues that all of these deaths are “extrajudicial executions” and represent the excessive use of lethal force by the Brazilian

police. Many of these killings are of poor and marginalized populations living in the slums (known as *favelas*) of São Paulo. This excellent human rights work thus calls our attention to violations committed against groups who were not the original focus of the human rights movement. From the point of view of human rights work, these are encouraging developments. Human rights organizations have moved from a narrow focus on state-sponsored imprisonment, killings, and torture—mainly of its political opponents—to include criticism of the state's failure to prevent, investigate, and prosecute violence, as well as police brutality and the excessive use of lethal force against criminal suspects. From the point of view of measuring effectiveness, however, such expanding standards of accountability can paint a more pessimistic picture than warranted.

Implications of the Information Paradox for Human Rights Scholarship

These information effects and changing standards of accountability may affect quantitative studies on the effectiveness of human rights advocacy, some by scholars who have top-notch methods and the desire to make their mark with a counterintuitive finding but who may not know much about human rights on the ground. If we assume that the increased human rights information and changing standards of accountability affect only some of the countries in the databases, this could lead to illogical findings, such as, for example, that ratifying the Convention against Torture (CAT) is associated with an increase in the use of torture, when, in reality, once a state ratifies the convention, the obligations deriving from the treaty provide an excellent opportunity for the international community to monitor that state more closely to see whether it is obeying human rights law. This produces more awareness of torture, not more torture itself.

One of my least favorite of these counterintuitive articles—written by two political scientists (Hollyer and Rosendorff 2011)—argues that states ratified the CAT in order to tell their publics that they intended to torture them! I sat next to one of the authors of this article at a luncheon and asked if he had conducted any qualitative research to accompany the quantitative analysis in the paper. For example, if a country wanted to use CAT ratification to threaten its population with torture, we would expect that the government would at least announce its ratification in the official newspaper. Had the authors checked it out? No, they had not. Would they check it before publishing? No, they would not.

To clarify my position, I am not a data skeptic who rejects coding because it is less nuanced than case study work. I myself have used both CIRI and PTS in some of my research, and I value them as data sources. But I believe that scholars and activists alike should be aware of how and why human rights data may be biased. Scholars need to be more informed users of these numbers. Practitioners need to be aware that sometimes their best efforts at information politics could be used to claim that they are not having any positive effect. Most importantly, the numbers should not be treated as an objective measure of human rights and should be used with great care when supporting a claim that a human rights situation has not improved. Beyond that, I would argue that any research relying on this data that demonstrates improvements in the human rights situation is working against a bias in the data and thus its findings may be even stronger than those shown.

Since my article with Clark was published, a gifted methods scholar named Chris Fariss produced a sophisticated and persuasive article making related arguments and providing modeling solutions. In his paper, Fariss (2014) coins the phrase “a changing standard of accountability” for human rights. He shows that a new technique called “latent variable modeling” can be used to combine standard-based measures, such as CIRI and PTS, with events data—which includes actual lists of events related to human rights—to correct for the changing standard of accountability. Using this new model, Fariss then shows that the ratification of the CAT is associated with improvements, not a decline, in human rights protection.

Not all human rights data is subject to information effects and changing standards of accountability. Other human rights issues, such as the right to education and the right to health, can be measured in more straightforward ways, such as through literacy rates, the percentage of school-aged children in primary schools, the percentage of children who receive immunizations, or infant mortality or child mortality rates. Infant and child mortality figures might be an especially excellent measure of economic and social rights, since they measure extreme deprivation of health at a very young age.

Conclusion

Although the information paradox may be a technical issue, the stakes of this debate are high. Understanding where human rights activism and law are having an effect is an important yet difficult task because almost all the data we use to try to measure effectiveness is created by the human rights movement itself. We know that human rights TANs

have been effective in using information politics to create new issues and putting those issues on the agenda, thus creating a changing standard of accountability for what constitutes a human rights violation in the world. What we have trouble understanding is whether TANs have made any difference in actual state behavior. Because we are increasingly inundated with dire human rights information and because it is difficult to measure progress in this area, there is an increasingly popular sentiment that the protection of these rights around the world is getting worse.

What are this argument's implications for activists and scholars? First, I think it is incumbent on these actors to be aware of the information paradox. Second, perhaps human rights activists should rely less on information politics, less on "naming and shaming," and more on what we might call "effectiveness politics" — identifying techniques and campaigns that have been effective and trying to discern how best to improve human rights. Perhaps the human rights movement should use more leverage politics, for example, to bring about change, rather than assuming that producing another report is the answer to every human rights problem. Likewise, human rights TANs might work less on constantly pressing to raise the standard of accountability and more on making sure that existing standards of accountability are not flouted by powerful countries.

Human rights progress is not inevitable but rather contingent on continued commitment and effort. Without the belief and the untiring work of activists, change often will not occur. But if activists and their supporters, reading books such as *The Endtimes of Human Rights* and *The Twilight of Human Rights*, come to believe that their efforts on behalf of human rights are suspect or even counterproductive, and thus retreat to comfortable inactivity, human rights progress could indeed stall or move backward. Some expectation of hope sustains human rights work. Although hope in itself is insufficient, work sustained by reasoned, well-informed, patient hope is not.

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2. How Does the “Network” Work? Reflections on Our Current Empirical Scholarship on Transnational Advocacy Networks*

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Since 1998’s *Activists beyond Borders: Advocacy Networks in International Politics*, there have been more than 10,000 scholarly citations to the term “transnational advocacy networks” and the pathbreaking work of Margaret Keck and Kathryn Sikkink.¹ Without a doubt, their work expanded our understanding of the process by which advocacy influences political and social outcomes. Their work has also been cited in many policy documents by international organizations, showing its importance even outside the ivory tower (see, e.g., UN General Assembly 2014).

Activists beyond Borders has been incredibly important for our own scholarly work, much of which uses large-scale global datasets to examine some of the empirical implications from Keck and Sikkink (1998). Overwhelmingly, we have found that the insights in *Activists beyond Borders* hold considerable empirical weight:

- When domestic and international advocacy are joined, human rights practices improve (Murdie and Davis 2012b; Bell, Clay, and Murdie 2012; Murdie 2014a). To take one example: by analyzing the effects of “shaming” events undertaken by a sample of more than a thousand international nongovernmental organizations across a wide range of countries, we were able to demonstrate significant effects on the improvement of physical integrity rights at the national level (see Murdie 2014a, 188–95, especially figure 5.2 and tables 5.1–5.4).
- Human rights advocacy by international nongovernmental organizations increases local protest (Murdie and Bhasin 2011), changes opinions on human rights issues (Davis, Murdie, and Steinmetz

1 *Activists Beyond Borders* had 9,038 citations in Google Scholar on March 30, 2015. The companion piece by Keck and Sikkink (1999) in the *International Social Science Journal* had 448 citations. Additional queries for the term “transnational advocacy network” produced thousands of additional citations for works that draw on the influential Keck and Sikkink (1998).

2012), and changes foreign policy behavior (Murdie and Peksen 2013, 2014).

- Human rights organizations (hereafter referred to as HROs) “network” together in ways that increase their advocacy output (Murdie 2014b). Some organizations are much more likely to be part of transnational advocacy networks, creating a stark division between organizations in the global North and those in the global South (Murdie and Davis 2012a).

Our quantitative findings support the basic propositions of *Activists beyond Borders*. We continue to replicate them with the addition of new measures, new data, and new analyses. Our current work expands on these topics and looks at a variety of additional research questions that could be of interest to the scholarly and advocacy communities. We are using new and updated data on the media visibility of human rights organizations and are now looking at how certain organizations and messages are “amplified” or ignored in the international press (Park, Murdie, and Davis 2015). We are also examining how the human rights and conflict resolution advocacy networks influence human rights outcomes and the prevalence of international conflict (Wilson, Davis, and Murdie 2013, 2016).

In this brief chapter, we highlight a few insights from our existing projects. We hope that these projects will add to the important scholarship that continues to build on Keck and Sikkink’s work. In particular, this chapter describes some of the new data projects we have been working on concerning (i) the media visibility of HROs and (ii) these organizations’ networking behavior.

Media visibility is a key foundation of the “naming and shaming” dynamic that made the original Keck and Sikkink “boomerang” work. The media-related data presented here is both longitudinal (covering the period from 1990 to 2015) and geographical (differentiating the visibility of HROs based in the global North and that of those based in the global South). Network connections among HROs are equally at the heart of their ability to exercise political influence that goes beyond the sum of their individual actions. The relative centrality of different HROs within the structure of international nongovernmental networks confers differential capacity to shape network strategies. While the data presented on these two dimensions are a mere part of the overall picture, they flag heuristically interesting possibilities for moving forward the lines of analysis initiated by Keck and Sikkink.

Media Visibility

Much of our early work, both together and separately, drew on event-data techniques to try to capture the media attention that HROs were receiving in the international press. At the heart of this work is Keck and Sikkink's (1998) influential "boomerang" model of transnational advocacy, in which HROs are channels for information that helps local advocates gain international attention for the repression they are experiencing. Our work captures the concept of "naming and shaming" by HROs, whereby organizations typically target state actors for their human rights abuses in the international media. Through this attention, HROs hope to draw powerful third-party actors into the advocacy network and increase pressure on the targeted state to stop its repressive behavior.

We found that naming and shaming works best when it is combined with both the domestic presence of HROs and increased human rights attention by third-party actors, such as concerned states, inter-governmental organizations, and even celebrities (Murdie and Davis 2012b). We also found that shaming campaigns improve human rights practices in states that are vulnerable to international pressure (Murdie 2014a), consistent with Keck and Sikkink's findings (1998). In work with Dursun Peksen, we found that shaming helps increase foreign policy actions against a targeted state (Murdie and Peksen 2013, 2014). And in an article coauthored with David Davis and Coty Steinmetz, we found that shaming is likely to lead individuals to feel that their rights are being violated (Davis, Murdie, and Steinmetz 2012). All of these findings are consistent with the empirical implications of Keck and Sikkink; however, prior to our examination of these topics using event-data methods, there had been very limited support for these hypotheses at the cross-national level.

The event-data methods we use to capture naming and shaming are common to international relations (Bond et al. 2003; King and Lowe 2003). These methods rely on computer codings of media reports and have been shown to be at least as accurate as trained human coders (King and Lowe 2003). Our published work using events-data methods on HROs (for example, Murdie and Davis 2012b; Murdie 2014a, 2014b) uses the Integrated Data for Events Analysis (IDEA) framework (Bond et al. 2003) to capture events from Reuters News Agency, where the names or common acronyms of HROs have been identified in the news source.

We have greatly expanded our list of HROs over time. Most recently, we are drawing on an events dataset that uses the IDEA framework

for 19 human rights organizations that are part of the Ford Foundation's Global Human Rights portfolio² and 983 additional human rights organizations classified as nongovernmental organizations by the *Yearbook of International Organizations* (Union of International Associations 2014). This dataset has been provided to us by Virtual Research Associates.

The raw IDEA data from Virtual Research Associates is at the event level: each Reuters news report has been computer coded in a "who-did-what-to-whom" format of political and economic events that can be observed from the story (Bond et al. 2003; King and Lowe 2003). For example, on February 21, 2003, Reuters reported the following header: "Thailand: Amnesty blames Thai govt for spurring drugs killing." The events that can be gleaned from this story can then be examined at multiple levels of analysis, such as the organization-year level (i.e., a count of events attributed to Amnesty International in 2003) or the country-year level (i.e., a count of events directed at the Thai government in 2003). This dataset has been extremely useful at the country-year level of analysis, where we have focused on examining both the determinants and outcomes of HRO "shaming."

We are just now moving on to projects that focus on the organizational level. There are many fascinating questions for researchers to examine at this level, such as how differences in organizational characteristics (connections with other organizations, history, reputation, issue focus, and so forth) translate into differences in media visibility. For example, in a recent working paper from our group, we explore why certain organizations are able to have their message "amplified" in the international media while others, even those that produce similar numbers of press releases, are ignored (Park, Murdie, and Davis 2015).

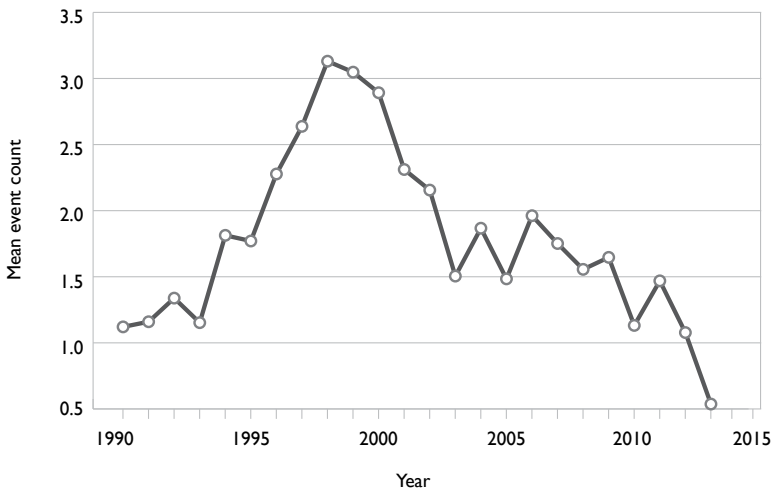
The "visibility" that is reflected in international media events data is a measure of the communications success of HROs that is foundational to naming and shaming. Figure 1 provides a longitudinal picture of visibility at the organization-year level of analysis between 1990 and 2015. The line represents the mean number of media events for organizations in our sample in a given year.

The differential visibility of individual HROs in terms of this set of media events data is consistent with a range of other assessments of the prominence of individual HROs, derived from both other sets of quantitative data and qualitative analyses. The range of the number of media events for an organization in the whole sample is from zero events in

2 Email from Tenzin Dokler, September 25, 2014.

a given year to 636 events. Most HROs in the sample have zero events in a year (90.70% of organization-years); only four have more than 300 media events in a given year: Amnesty International (nine years in the sample with more than 300 media events), International Committee of the Red Cross (nine years in the sample with more than 300 media events), Human Rights Watch (five years in the sample with more than 300 media events), and the World Jewish Congress (three years in the sample with more than 300 media events). Amnesty International had the sample maximum of 636 media events in a year in 1998. It is hardly surprising to find Human Rights Watch and Amnesty International, the perennial leading figures in the world of human rights nongovernmental organizations, reappear again in this analysis.

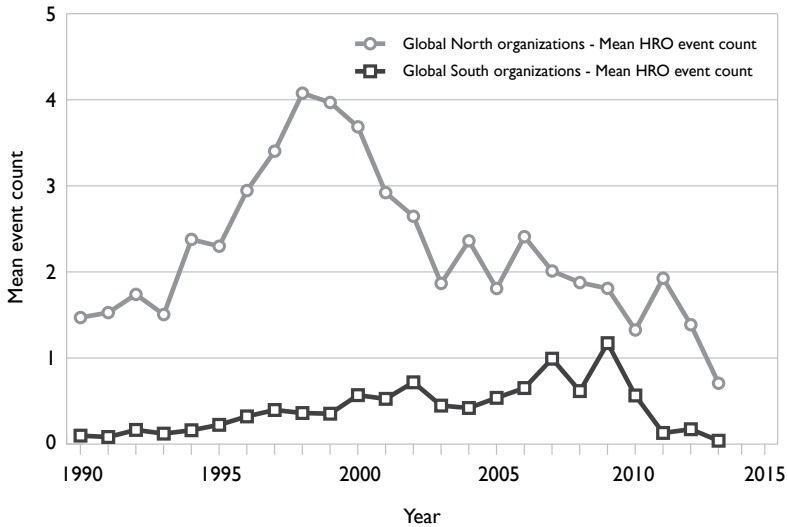
FIGURE I
Human rights organizations: Mean international media visibility over time



In addition to the expected prominence of Amnesty International and Human Rights Watch, our visibility data also underline the gap between the general ability of HROs in the global North to generate media visibility relative to their counterparts in the global South. One of the issues in advocacy research that has emerged since the publication of *Activists beyond Borders* is the understanding that not all HROs have similar resource portfolios and that organizations with more resources can act as “gatekeepers” that decide which human rights issues get attention (Carpenter 2007). Using our new dataset, we find a stark division between the international media visibility of organizations in

the global North compared to organizations in the global South. We define organizations from the global North as those with headquarters in member states of the Organisation for Economic Co-operation and Development. As shown in figure 2, organizations in the global North clearly have more of a media presence in Reuters compared to their counterparts in the global South.³ Although this idea may be intuitive, it reiterates divisions in human rights promotion that need further attention. Presently, we are expanding our data collection to include media sources in languages other than English. It will be interesting to see whether these North-South divisions in media visibility persist in other languages.

FIGURE 2
Human rights organizations in the global North and South:
Mean international media visibility over time



The changes in HRO visibility over time are as striking as the North-South disparities. HROs in the global North experienced a dramatic rise in visibility during the 1990s, followed by an almost equally dramatic decline during the first decades of the twenty-first century. While this shift in visibility in itself hardly confirms Stephen Hopgood’s (2013) fears that we are in the “endtimes of human rights,” it does show that achieving the general visibility necessary for naming and shaming has become more challenging in recent decades.

3 This statement is supported by two-sample t-tests with unequal variances.

Relative North-South shifts in HRO visibility during the last decade of the twentieth century and the first decade of the twenty-first century, as shown in figure 2, might be taken to support Louis Bickford’s (2014 and in this volume) “shift to the global middle” hypothesis. The visibility of Southern organizations started much lower and rose much more gradually than that of Northern HROs during the 1990s, though it did not experience the same precipitous fall at the beginning of the new millennium. By about 2009, it seemed as though the visibility of Southern HROs might even overtake that of their Northern counterparts. The final years of the data, however, see Southern HROs suffering from the same decline in visibility that had begun affecting Northern HROs a dozen years earlier. It is impossible to predict whether diminished visibility has become the long-term fate of HROs in both the North and South. If this negative prognostication is in fact borne out by more recent data, transnational advocacy networks will need new strategies to replace visibility-based naming and shaming.

Network Relationships

Another area from *Activists beyond Borders* where we have devoted our empirical attention concerns how HROs work together as a “network.” Keck and Sikkink’s “transnational advocacy network” framework involves network ties between a host of advocacy actors, including HROs, domestic civil society actors, individuals, intergovernmental organizations, and third-party states. However, we have shown that the connections among HROs—their “network” with one another—is also critical to their overall advocacy movement (Murdie 2014b). These connections create a public good that is “nonrivalrous and nonexcludable”—that is, the increased visibility accruing to an individual participant in the network does not take away from the visibility of other participants, and no individual member of the network can be excluded from its benefits (*ibid.*, 6). The public good of participation in the network allows individual participants to better spread information, increase their reputation, and draw on one another’s resources and expertise (Gould 2003; DeMars 2005; Shumate and Dewitt 2008; Shumate and Lipp 2008).

In our previous work, we relied on data collected by the Union of International Organizations for its yearly publication, the *Yearbook of International Organizations*. The *Yearbook* provides information on organizations’ mission, locations, and partners. Over the years, “partner” data has been listed under different headings (“close contacts with,” “tie to,” etc.); we took this information to indicate the presence of a

dichotomous directional tie between organizations and then used it to examine the network of HROs (Wasserman and Faust 1994). Due to difficulties in coding this data, our previous published work used this information for just 2001 (Murdie and Davis 2012a; Murdie 2014b). We recently expanded our analysis to include 1998 (Wilson, Davis, and Murdie 2013, 2016).

This scholarship was important, first, in confirming that the network has been a crucial factor in the media output produced by HROs (Murdie 2014b). Organizations that have more connections to the overall network receive more media attention; as mentioned, this media attention is critical to changing opinions and ultimately influencing human rights outcomes.

Information on the network behavior of HROs can be critical for understanding how information flows through transnational advocacy networks and how certain organizations or issues may be limited by their ability to draw on the public goods provided by the overall network. Our current work focuses not only on media attention and raw numbers of HROs but also on how states can be influenced by the network patterns of organizations within their borders (Wilson, Davis, and Murdie 2013, 2016).

This empirical network scholarship is important for addressing the disparities that exist in organizations' abilities to join the overall network (Murdie and Davis 2012). Organizations in the global South have been at a severe disadvantage when it comes to drawing on the public good that is the overall HRO network. This disparity has ramifications for the amount of media attention their issues receive and for their organizational clout. Without this attention, it is unlikely that advocacy campaigns will coalesce around a particular issue or organization in the global South.

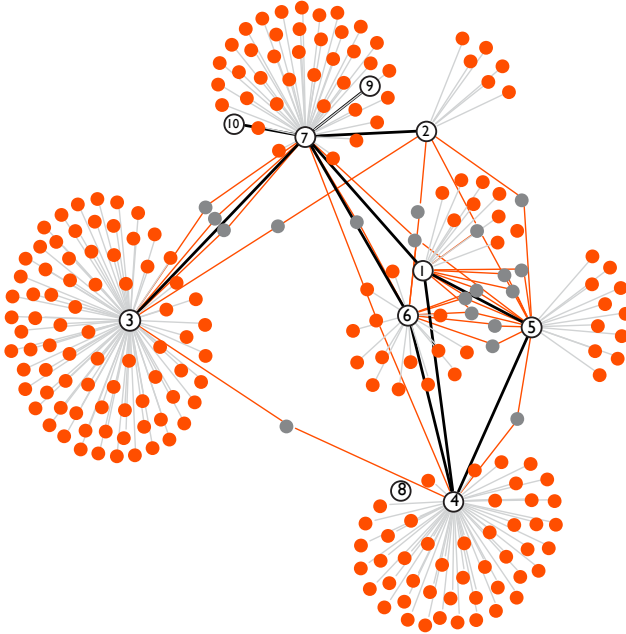
If the efforts of leading HROs and funders to shift the "network architecture" of HROs to a "global middle" (see Bickford 2014 and in this volume) are successful, the character of the network will change. Based on our empirical examination of the HRO network and HRO media attention, we think this shift will be hugely influential in improving the visibility of HROs outside the global North and broadening the types of human rights issues that are addressed in the overall HRO network.

As an illustration of how HRO networks are currently structured, we can offer a series of recent snapshots of the network that has formed around organizations involved in the Ford Foundation's global human rights program. Thanks to support from the Ford program, we have been able to examine this network for 2011–2014 using data hand coded from the 2011/2012, 2012/2013, and 2013/2014 print editions of

FIGURE 3

Network of ties: Ford HROs in the *Yearbook of International Organizations, 2011/2012*

- Ford HROs
- HROs tied to one Ford HRO
- HROs tied to multiple Ford HROs
- Ties from Ford HROs = 264
- Ties between Ford HROs = 17
- Number of shared ties = 24



- | | |
|--|--|
| <ul style="list-style-type: none"> 1. Amnesty International – 16 ties 2. Asian Forum for Human Rights and Development – 11 ties 3. Association for Women's Rights in Development – 85 ties 4. Crisis Action – 54 ties 5. Human Rights Watch – 25 ties | <ul style="list-style-type: none"> 6. International Federation of Human Rights Leagues – 23 ties 7. International Network for Economic, Social and Cultural Rights – 50 ties 8. Global Witness – no tie info 9. Conectas Human Rights – no tie info 10. Witness – no tie info |
|--|--|

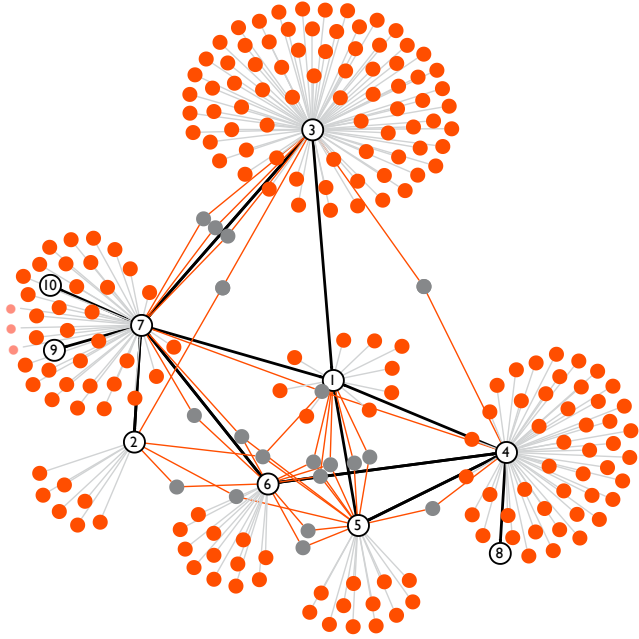
the *Yearbook of International Organizations*. Our sample was the network created by Ford-funded HROs, which consists of around 240 organizations and 260 network ties.⁴

Figures 3–5 provide a graphical breakdown of the network information on the Ford HROs, created by examining the outgoing ties from Ford HROs to other organizations in the *Yearbook*. As can be seen from these figures, the structure of the network is relatively stable over the three years for which we have data. There is quite a wide variety in the amount of self-reported ties by Ford HROs, with the Association for

4 Not all Ford organizations were listed in the print editions of the *Yearbook* (only ten of the nineteen), and of the organizations listed, not all provided network tie information listed in the *Yearbook* (only seven of the one hundred). Future data projects with alternative sources to the *Yearbook* are necessary.

FIGURE 4
Network of ties: Ford HROs in the
Yearbook of International Organizations, 2012/2013

- Ford HROs
- HROs tied to one Ford HRO
- HROs tied to multiple Ford HROs
- Ties from Ford HROs = 259
- Ties between Ford HROs = 17
- Number of shared ties = 23



- | | |
|--|--|
| <ul style="list-style-type: none"> 1. Amnesty International – 15 ties 2. Asian Forum for Human Rights and Development – 12 ties 3. Association for Women's Rights in Development – 84 ties 4. Crisis Action – 53 ties 5. Human Rights Watch – 25 ties | <ul style="list-style-type: none"> 6. International Federation of Human Rights Leagues – 22 ties 7. International Network for Economic, Social and Cultural Rights – 48 ties 8. Global Witness – no tie info 9. Conectas Human Rights – no tie info 10. Witness – no tie info |
|--|--|

Women's Rights in Development (formerly the Association for Women in Development) having by far the greatest number of outgoing ties. Amnesty International has the greatest number of incoming ties in this network. This is similar to the findings in Murdie (2014b).

No definitive conclusions can be drawn from these figures regarding the consequences of the network's structure for its impact on the content and effectiveness of human rights campaigns. Nonetheless, some obvious implications are worth noting. First, these visualizations reconfirm the relatively privileged position of the most globally prominent HROs, such as Amnesty International and Human Rights Watch. It is not necessary to calculate their "eigenvector centrality" (see Murdie 2014b, 12) to see that their position in the network is likely to magnify their ability to project their agenda, not just within the network

but beyond it. Having a small number of Northern HROs in a highly privileged position in terms of agenda setting can obviously be considered problematic. At the same time, making this structural privilege explicit—as mapping the network does—is an impetus to have a shared dialogue about how to compensate for biases that might be created by the structure. Perhaps even more important, by increasing the cohesion of the network and extending its range, HROs such as Amnesty and Human Rights Watch magnify the network’s value, giving smaller, less central HROs that are part of the network access to a power powerful public good.

FIGURE 5
Network of ties: Ford HROs in the
Yearbook of International Organizations, 2013/2014

- Ford HROs
- HROs tied to one Ford HRO
- HROs tied to multiple Ford HROs
- Ties from Ford HROs = 272
- Ties between Ford HROs = 17
- Number of shared ties = 29



- 1. Amnesty International – 20 ties
- 2. Asian Forum for Human Rights and Development – 12 ties
- 3. Association for Women's Rights in Development – 82 ties
- 4. Crisis Action – 53 ties
- 5. Human Rights Watch – 30 ties
- 6. International Federation of Human Rights Leagues – 27 ties
- 7. International Network for Economic, Social and Cultural Rights – 48 ties
- 8. Global Witness – no tie info
- 9. Conectas Human Rights – no tie info
- 10. Witness – no tie info

Conclusion

The work of Keck and Sikkink (1998) opened up a wealth of empirical propositions and theoretical arguments that provide a rich panorama of opportunities for exploration via events-data and network methods. Drawing on events-data methods, we were previously able to help confirm quantitatively that HROs can improve human rights practices in repressive regimes. We were also able to confirm that naming and shaming can lead individuals to change their beliefs and can lead to foreign policy actions by third-party states about a repressive regime. Drawing on network methods, we were able to show the importance of networking for the output of individual organizations.

Examining the empirical implications of Keck and Sikkink (1998) in these quantitative ways has also helped us push the literature forward to examine additional pathways through which HROs can influence states, such as through “neighborhood” effects that involve organizations geographically close to the repressive state (Bell, Clay, and Murdie 2012; Bell et al. 2014). It has also helped motivate us to examine in detail the differences in network position and potential influence between organizations in the global North and those in the global South.

Every exploration opens up as many questions as it answers. Having confirmed the importance of naming and shaming, we examined the evolution of visibility over time. The discovery of a sharp shift from rising to falling visibility at the turn of the millennium raises new questions about the future of naming and shaming as a central weapon in the arsenal of HROs. And having confirmed the value of networks linking together HROs, looking at the uneven distribution of network ties within human rights networks was an obvious next step. This in turn raised the question of trade-offs between the relative privileging of centrally placed HROs within the networks and the enhanced value of the network as a public good for less central HROs.

Keck and Sikkink’s legacy is alive and growing. We hope that our efforts to build on it will encourage another generation of scholars to use the array of empirical methods that have been developed to add new theoretically informed, substantively telling elements to the unfolding story of how transnational advocacy networks contribute to securing and defending human rights.

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3. Transnational Activist Networks and South-South Economic Relations

Kathryn Hochstetler

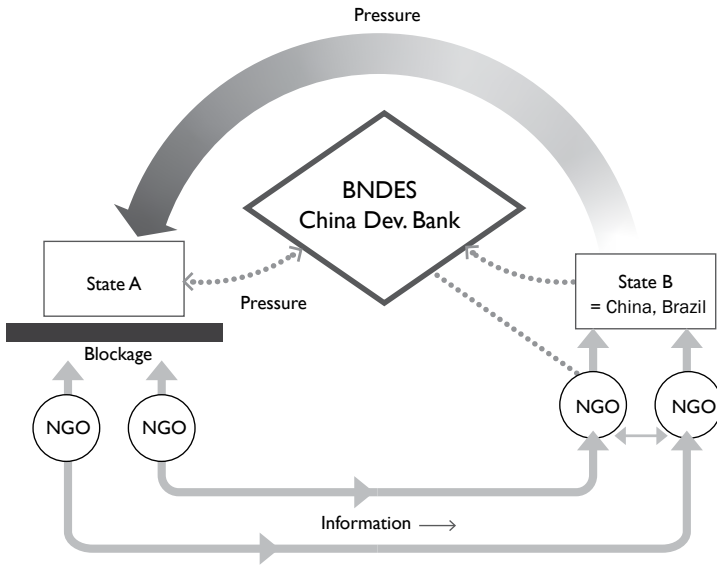
In the twenty-first century, economic power has begun to shift from its longtime home in the North Atlantic region to the east and south. A set of large emerging powers, including Brazil, China, and India, occupy an ever-larger share of international production, trade, and financial power. They also have deepened their economic relations with one another and are even creating new international economic institutions that may compete with the postwar liberal institutions (Chin 2014; Hurrell 2006; Najam and Thrasher 2012; Wade 2011). Daily headlines and an extensive academic literature have explored the implications of the rise of these emerging powers for current economic powers, especially the United States (e.g., Beeson 2009; Ikenberry, Mastanduno, and Wohlforth 2009; Layne 2012; Legro 2007). Other international relations—such as those among transnational activists with emancipatory aims—are also presumably affected by the growing density and importance of South-South economic relations, but few scholars have looked systematically at the impact.

This chapter sets out an agenda for future study of how the rising centrality of Southern economic powers affects transnational activist networks (TANs). Can TANs still be successful when they target, for example, Chinese financing for projects in Venezuela or Angola? Can Brazilian multinational corporations be influenced by the same strategies used to sway the actions of a Nike Corporation or a McDonald's? Will successful TANs generally include the same kinds of actors and strategies, or will they need to adapt to keep their influence in a world where South-South economic relations are increasingly important? Do networks of Southern rights activists have the density and resources they need? How can Northern rights activists support Southern initiatives?

My analytical approach to these questions is to work through the links of the classic “boomerang” strategy, showing how they might change when all state actors are in the global South. While much

transnational activism takes other forms, the boomerang pattern is a common TAN strategy when the target is “a state’s domestic policies or behavior” (Keck and Sikkink 1998, 12). Figure 1 is based on Margaret Keck and Kathryn Sikkink’s *Activists beyond Borders* and shows a modified boomerang pattern: nongovernmental organizations (NGOs) that are blocked from influencing their home State A (link 1) seek international allies (link 2) to move these allies’ State B (link 3) to directly (link 4) and indirectly (link 5) pressure the original state. Much of this chapter is spent looking at each of these individual links to see how they might be different for South-South relations.

FIGURE 1
Boomerang pattern as revised for South-South financing



SOURCE: Adapted from Keck and Sikkink (1998, 13)

In addition to orienting this chapter, figure 1 is also useful as a reminder that states are central actors in much transnational advocacy. In link 1, they appear as blocks to social movements carrying emancipatory agendas. In other links, however, states appear as allies to TANs, often forming integral parts of their networks. Even in a globalized world of many kinds of transnational actors, states continue to have central positions due to their authority and legal status. They also wield significant economic and normative resources, on their own and through international institutions, which can give them leverage over

one another. The next section sketches how some Southern countries have amassed and used economic resources, a key to their new roles in transnational activism. I focus on China and Brazil, which have been most active to date.

The Rise of South-South Financing, Investment, and Multinational Corporations

The turn of the twenty-first century ushered in an unprecedented commodity boom in the developing world that led to a corresponding surge in state-planned infrastructure projects. Since then, indigenous rights and environmental groups have decried the heavy socioenvironmental impacts of these projects, which often come without adequate consultation or compensation. In a historic shift, the financing agencies and firms involved in such projects are increasingly from Southern countries rather than the traditional multilateral development banks and Northern multinational corporations (Bräutigam 2009; Gallagher and Porzecanski 2010).

China is particularly prominent in these developments. While the country is not at all transparent about its lending, conservative estimates maintain that it committed about US\$132 billion to finance projects in Latin America and Africa between 2003 and 2011 (Bräutigam and Gallagher 2014, 346)—and the pace of lending has increased since. Chinese lending to Africa between 2001 and 2010 totaled more than World Bank lending during those years, or about US\$67 billion (Alves 2013; Bräutigam 2009, 151). Both its international financing and the activities of its international firms are concentrated in the infrastructure and natural resource extraction sectors in Southern countries.

In June 2015, Brazil's national development bank (known by its Portuguese initials, BNDES) electronically posted detailed information about its international financing for the first time—in part because of pressure from Brazilian and international rights activists (Sierra and Hochstetler 2017, 767). This financing is for exports of Brazilian goods and services (Hochstetler 2014a). Between 2003 and 2015, the bank provided US\$14.5 billion to finance Brazilian firms to build infrastructure projects abroad, the kinds of projects that have historically generated TANs (Sierra and Hochstetler 2017, 764). In practice, these funds often mean that a Brazilian firm such as Odebrecht or OAS will be constructing a road or dam in a Southern country. Angola alone had US\$3.38 billion of those contracts from 2007 to 2014, and Argentina, the Dominican Republic, and Venezuela each had around US\$2 billion (Hochstetler 2014a).

Financing from Brazil and China is often directly tied to the use of these countries' firms, especially in the Brazilian case (Hochstetler 2014b). However, both countries have taken a principled stand against placing sovereignty-limiting conditions—like the structural adjustment requirements of the International Monetary Fund—on other developing countries (Alden and Hughes 2009; Bräutigam 2009; White 2013). They also have not placed environmental, labor rights, or human rights conditions that go beyond the policies of the recipient country (Compagnon and Alejandro 2013; Hochstetler 2014b). As recent loan and aid recipients themselves, Brazil and China have emphasized that countries should retain control over their own development choices. In addition, they have been unabashed in saying that, as still-developing countries, they also need to benefit from their economic relations—whether aid, trade, or financing—with other developing countries (Alden and Hughes 2009; Alves 2013; Bräutigam 2009; White 2013). Interpretations of these positions have been starkly divided: Some see large emerging powers such as Brazil and China as predatory “sub-imperial” powers or charge them with depriving norms activists of crucial leverage points (Bond 2016; Woods 2008). Others see the absence of attached conditions for South-South financing and economic relations as inherently more equitable and oriented toward the nationally defined development needs of recipients (e.g., Chaturvedi, Fues, and Sideropoulos 2012; Quadir 2013).

Whether the pessimistic or the optimistic view is correct will depend at least in part on whether TANs can continue to successfully pressure in favor of rights. Recent socioenvironmental rights campaigns have targeted a whole set of actors located in the global South—firms, financiers, and state decision makers—making traditional TAN influence routes such as using the US Congress to pressure the World Bank less relevant. As the multilateral institutions of emerging powers, such as the BRICS New Development Bank or the Asian Infrastructure Investment Bank, are developed, this phenomenon will become even more important. What this chapter asks is how these developments will affect the formation and functioning of TANs.

From North-South to South-South TANs

Activists beyond Borders does not frame its argument as being about North-South relations. The boomerang pattern does not require a North-South dimension, either, but one sentence describes a common division of labor:

Linkages are important for both sides: for the less powerful third world actors, networks provide access, leverage, and information (and often money) they could not expect to have on their own; for northern groups, they make credible the assertion that they are struggling with, and not only for, their southern partners. (Keck and Sikkink 1998, 12–13; see also Keck 1995)

In addition, in the book's empirical chapters on human rights, environmental, and gender rights campaigns, B states are primarily from the industrialized world, usually the United States, as are many of the NGOs that receive information from the NGOs of the initial A states. United Nations (UN) agencies and multilateral development banks, strongly influenced by Western/Northern liberal norms, are the empirical intergovernmental organizations that provide leverage points for the networks in these chapters.

While it is difficult to generalize about the many works that use this framework, a survey of the last four years of citations to *Activists beyond Borders* on Google Scholar shows that most empirical studies continue to place developing states and NGOs in the A position and wealthy industrialized states and NGOs in the B position. This chapter thus represents an initial attempt to ask how TAN campaigns are likely to differ when both A and B actors are in the global South. I argue below that the rise of the emerging powers is disruptive to many of the links that have been central to transnational activist campaigns and the boomerang pattern in particular. Links 3, 4, and 5 are especially likely to be weakened as campaigns move south, and link 2 may be as well. At the same time, the contrasts between Brazil and China show that variation *among* Southern states may be as significant as the lines that divide South and North. In addition, the variations in strength across Southern civil societies appear to lie at the heart of the fate of South-South TANs, underlining Louis Bickford's call (in this volume and in Bickford 2014) to build organizational capacity "closer to the ground" and in the global middle-income countries.

Analyzing the South-South Boomerang

While neither TANs nor transnational activism can be reduced to the boomerang pattern, the pattern's links offer a useful framework for thinking about how such activism may be different when all key actors are in the global South. In the classic boomerang pattern, again, NGOs that are blocked from influencing their home State A (link 1) seek international allies (link 2) to move these allies' State B (link 3) to directly (link 4) and indirectly (link 5) pressure the original state.

Link 1: The first step—NGOs trying to approach their own state (State A) and finding it unwelcoming—would not change. This is largely a domestic politics dynamic and so should not be shaped at the outset by international partners. The main point to be made here is that even when countries such as Brazil and China are careful to be responsive to the sovereign preferences of their Southern economic partner states, that position says little about whether the Southern states actually share development preferences with their own citizens. Thus, for example, state elites may eagerly accept unconditional financing from BNDES or the China Development Bank to have those countries' firms build a project that is unwanted by local communities or possibly large majorities. The solidarity attributed to South-South financing is more clearly between states than it is with citizens.

Link 2: There are more significant changes at the second step, where State A NGOs pass on information to other NGOs in hopes that they will be able to influence State B. In the original case studies, the partner NGOs were often of State B or were international NGOs headquartered in wealthy states with substantial resources. If the boomerang continued to operate in the same way, that would imply that the NGOs of State A should now be trying to get information to Chinese or Brazilian NGOs so that they can influence their states. Issues of network density are likely to arise here. While there are few studies of network density in the South, available systematic evidence indicates that the international NGOs that serve as central and effective network nodes are small in number and disproportionately from the North (Murdie and Davis 2011).

Yet there is substantial evidence that Brazilian activists have been working for some time on deepening their connections with other Southern human rights and environmental activists. They have been meeting in various constellations since 2009 to discuss the impact of BNDES-financed projects across South America (Sierra and Hochstetler 2017). Ties among Latin American human rights activists date back to their common struggles against dictatorships in the 1970s and 1980s. Latin American women's and feminist groups built their regional connections beginning with the 1975 UN conference on women in Mexico City, and environmental and indigenous activists did the same with the 1992 environment conference in Rio de Janeiro (Friedman, Hochstetler, and Clark 2001). Networks among Southern activists more generally stem from these kinds of origins and form a backdrop of relationships that can be used for joint action.

Few of these networks include Chinese activists, however—a connections gap that is especially serious given China’s growing economic weight. Southern NGO connections are also notably uneven. For example, Brazilian activists have many connections with Argentine NGOs and some Venezuelan activists, but almost none with Dominican and Angolan NGOs, even though the Dominican Republic and Angola host many projects built by Brazilian firms with BNDES financing (Sierra and Hochstetler 2017).

Link 3: In the third link of the boomerang, the model depends on NGOs being able to influence State B. In several of the classic examples in *Activists beyond Borders*, this took the form of US activists successfully influencing congressional representatives to ask questions and even halt World Bank funding until the NGOs’ concerns were addressed. This link is critically different depending on which Southern state is of interest.

For example, while Brazilian NGOs decry the lack of transparency of their institutions, including BNDES, and feel unable to influence them, they actually have vibrant, if contentious, relations with those institutions. BNDES president Luciano Coutinho and other bank representatives have met with individuals and small groups of activists a number of times since the mid-2000s, and Coutinho came to a 2009 meeting of regional activists. Moreover, Brazilian NGOs have been allowed to testify at the regular congressional hearings investigating BNDES funding. Their pressure has meant increasingly detailed information about BNDES’s operations at home and abroad, although activists still lack information about possible support until after BNDES has decided to provide financing for a given project (Sierra and Hochstetler 2017).

However, for China, there are simply no national (or international) human rights NGOs with which to network that might have influence. Human rights activism is closely controlled. Environmental activism, in contrast, has exploded in recent years, with tens of thousands of protests about the severe pollution in China’s cities. Growing attention to domestic environmental problems has been matched by the introduction of more environmental safeguards in China’s international financing and investments (Compagnon and Alejandro 2013; Hochstetler 2014b), but there are no hints that domestic activists have made that demand or turned their attention internationally.

Link 4: The direct pressure route from State B to State A is less likely to be present, for one of two reasons. One is that State B might have

less commitment to an international norm given that Southern states are less likely to have been active shapers of those norms. This point is often made about China, which has been at pains to assert its dissent from global human rights and democracy norms (Legro 2007; McNally 2012). This is far less true of Brazil, however. Latin American countries were early “norm protagonists” for human rights, driving the pronouncement of the American Declaration of the Rights and Duties of Man even before the UN adopted its similar principle eight months later (Sikkink 2014). Brazil, under a military government, strongly resisted the development of international environmental (and human rights) norms in the 1970s, but it has been very active in helping shape environmental norms at least since it hosted the 1992 UN Conference on Environment and Development (Hochstetler and Keck 2007). Brazil has even been an active promoter of such still-contentious rights claims as those of LGBT movements (Nogueira 2013).

For Brazil, the more critical point is the one raised above: both Brazil and China are much less likely to make interventions that threaten the sovereignty of State A than are states in North America and Europe. This is a long-standing part of the foreign policy of both, and exceptions are few. In recent years, Brazil has occasionally brought pressure on its closest neighbors to resist outright authoritarianism. Even there, however, it has preferred to enable its preferred solution—such as by offering a home to a would-be dictator—rather than force an outcome (Cason 2000).

Link 5: Link 5 was one of the most important in the classic boomerang, whereby State B would use an international institution to pressure State A indirectly. The institution might work through hearings and normative pressure or—as in key environmental cases—by making international financing through the World Bank dependent on compliance with the TAN’s preferred global norm. It is that link through international financing that is most clearly short-circuited by the rise of South-South economic relations. What was once an “intergovernmental organization” is now typically a state bank—and hence more closely tied to and influenced by State B than in the original model, where the intergovernmental organizations are more autonomous from (although linked to) State B.

For the reasons just laid out about direct pressure, Brazil and China are unlikely to want to use their financing agencies to pressure recipients. In addition, whatever the failures of the “greening” of the Bretton Woods Institutions, they have been much improved (Buntaine 2015), while Brazilian and Chinese development banks remain around

where those institutions were in the late 1980s (Hochstetler 2014b). What is striking, then, is that TANs have been able to gain some leverage on BNDES and its projects outside Brazil, in good part by circumventing the Brazilian government and directly pressuring the bank.

As BNDES financing grew rapidly at home and abroad after 2005, networks of Brazilian and international activists that had formed to monitor the historic multilateral development banks began to shift their activism to target their home bank.¹ Brazilians drew on their regional networks and joined activists in other countries to monitor and critique BNDES's international projects and the activities of Brazilian firms (e.g., Instituto Rosa Luxemburg Stiftung 2009). Meetings of Brazilian and other activists have been taking place since 2009, supported in part by funding from Northern NGOs. The meetings have been plagued by divisions even among the Brazilians involved, but they are suggestive that a strategy of direct pressure on a bank can be influential even when a national government and its diplomatic corps cannot be persuaded to act (Sierra and Hochstetler 2017). In June 2015, a group of seventeen regional journalists known as BRIO posted a series of stories about failed BNDES projects in the region. BRIO claims credit for BNDES's decision to openly post information about its international lending on its website.² As noted above, the NGOs' ability to pressure BNDES depends on their access to a number of tools of democratic governance and on the bank's inclination to respond with increased transparency and accessibility (within limits) to activists.

Conclusion

Keck and Sikkink suggest in *Activists beyond Borders* that variations in network influence depend on issue characteristics, network density, and target vulnerability (1998, 26–29). Many of the reasons for weak links in South-South boomerangs are likely to be related to the final two of these three. However, the framework misses the greater reluctance of Brazilian and Chinese officials—and presumably those of other Southern states—to “offer material incentives or . . . [to impose] sanctions” for norm compliance (ibid., 29), critical for taking advantage of target vulnerability. They have, until recently, lacked the resources for hegemonic leadership as it has been conceived in the international relations literature (Burgess 2009). Both countries and their shared

1 Interview with two officials of RedeBrasil, 2009, Brasília.

2 The BRIO stories are available at <http://www.convoca.pe/especiales/lamano-invisible-del-bndes-en-america-latina>. BNDES publishes information on its lending at <https://www.bndes.gov.br/wps/portal/site/home/transparencia>

institutions, such as the incipient New Development Bank of BRICS countries, also take a principled stance against the kind of sovereignty-limiting conditions that traditional institutions have imposed as leverage—opposition they have shared with third world activists (Keck and Sikkink 1998, 215). Thus, I am suggesting that Southern State Bs will be less willing to complete the boomerang toss than Northern states have been, even though they may have more direct control over leverage instruments. However, this is not the final word on South-South TANs.

As the Brazilian examples throughout this chapter show, there is a great deal of potential for other pieces of the boomerang to operate. While they are unevenly present and sometimes only incipient, there are activist networks in operation inside the global South. They have grown up around events such as UN conferences and regional collective problem solving. They can be further supported and nurtured. Therefore, the bottom half of the boomerang shows a great deal of potential, even if the top half's links are more tenuous and resisted. The BNDES example also shows that networks of activists can find their ways around unresponsive links, going directly to the leverage institutions (Sierra and Hochstetler 2017). It is worth remembering that the Reagan administration and its State Department in the 1980s were hardly supporters of using the World Bank to force countries to protect the environment. NGOs at the time targeted opposition Democratic congressional representatives in exactly the same way that Southern-based TANs will now need to work whatever points of access they have. It seems likely that Brazilian activists and their allies will do just that.

The Chinese examples throughout this chapter offer the other caution, however, which is that some South-South economic relations seem to offer very few of the links necessary for a successful TAN. Here, activism may most effectively consist of strengthening civil society in the countries where Chinese projects are carried out. The *New York Times* has reported that “one large Chinese rail venture after another has come crashing against the hard realities of Latin American politics, resistance from environmental groups, and a growing wariness toward China” (Romero 2015). This verdict suggests that at least one piece is in place and can be built on. As other chapters in this book elaborate, transnational activism does not follow a single formula, even if the boomerang is an elegant and clarifying model of some of its formative international mobilizations.

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4. Transnational Advocacy and Human Rights Activism at the Global Middle

Louis Bickford

As conceived by Margaret Keck and Kathryn Sikkink in *Activists beyond Borders* (1998), transnational advocacy networks (TANs) were dynamic self-constituting movement structures in the 1980s and 1990s that tended to emerge during human rights and environmental campaigns because they were effective for accomplishing movement goals. The emergence of TANs, furthermore, helped reinforce an underlying movement architecture. Within the human rights movement, the classic TAN model was based on two types of nongovernmental organizations (NGOs) that emerged in the 1970s and continued for decades thereafter: on the one hand, there was a set of *domestic* NGOs working at the local level. These were organizations that acted courageously in the face of dictatorships and authoritarian rule, for example, or against apartheid in South Africa. On the other hand, there were a set of *international* NGOs (INGOs), based largely in the global North, which advocated to constituencies and power-holders in those countries and were fueled by solidarity movements and the willingness of Northern governmental actors to stand up for human rights as a component of foreign policy.

This bifurcated structure—national NGOs and INGOs—was reinforced by my own institution, the Ford Foundation, whose human rights funding was also split into two streams beginning in the late 1970s (Korey 2007, 22–35; Carmichael 2001, 261–81; see also Rockefeller Archive Center 1979a, 1979b; Picken 1995). As recognized by Keck and Sikkink (1998), donor agencies such as the Ford Foundation are important actors in TANs. Far from being simply sources of cash, foundations play a diversity of roles, from convening, to strategic framing, to participating in communities of practice. Although TANs emerged organically in the 1980s and 1990s because they made sense for movement goals, their underlying structure was then strengthened by funding patterns from major philanthropic supporters. At the Ford

Foundation, a global human rights program¹ was aimed at supporting INGOs, while regional and national offices developed support for national-level NGOs. This support, in turn, further consolidated the bifurcation and, as discussed below, had the unintended consequence of helping create a distance between national and international NGOs, which culminated in the early 2000s, when INGOs found themselves severely criticized for being too far away from the problems they sought to solve.

Since that time, there have been numerous changes in the world, and the bifurcated structure no longer accurately maps onto the (present or future) structure of the international human rights movement. Indeed, as I have argued elsewhere (see Bickford 2015a), there is an increasing “convergence toward the global middle” as national NGOs become increasingly internationalized and networked (both horizontally along a South-South axis and vertically between Northern and Southern NGOs) and as INGOs become increasingly aware of the strategic and programmatic importance of being “closer to the ground.”

These changes have, over time, caused the Ford Foundation and other donors to rethink the ways in which they support the human rights movement. Within the Ford Foundation, this has resulted in a shift in its funding strategy, perhaps best understood by the commitment, instituted in 2012, to award US\$50 million to a set of human rights organizations that have sought to diversify the movement, thus supporting *new* transnational advocacy network modalities that are emerging.²

The purpose of this chapter is to describe the ways in which developments over the last decade or so have led to the Ford Foundation’s reevaluation of its global human rights program’s thinking on the nature of TANs, as well as to the unfolding of support for new forms of TANs as they continue to emerge in the twenty-first century.

Below, I examine seven overlapping trends and patterns that have influenced the nature of transnational organizing since the publication of Keck and Sikkink’s volume. The chapter concludes with a description of the ways in which the Ford Foundation’s global human rights

1 This program has been well documented over the years. See Carmichael (2001); Keck and Sikkink (1998); Korey (2007); Picken (1995). Previous incumbents of this position include myself (2011–2017), Monette Zard (2007–2011), Larry Cox (1994–2006), Margo Picken (1988–1993), Stephen P. Marks (1983–1987), Shepard Forman (c1981–1986), and Bruce Bushey (1976–1978). The original design of the program involved consultant Rosalyn Higgins (1973) and staff members Frank Sutton and David Heaps (1975–1976).

2 This initiative was launched through two requests for proposals. The results can be found at Ford Foundation (2012, 2013).

program has sought to adapt to these trends with support to new forms of TANs.

The Emergence of Strong Domestic NGOs

Today's international human rights movement looks very different from the movement of the 1980s. At the heart of this difference is the emergence, since that time, of a multitude of national-level NGOs that are now deeply involved in human rights advocacy (see Neier 2012; Welch 2001; see also *New Tactics in Human Rights Project* 2004). Today, many countries in the world have one or more NGOs whose missions are related to the idea of human rights—the idea that all human beings have fundamental rights (including rights to basic freedoms, as well as rights to basic needs) that must be realized—and that follow specific strategies in order to accomplish these missions. In addition to a proliferation of NGOs, there has also been an increase in the number and kinds of missions and strategies. No longer are human rights NGOs simply about “stopping abuse” by using “naming and shaming” strategies, for example—today's NGOs are involved in everything from articulating regulatory frameworks for mining companies operating in Colombia to launching participatory theater projects in Afghanistan.

Indeed, the diversification of themes and topics is also important for understanding how and why TANs began to change in the 2000s. Starting in the early 1990s, for example, with the end of the Cold War, organizations focusing on economic and social rights began to gain visibility. INGOs operating in this arena³ did not necessarily seek the same kind of international organizing patterns to achieve their goals (see Jochnick and Bickford 2016), as discussed in more depth below.

Alongside the proliferation of new human rights organizations, there has been an “NGO-ization” of the human rights movement (see, e.g., Baxi 2007, 60–66), which, in no small part, has also been facilitated by private foundations, since professional groups with NGO legal status are ostensibly more reliable, safer, and easier investments for foundation dollars. Beyond the legal and administrative rationale, moreover, donor agencies have been committed to building the capacity of domestic human rights NGOs for many years, believing that such organizations are the core of an effective social change strategy (see Welch 2001). Following the lead of national human rights NGOs and leaders, these significant investments in NGO capacity building over

3 For example, the field-building Center for Economic and Social Rights was founded in 1993.

many years have contributed to the creation of vibrant national human rights communities.

These well-developed national human rights NGOs seek foundation support alongside the large INGOs that have grown up over the past thirty years. The fact that there is an abundance of strong and competent nationally rooted NGOs seeking funding forces funders to make difficult decisions—often zero-sum choices—between organizations that have a strong national presence and impact and often have lower operating budgets, and organizations that are operating from a distance, frequently on the same problems.

These domestic NGOs also, in many cases, engage both “downward” toward vibrant social movements in those countries (see Nader 2014) (and South-South global organizing) and “upward” toward national political opportunity structures, such national human rights institutions, ombudspersons’ offices, local investigative journalists, truth commissions, and national legislatures. In this sense, it is useful to see many of these NGOs as existing in the “middle” between the global and the local—or, in Sally Engle Merry’s words, as “translators” (Merry 2006). The relationship between an increase in human rights NGOs and an increase in political opportunity structures at the national level is synergistic and logical—and it creates more vibrant spheres of activity at the national level, thus removing some of the need for state-to-state pressure as described in *Activists beyond Borders* (Keck and Sikkink 1998) and shifting the burden of action from INGOs to national NGOs.

The Deepening Emphasis on National Compliance and Policy Development

In 1993, the World Conference on Human Rights called for a number of system-level changes in global institutions, including increased attention to the creation and ratification of treaties, conventions, and offices, most notably the Office of the United Nations High Commissioner for Human Rights.⁴ Before and following the conference, a wide variety of norms and institutions were developed and created, including what, by 2015, constituted an enormously robust international human rights system consisting of human rights monitoring and promotion (e.g., the United Nations Human Rights Council, Special Procedures, Universal Periodic Review, and so forth), as well regional human rights systems. The declaration from the 1993 conference captures a historic moment

4 Vienna Declaration and Programme of Action, World Conference on Human Rights, Vienna, June 25, 1993.

in which the human rights movement was not only deeply engaged in standard setting (see Welch 2001, 3–5) and the development of norms and institutions, on the one hand, but also characterized by a growing awareness that norm setting was not enough, on its own, to secure rights. Indeed, the “universal ratification of international human rights treaties and protocols adopted within the framework of the United Nations system”⁵ called for in the conference declaration needed to be followed by the *implementation* of these norms at the national level in order to actually make a difference in people’s lives. In other words, since at least 1993, if not before, there has been a commitment to recognize, in Mary Robinson’s words, that “all human rights begin and end at home, at the national and local levels” and that the entire human rights system—the complex and diverse sets of interlocking norms and institutions—is no more than “a support structure to that, the central focus of human rights concern” (Robinson 2002). Two decades after the conference, it was clear that it had become essential for the movement to move “beyond conventions” (see Ford Foundation 2011) and toward the full realization of rights on the ground.

Indeed, the logic of the implementation of rights—at the granular *policy* level—is different from the logic of norm setting. One difference, for example, is in the venues of engagement: whereas norm setting takes place in courts, in legislatures (at the level of writing and passing law), and in international bodies (such as through “soft law” established by the United Nations), *implementation* often requires getting deep into the weeds of policy formation and enforcement. For example, although the signing and ratification of the Rome Statute among states parties helped establish clear norms concerning criminal accountability for crimes against humanity, the implementation of these norms does not automatically follow. Indeed, states need to develop everything from legal procedures to enforcement capacity—putting aside the harder question of political will—before the norms set out in the treaty can possibly be implemented. This latter process is primarily a *national* process that requires deep attention to national institutions, laws, actors, offices, policies, and agencies and requires a different kind of human rights activism. It is hardly a coincidence that an emphasis on compliance was growing at the same time that the first trend mentioned above—the strengthening and diversification of national NGOs—was underway. Indeed, these two trends emerged in tandem.

5 Ibid., para. 100.

The focus on implementation has helped transform (some) human rights “activists” into human rights “policy wonks,” for many professionals in the human rights world now find themselves deeply immersed in policy formulation, regulatory frameworks, and complex legislation. As Martín Abregú put it in 2008, human rights actors “have come to work in an increasingly systematic way with regard to the incorporation of the rights perspective in public policies” (Abregú 2008, 9). This trend would also have an effect on the structure of TANs since in these cases transnational organizing would, logically, be most useful not when advocating at the international level but rather when providing practical policy support or guidance to national efforts.

Critiques of INGOs

As the shift toward realization and compliance—including the development of complex national policy instruments and regulatory frameworks—took place alongside the emergence of strong, capable national NGOs, the role of INGOs increasingly seemed less vital to the global movement ecosystem. We might expect that INGOs would come under scrutiny as the old TAN structure, which had centered on a certain variety of human rights campaign, was increasingly being complemented by a wide diversity of human rights activism calling for different forms of transnational organizing.

Indeed, for these and other reasons, including the fact that they were conspicuously well funded in comparison to national NGOs, INGOs did come under intense scrutiny and criticism, perhaps most visibly in the early 2000s from sharply provocative publications, including Makau Mutua’s article “Savages, Victims, and Saviors: The Metaphor of Human Rights” (Mutua 2001) and David Kennedy’s article “The International Human Rights Movement: Part of the Problem?” (Kennedy 2002). Taken together, these and related publications presented a scathing critique of human rights INGOs as overly funded by uncritical donors and as useless at best—harmful at worst—to realizing human rights, or at least realizing the rights that national constituencies considered most important. Imbued with flavors of colonialism or *noblesse oblige*, and too removed from the complexities and sensitivities of human rights challenges on the ground, these INGOs inappropriately demanded and were given a central place at the agenda-setting table, and they gobbled up funds that could go much further in less expensive contexts.

INGOs felt the heat.⁶ They were accused of being imperialistic; of “parachuting in” and “not understanding” the national contexts; of ignoring the hard work of national NGOs and treating national partners without recognition or respect; and of being “extractive” by “appropriating” the documentation collected (often at considerable risk) by national NGOs as vital evidence for human rights reports. These glossy reports tended to be produced and distributed in the North, often without adequate attribution. In response, INGOs pledged to be “better partners” and developed internal policies to ensure this.⁷ In fact, the INGOs were being called on to do a lot more than simply recognize the value of Southern NGOs: they were being asked to be *equal* partners, at least, and to follow the priorities set by their nationally based counterparts.

Curiously, however, in a certain way, the TAN ecosystem described in *Activists beyond Borders* actually encouraged relationships between INGOs and national NGOs that could be perceived as “extractive.” This is because Northern NGOs often targeted Northern states and, in order to make their case, required evidence (i.e., documentation) from Southern partners. Indeed, the entire TAN campaign structure required the flow of *information* from South to North, resulting in state-to-state *pressure* from North to South. The critique of human rights INGOs in the 2000s helped call attention to a set of unintended and undesirable dynamics that had emerged as a result of this structure.

More recently, a new set of critiques has questioned the relevance and the future of the international human rights movement. For example, Stephen Hopgood (2012) argues that the movement has become too broadly diffuse, encompassing and giving apparently equal weight to every right in the Universal Declaration of Human Rights. This is both a conceptual problem and, perhaps more importantly, a strategic problem: it is harder to rally social movements and policy makers around such dispersed outcomes. If everything is a “right” (from assembly, to housing, to economic development), then the term ceases to have the same resonance and power that it had when the struggle for rights was more clearly Manichaean and heroic, such as during the fight against Pinochet’s authoritarian rule in the 1980s. In this sense,

6 From 1996 to 2009, I worked in or with a variety of INGOs, including in leadership positions at the International Center for Transitional Justice and the Robert F. Kennedy Center for Justice and Human Rights. The quotations in this section are derived from my experiences.

7 According to its website, for example, Human Rights Watch (2009) believes that “strong partnerships with other nongovernmental organizations (NGOs) an essential tool for achieving impact, and close collaboration with other NGOs has been instrumental in many of our successes.”

the movement, Hopgood argues, has lost its anchor. This position is consistent with Aryeh Neier's insistence that there is a difference between "social justice" and "human rights," in which he argues for focus within the human rights movement on a core set of nonnegotiable rights that should not be part of the complex, fraught, and often zero-sum political processes in the way that social policy (e.g., health, education, and so forth) needs to be. Another critic, Eric Posner (2014) takes aim at international human rights standards and treaties, basically suggesting that dedicating energy to these standards is a waste of time that could be better spent on other pursuits, such as following the Chinese example of getting people out of poverty.

This more recent set of critiques is less directly relevant to TANs than the earlier set of critiques, except insofar as they raise questions about the movement's effectiveness. Indeed, TANs emerged originally because they were effective in achieving goals. If those goals are not being met, then the TAN structure needs to adapt.

The Measurement Revolution

The measurement revolution—that is, the well-documented shift toward measuring impact through program evaluation—was slow to hit the human rights community, but it did hit during the 2000s. Both the slowness and the inevitability were identified during a conference at the Carr Center at Harvard in 2005 (Ignatieff and Desormeau 2005; see also Abregú 2008).⁸

Since that time, there have been a number of analyses of whether human rights activism, especially activism focused on the strengthening of norms, does in fact lead to human rights *change*. Scholars such as Beth Simmons (2009) have made important contributions in examining the purported "compliance gap" between the existence of international norms and the realization of rights on the ground. And scholars such as Emilie Hafner-Burton (2013) have raised provocative questions about whether international norms really matter at all. In the TAN campaign model analyzed in *Activists beyond Borders*, compliance was, of course, also a key question. Compliance was postulated to be, in certain cases, furthered through pressure between states—specifically Northern states pressuring Southern ones to comply with international norms. In the "spiral model" of compliance articulated by Risse, Ropp, and Sikkink (2013), "rule compliant behavior" is the final stage of the spiral. Indeed, according to the authors, at *this* level of compliance,

8 More broadly on the measurement revolution, see Levine and Savedoff (2015).

state-to-state pressure may be less important than the existence of well-developed national policy-making capacity.

For many INGOs, the measurement revolution presented a particular challenge. If it is true that “all human rights begin and end at home, at the national and local levels” (as mentioned above) and many INGOs operate at the level of international politics—that is, working within the international human rights system, or influencing the foreign policy of states, for example—it is sometimes difficult to identify clear causal chains of influence leading to behavioral change at the national level. On the one hand, some INGOs might be able to demonstrate that their action directly resulted in, for example, the release of a political prisoner. That would be direct impact. On the other hand, if the human rights goals are deeper and more long-term, such as to create more transparent institutions, a freer media to report on political prisoners, or stronger legal capacity to defend political prisoners, then it is sometimes difficult to show that an institution working outside of the country has as much impact as a nationally based NGO working on these themes. Similarly, INGOs deeply immersed in standard setting and the development of norms sometimes can demonstrate indirect or hypothesized impact (e.g., that new norms *should* lead to changes in behavior) but find it hard to demonstrate direct and measurable impact. Indeed, the compliance-gap research mentioned earlier zeroed in on exactly this conundrum. Finally, the capacity to *measure* national-level change is arguably better located within entities on the ground than within organizations operating from far away, except when measurements are meant to be cross-national or comparative, such as Human Rights Watch’s *World Report* or Freedom House’s index.

US\$100 Million to Human Rights Watch

In 2010, philanthropist George Soros pledged US\$100 million to Human Rights Watch (HRW) (Pilkington 2010) in order to “expand and deepen [HRW’s] global presence to more effectively protect and promote human rights around the world” (Human Rights Watch 2010). In human rights circles, this triggered some deep questioning about the apparently cozy relationships between INGOs based in the North and their funders (also based in the North). Many human rights leaders, especially from the global South, wondered aloud why Soros had chosen to support a large and already well-funded organization based in New York instead of dozens (or potentially even hundreds) of smaller but still impressive human rights NGOs working in national contexts

around the world.⁹ This may not have been an entirely fair criticism—Soros’s Open Society Foundations in fact *do* support hundreds of local human rights NGOs all over the world—but it nonetheless bothered some observers. This was perhaps especially true because this money was earmarked to help HRW become more global, including by setting up national offices in various countries and therefore competing with national NGOs for attention, staff, and funds. In short, Soros’s vote of confidence in HRW seemed like a poke in the eye for national organizations. Given trends toward local implementation, domestic policy development through legislation, national compliance and monitoring by local groups and national human rights institutions, capacity building, and a general shift toward strengthening national-level organizations, Soros’s gift called into sharp relief some of the perceived inequalities in the field. After all, if the international community really did support domestic action and the realization of rights on the ground in countries of the global South, why did the largest grants always seem to go to large organizations based in the North?¹⁰ And, after decades of capacity building at the national level, why would it be necessary to encourage an INGO to open national offices when existing NGOs were available to do the work?

I believe that one unintended result of Soros’s donation was to create frustration within the human rights movement about the perceived persistence of patterns such as those identified by Mutua and Kennedy a decade earlier, and therefore to influence the field further in the direction of supporting domestic capacity in the global South. Moreover, the donation implicitly raised questions about TANs. The centrality of organizations such as HRW in the human rights universe had been based, at least in part, on their key role in the “boomerang effect” documented by Keck and Sikkink (1998). Along with a few other INGOs (including, for example, Amnesty International and the International Commission of Jurists), HRW had grown in influence because of its connectedness with a range of nationally based partners, but these partners often did not receive the credit—or the funds—commensurate with their role and importance. As classic TAN structures grew less relevant, the INGOs at the center seemed to have a diminished role. So

9 At this moment, I was working as a consultant for the human rights program of the Oak Foundation and, as part of that consultancy, interviewed dozens of human rights leaders on a variety of topics. The Soros gift repeatedly came up during these interviews. Most of the material in this section is based on those interviews.

10 A similar controversy was sparked by the creation of the International Center for Transitional Justice in 2001.

the donation by Soros seemed, to many, to be less forward looking than backward looking in terms of transnational advocacy.¹¹

Digital Technologies

The TAN campaign model identified in *Activists beyond Borders* was the product of the twentieth century in another way, too: the flow of information. At its core, transnational organizing in the human rights sphere depended on the raw material of documentation. This was generally done by activists and professionals who collected information from victims and witnesses of human rights abuse. Sometimes this was in the form of habeas corpus submissions, for example, or the collection of testimonials, or interviews. Often done by lawyers or journalists, these documents became the basis for evidence—whether hard evidence that could be used in courts or simply evidence to influence decision makers or be featured in articles, ideally “above the fold” in the *New York Times* or other international media outlets.

The digital revolution has completely changed both the ways that information is *produced* and the ways that information is *shared*. In terms of the production of information, consider that a sizable percentage of the world’s population today carries around with them, at any given moment, a camera (often including video) on a cell phone. This has enabled forms of citizen journalism—and activism around human rights—that allow for any person to play a role in the recording of abuse by public authorities. Another example is Martus, a downloadable database program that makes it easy for any national NGO to keep track of human rights abuses, identify trends, and analyze data. A third example is the pathbreaking work of the Kenyan NGO Ushahidi in the mass use of SMS texts to generate data about outbreaks of ethnic violence.¹²

In the meantime, as noted above, the focus of human rights activists has moved beyond the kinds of “abuse”—usually violations of civil and political rights—classically associated with the TANs of the 1980s and 1990s. Now, the collection of information might include the use of satellite imagery and other data about the displacement of an

11 For the record, I do not agree with this assessment. On the contrary, my own view is that future TANs are likely to require strong INGOs that act as “solid organizations in a liquid world,” to use Lucia Nader’s phrase from a different context. Another useful lens is provided by Marlies Glasius and Armine Ishkanian in their article “Surreptitious Symbiosis: Engagement between Activists and NGOs” (2015), which looks dynamics that are similar to the relationships between national NGOs and INGOs.

12 Other examples can be found in Alston and Knuckey (2016).

indigenous community because of a new mining concession granted to a multinational company and the analysis of that data by nationally based experts. Or it might involve aggregated data about housing that is developed in partnership with government ministries.

In terms of information sharing, here too the digital revolution has created a more horizontal relationship between national NGOs and INGOs. Because of the speed and ease of internet-based communications, national NGOs can choose whether (and if so, how and when) they need to share information with INGOs. For example, if an NGO has collected data about a massacre in a village, staff can make a strategic decision about how best to use the international press. They can send that information directly to a media outlet, or they can send it to a partner INGO. Any of this can be done instantly, of course. The “boomerang” of the classic TAN model assumed that many of these strategic choices, especially concerning the international sphere, were often made by INGOs that were physically closer to centers of international power and influence. This distance, however, has been shortened.

International Politics: Multipolarity and Emerging South-Based NGO Strategies

In the 1980s and 1990s, the centers of global power and influence on human rights concerns were clearer. The United States, for example, ever since the Carter administration, had included human rights in its foreign policy in one way or another.¹³ And European powers had also taken rights seriously in their trade and foreign relations. The classic TAN model, of course, took this as a given. Human rights advocacy—at the international level—would therefore include advocacy in Washington, DC; London; Paris; and Scandinavian capitals. Such advocacy would also involve New York, Paris, and other global centers of financial power, under the assumption that powerful people in these places could play influential roles.

This has also changed. Although we do not know the exact contours of multipolarity in the twenty-first century, it nonetheless is clear that global power is increasingly decentralized and that there are a growing number of emerging powers with significant influence on

13 There were, of course, important differences between the ways that various US administrations used human rights in foreign policy. The point is that in every administration since Carter, human rights has been on the foreign policy agenda. For an excellent overview of the use of human rights in American foreign policy, see da Vinha (2014).

the global stage. These include Brazil, China, India, Indonesia, Korea, South Africa, and Turkey, among others (see Piccone 2016).

If this is true—and a number of INGOs believe that it is and are developing strategies accordingly (Shetty 2013)—then the specific North/South characteristics of the TANs in *Activists beyond Borders* would be less salient. That is, the directionality of the *Activists beyond Borders* TANs would change, as INGOs based in, say, Brazil (such as Conectas) could seek to influence Brazilian foreign policy around a global concern, such as the conflict in Syria, a coup d'état in Ivory Coast, or migration policy in Mexico. Indeed, a number of INGOs have set up programs in emerging powers precisely to develop this kind of advocacy. This includes Human Rights Watch, Amnesty International, the International Federation for Human Rights, and Crisis Action.

It remains to be seen whether emerging powers will have meaningful influence around value-based foreign policy priorities (such as human rights, democracy, and peacebuilding) and what form this might take (see Qobo 2010). It also remains to be seen whether NGOs—beyond the few INGOs mentioned above—will prioritize advocacy before the foreign policy apparati of various emerging powers. But if these two conditions are met, then we may increasingly see what César Rodríguez-Garavito (2015) calls “multiple boomerangs.”

Conclusion

The work of Keck and Sikkink on transnational advocacy networks has been influential in understanding modes of global organizing within the international human rights movement. Much of what the original work describes, however, belongs to a historical era. Both global conditions and the human rights movement have—in tandem—changed since that time, and the modes of transnational organizing have, unsurprisingly, also shifted to accommodate the new context.

The Ford Foundation's global human rights program, starting in approximately 2012, has moved to support new and different forms of TANs that are more clearly relevant for the twenty-first-century context (see Bickford 2014). In particular, the foundation has asked a basic question about impact: How can we support new modes of transnational organizing that lead to the realization of rights on the ground, given the changing context described in this chapter (see also Bickford 2015b)? There have been primarily three parts to the answer.

First, working closely with partners, the Ford Foundation's global human rights program has sought to identify and support an unusual breed of INGO: strong, nationally based human rights NGOs from the

global South that play leading roles at the international level. The idea is that those kinds of organizations bring a particular perspective to the global “agenda-setting table” because they have a deep connection to understanding, analyzing, and solving national problems.¹⁴ They are also more likely to be connected to both domestic social movements and to national political opportunities. In this sense, the program has sought to expand the epistemological diversity of the international human rights movement.¹⁵ The goal has been to promote the problem-solving approach of many national NGOs that are grappling with the complexities of realizing rights in complicated situations and to bring this set of experiences more directly into international organizing. Moreover, the program has sought to help strengthen the convening power and network influence of these nationally based NGOs and to support their South-South organizing and the sharing of experience across geographies.

Second, the program has sought to work with existing INGOs that are rethinking their own location and comparative advantage in global transnational advocacy networks. Perhaps the best example of this is Amnesty International,¹⁶ whose effort to move “closer to the ground” has resulted in deconcentrating its leadership, program design, management, fundraising, and communications functions to “hubs” all over the world. This ambitious effort is not without its problems and controversies, but if the organization succeeds, which now seems likely, it will become a powerful model for the role of an INGO in the TANs of the future. Other INGOs have also explored how they can be most effective in the changing context and how they can best complement national NGOs and work toward meaningful results that matter to people’s lives.

Third, the program has supported a particular breed of networks that link nationally based organizations and whose secretariats bring added value to the international level. These organizations—such as the venerable International Federation for Human Rights (based in Paris), the International Network for Economic, Social, and Cultural Rights (based in New York), the International Network of Civil Liberties Organizations (based in Buenos Aires), and the Asian Forum for

14 On “agenda setting” see, e.g., Carpenter (2011).

15 I appreciate the work of the “epistemologies of the south” project in informing my thinking here. Professor Boaventura de Sousa Santos organized, for example, the international colloquium “Epistemologies of the South” at the University of Coimbra, Portugal, on July 10–12, 2014 (see criticallegalthinking.com/2013/09/26/international-colloquium-epistemologies-south).

16 For an excellent description of this ambitious program, see Shetty (2015).

Human Rights and Development (based in Bangkok)—ultimately seek to empower members (at the national level) and make them more effective while at the same time channeling national-level knowledge and strategy to the international level.

The global human rights program's funding has followed existing trends in transnational organizing that have emerged in the last decade. This funding strategy builds on a long history of support for human rights by the Ford Foundation since at least 1975 and, by some accounts, much longer.¹⁷ The ultimate goal of this support has been to help strengthen the human rights movement's ability to influence the realization of rights for human beings, especially the most marginalized and powerless. Transnational advocacy networks are clearly a part of the organizing of the twenty-first century.

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5. Transnational Advocacy and Local State Capacity: The Peruvian Ombuds Office and the Protection of Indigenous Rights

Maritza Paredes

This chapter aims to show the importance of local state actors' capacity for successful advocacy. Although the role of nonstate actors in the global construction of norms was exemplified in 1998 by Margaret Keck and Kathryn Sikkink in their book *Activists beyond Borders*, today the challenge of ensuring effective local compliance with these global norms and principles requires an additional look at the changing relations between transnational advocacy networks and state actors. In this light, the chapter explores how the effective advocacy efforts of local state actors within targeted states can contribute to the overall international advocacy goals concerning a particular issue. Specifically, it looks at Peru's effective implementation of global norms on indigenous populations that was facilitated by the exceptional work of the country's Ombuds Office.

As with the cases studied by Keck and Sikkink (concerning human rights, the environment, and violence against women), transnational activism on indigenous peoples' rights has stimulated the creation of institutions to protect the rights of indigenous communities. The literature on transnational activism, however, often fails to explain why compliance and implementation differ across settings despite similar transnational advocacy pressures. International pressures have been relatively successful in persuading political elites in Latin America that indigenous rights and principles are universally desirable and even pragmatic. Yet the divergent levels of compliance and implementation at the local level indicate that such pressures are not always successful in translating global norms into concrete policies and state action.

This chapter underlines the importance of advocacy efforts by local state actors in influencing and facilitating the implementation of indigenous activists' goals at the domestic level. The crucial role played by the Peruvian Ombuds Office in institutionalizing prior consultation with indigenous communities, in creating a Vice Ministry of Intercultural Affairs, and in developing criteria for the official recognition of

indigenous communities in Peru reveals the importance of synergies between transnational activism and local state actors and shows that state actors can play different roles in the ecosystem of transnational activism.

The case of the Peruvian Ombuds Office is particularly relevant for transnational activism because the office constitutes a national human rights institution that has been developed in part thanks to the actions of transnational human rights advocates (Goodman and Pegram 2012).¹ This chapter explains how the Ombuds Office mastered the “art of persuasion” in order to gain influence within Peru’s hostile state ecosystem with regard to the implementation of global norms on indigenous peoples. This art of persuasion means, for the first and most emblematic ombudsman, Jorge Santisteban, the two-part task of “listening to the people . . . [and] persuading authorities . . . to respect human rights” (Luque 2014, 257).

The first section describes the role of transnational indigenous advocacy in the formation of global institutions aimed at protecting indigenous peoples’ territories and cultures; the second section then describes the important role played by the Peruvian Ombuds Office in the implementation of the International Labour Organization (ILO) convention that enshrines the right to prior consultation; the third section discusses the development of the office’s legitimacy and capacity, as well as its connection to the international human rights movement; and finally, the conclusion explores the broader implications of this case.

Transnational Advocacy Networks and the Globalization of Indigenous Rights

ILO Convention 169 of 1989 is the fundamental international treaty on indigenous rights. Specifically, the convention recognizes indigenous peoples’ right to free, prior, and informed consultation with regard to development projects and planning measures, including the exploitation and conservation of natural resources, that stand to affect these peoples directly. After a country ratifies the convention, it has one year to align its domestic legislation, policies, and programs to the convention before the instrument becomes legally binding. The convention

1 Quoting the United Nations, Ryan Goodman and Thomas Pegram (2012, 1) note that “a national human rights institution . . . is broadly defined as ‘a body which is established by a government under the constitution, or by law or decree, the functions of which are specifically designed in terms of the promotion and protection of human rights.’”

subjects countries to supervision with regard to its implementation. In 1990, the Inter-American Commission on Human Rights established the Office of the Special Rapporteur on the Rights of Indigenous Peoples to devote attention to the indigenous peoples of the Americas, who are “particularly vulnerable to human rights violations, and to strengthen, promote, and systematize the Commission’s own work in this area” (Organization of American States n.d.).

Transnational advocates were essential to the construction of global norms on indigenous peoples. Advocates from nongovernmental organizations (NGOs) in the global North were important, but so were the efforts of indigenous organizations, which created a process of “counterhegemonic globalization” that changed the international legal obligations of states with regard to indigenous and tribal communities (Santos and Rodríguez-Garavito 2007).² The Barbados Conference of 1971 had a major impact on the transformation of an indigenous governance paradigm based on respect for indigenous peoples’ rights to self-government and self-representation (Ramos 2010). The newly created International Work Group for Indigenous Affairs and Survival International, working together with indigenous groups, pressured European governments to take action in defense of indigenous peoples throughout Latin America, strengthening networks and incentivizing indigenous leaders to participate in international meetings. The result was ILO Convention 169, which replaced ILO Convention 107 of 1957. The earlier convention had advocated assimilationist goals with respect to indigenous populations and was founded on the general assumption that indigenous and tribal populations were temporary societies destined to disappear with “modernization” (Brysk 2000, 126). The later convention offered a new paradigm for indigenous governance and changed the concept of indigenous and tribal “populations” to one of indigenous and tribal “peoples,” recognizing their sovereignty as original nations, the permanent status of their societies, and the need for recognition of and respect for their cultural and ethnic diversity.

Most new democracies in Latin America ratified ILO Convention 169 during the first few years following its enactment (see table 1). Some countries initially refused to ratify the treaty, arguing that the recognition of indigenous groups as *peoples* instead of *populations* affected these countries’ sovereignty (Ramos 2010). In the twenty-first century, however, even these countries, such as Chile and Brazil, succumbed to the pressures of indigenous globalized governance.

2 Peter Evans (2008, 2012) uses the concept of counterhegemonic globalization to describe the globally organized effort of social movements to fight the international neoliberal regime.

TABLE I**Indigenous populations in Latin America and ILO Convention 169**

Country	Total population	Total indigenous population	Indigenous population as a % of total population	Date ILO Convention 169 was ratified
Mexico	112,336,538	16,933,283	15.1%	Sept. 5, 1990
Ecuador	14,483,499	1,018,176	7%	May 15, 1990
Colombia	46,448,000	1,559,852	3.4%	Aug. 7, 1991
Bolivia	9,995,000	6,216,026	62.2%	Dec. 11, 1991
Costa Rica	4,301,712	104,143	2.4%	Apr. 2, 1993
Paraguay	6,232,511	112,848	1.8%	Aug. 10, 1993
Peru	29,272,000	7,021,271	24%	Feb. 2, 1994
Honduras	7,619,000	536,541	7%	Mar. 28, 1995
Guatemala	14,334,000	5,881,009	41%	June 5, 1996
Argentina	40,117,096	955,032	2.4%	July 3, 2000
Venezuela	27,227,930	724,592	2.7%	May 22, 2002
Brazil	190,755,799	896,917	0.5%	July 25, 2002
Chile	16,341,929	1,805,243	11%	Sept. 15, 2008
Nicaragua	5,813,000	518,104	8.9%	Aug. 25, 2010
Panama	3,405,813	417,559	12.3%	Not ratified
Uruguay	3,251,654	76,452	2.4%	Not ratified
El Salvador	6,128,000	14,408	0.2%	Not ratified

Sources: Economic Commission for Latin America and the Caribbean (2014); International Labour Organization (2018)

Note: The population data collected by the Economic Commission for Latin America and the Caribbean varies by type of source; many of the numbers are estimates performed by the commission's Latin American and Caribbean Demographic Centre.

Although most Latin American states have ratified the convention, their institutionalization of the norm on prior consultation has been weak. The treaty does not specify what a consultation entails, merely mentioning that one must be held. Moreover, due to the region's recent resource boom, state leaders are reluctant to protect indigenous communities' rights, which they see as standing in the way of economic "progress." This boom cycle has increased contentious relations between indigenous peoples and governments in the region, as states seek to expand extractive industries in order to increase economic growth. The expansion of extractive industries takes place in a context

of vulnerability of indigenous territories; harsh competition for natural resources such as water, lands, and forests; and the ongoing degradation of indigenous peoples' environments (Bebbington et al. 2008). Thus, in many countries, indigenous organizations have invoked their right to be consulted when opposing an extractive operation in their territories. Although the treaty's language is considered weak by many, especially compared to the standard of "consent" that some activists had in mind, many communities in the region have fought for the institutionalization of this global norm (Ameller et al. 2012).

Few states that have ratified ILO 169 have started implementing consultations with indigenous peoples, and even fewer have developed institutions charged with clarifying the consultation process and ensuring that it is carried out. In Bolivia, transnational hydrocarbon firms evade the mandated consultation standards of ILO Convention 169 by performing their own "consultations" on indigenous Guarani lands; in addition, the country's hydrocarbon law opens up legislative loopholes because it "requires that firms conform to the directives of ILO 169, but delegates responsibility for the consultation to the firm itself" (Perreault 2008, 12). This law does not outline protocols for the processes that must be followed and does not guarantee the active participation of indigenous peoples. Meanwhile, in the case of Ecuador, state officials offer prior consultation as an "information session" rather than using the constitutional language of collective rights invoked by activists (Falleti and Riofrancos 2014, 15).

Unlike Bolivia and Ecuador, Colombia and Peru have made important progress in institutionalizing the prior consultation process. In Colombia, institutionalization has taken place through the development of judicial mandates by the Constitutional Court. In Peru, institutionalization has occurred through legal reform. Peru has taken significant steps to legally clarify what the prior consultation procedure entails and is the only country in Latin America to have passed a law on the issue.³ In addition, it has created a governmental body (the Vice Ministry of Intercultural Affairs) tasked with overseeing and managing the implementation of the new law. Peru has also issued a new regulation with clear protocols on the processes that must be followed and has prepared a database of indigenous peoples that should be consulted. Although the process is far from being free of questions, concerns, and even conflicts, approximately forty prior consultation processes

3 The law requires indigenous groups to be consulted on matters of resource governance (for example, mining licenses for territories traditionally occupied by indigenous groups, the establishment of conservation areas, the construction of roads, and so forth).

involving hundreds of communities are currently underway, and various communities are demanding others (Schilling-Vacaflor and Flemmer 2015).

The Case of Peru: The Ombuds Office and the Implementation of Global Norms on Indigenous Peoples

The case of Peru emerges as an interesting example of the implementation of global norms on indigenous peoples. It illustrates the importance of local-level state capacity in ensuring the achievement of a transnational advocacy goal.

The Ombuds Office and Prior Consultation with Indigenous Peoples

In June 2008, the García administration received the power to approve a package of legislative decrees in order to adjust the Peruvian legal system to conform to recent free trade agreements made with the United States. This package contained more than a hundred decrees, eight of which reduced the protection of indigenous communities' land rights.⁴ The package aimed to make it easier for private companies to buy land and to make capital investments in the extraction of metals and other natural resources, both in the Amazon and the Andes (Benavides 2010).

In 2008, indigenous organizations initiated a series of demonstrations concentrated in the Amazonas region that were known as the "Amazonian protests" (*paro amazónico*), which were the largest of their kind in Peruvian history. President García decided to fight these mobilizations by appealing to the rest of the country. Throughout the next few months, he publicly announced the government's intention to "bring value" to the considerable Amazonian and Andean extensions of land that were being "wasted" by the collective and ancestral use of indigenous peoples. In a public campaign led by the president himself, the government portrayed communal rights as an impediment to the country's economic development (García 2007a). García authored a trilogy entitled "El Perro del Hortelano ("The Dog in the Manger") in *El Comercio*, the country's most important newspaper. In these articles, he accused indigenous peoples as being "incapable" of producing economic goods on their "abandoned" lands while also unwilling to allow

4 Legislative Decrees 994, 1064, 1015, 1073, 1079, 1081, 1089, and 1090 directly affected indigenous rights by facilitating the signing of oil and mining contracts on communal lands without prior consultation.

others, such as large private investors, to do so (García 2007a, 2007b, 2008).

The result of the president's interventions was a growth of protests during 2008–2009. The government's hostility toward indigenous critics of these legislative decrees, coupled with indigenous organizations' refusal to free the roads they had been blocking, resulted in a violent confrontation in Bagua Province between police officers and hundreds of indigenous protesters in June 2009. The confrontation left thirty-three people dead (including police officers and protesters alike), many protestors detained, and hundreds of people wounded (Anaya 2010; Benavides 2010).

After these dreadful results in Bagua, the state was pressed to establish a dialogue with indigenous groups, which led to the creation of four working groups by the end of June 2009.⁵ One of these working groups was tasked with exploring the issue of prior consultation.⁶ The composition of these groups, which held sessions over the next six months, included a diverse set of actors: executive officials (including those from the agricultural, mining, and finance sectors); representatives of the Ombuds Office; presidents of regional governments; leaders of national indigenous organizations;⁷ leaders of regional indigenous organizations;⁸ and representatives of domestic and international NGOs.⁹ The Ministry of Agriculture was designated to

5 Grupo Nacional de Coordinación de Desarrollo de los Pueblos Amazónicos, established through Resolución Suprema 117-2009-PCM, June 10, 2009.

6 The following paragraphs draw largely on interviews with public officials carried out as part of an ongoing research project on prior consultation in Peru.

7 Asociación Interétnica de Desarrollo de la Selva Peruana; Confederación Campesina del Perú; Confederación Nacional Agraria; Confederación de Comunidades del Perú Afectadas por la Minería; Organización Nacional de Mujeres Indígenas del Perú; Federación de Mujeres Campesina, Rurales, Indígenas, Nativas, Asalariadas del Perú; Central Única Nacional de Rondas Campesinas del Perú; and Unión Nacional de Comunidades Aymaras.

8 Asociación de Nacionalidades Ashaninka del valle Pichis; Asociación Regional de Pueblos Indígenas de Selva Central; Indígenas de Selva Central; Central Ashaninka del Río Ene; Central de Comunidades Nativas de la Selva Central; Comisión Especial Permanente de los Pueblos Indígenas Awajún Wampis; Comité de Gestión del Bajo Urubamba; Consejo Machiguenga del Río Urubamba; Coordinadora Regional de los Pueblos Indígenas de San Lorenzo; Federación de Comunidades Ashaninka del Bajo Perené; Federación Indígena Regional y del Alto Mayo; Organización de Pueblos Indígenas del Oriente; and Organización Regional de los Pueblos Indígenas de la Amazonia Peruana del Norte del Perú.

9 The situation created an opportunity for the construction of pan-ethnic alliances that had not emerged previously. During this crisis, indigenous organizations created the Pacto Unidad, an alliance of eight organizations from

coordinate the working group on prior consultation. However, officers in this ministry were unprepared to assume leadership and to manage the various demands of indigenous organizations in the group.¹⁰

In this context, the Ombuds Office took the leadership of the working group. The Ombuds Office was created by the new Constitution of 1993, under Fujimori's authoritarian regime. Many observers have noted the puzzling emergence of this institution: apparently, the government did not foresee a possible danger in this agency and considered it an opportunity to pacify international critics of the systematic human rights violations committed by the Peruvian state (Roberts and Peceny 1997; Pegrarn 2008). Thus, civil society jurists, without opposition from the government, drafted the Law of the Ombuds Office (Goodman and Pegrarn 2012). Under this law, the Ombuds Office has an autonomous budget, and a two-thirds majority in Congress elects the ombudsperson. Contrary to what the Fujimori government expected, the Ombuds Office rapidly became a prominent actor with significant autonomy. As the Fujimori regime cracked down on the free press and restricted the powers of the legislative and judicial branches, the Ombuds Office increased its popular legitimacy because it embodied the nearly nonexistent democratic credentials that were being called for by the US government and others in the international community (Pegrarn 2008; Roberts and Peceny 1997). Ultimately, the Ombuds Office played an important role in the denunciation of corruption and fraud that resulted in the collapse of the Fujimori regime.

The Ombuds Office had been preparing research and policy recommendations for the implementation of prior consultation with indigenous peoples long before the Bagua conflict. For example, it had founded the Program on Indigenous Persons toward the end of the 1990s and had made the institutionalization of the prior consultation process a top priority.¹¹ For many years, the Ombuds Office had been nurturing important relations with indigenous activists, local and

the Andean and Amazonian regions. This alliance became part of a dynamic activist network that involved the participation of human rights NGOs and the Ombuds Office.

10 At the time of the conflict, the institution in charge of indigenous affairs was the National Institute of Development for the Andean, Amazonian and Afro-Peruvian Peoples (which operated under the Ministry of Women). This institution was extremely weak; for instance, it did not have a budget for two consecutive years (2008 and 2009). When indigenous protests exploded in June 2009, the state did not have an operating indigenous office.

11 Interview with Alicia Abanto, Program on Indigenous Persons, 2015.

national indigenous organizations, and national and international NGOs working on indigenous issues.¹²

In 2006, in the context of the free trade agreement with the United States, the Ombuds Office observed that the García administration was discussing the possibility of creating a legislative package to constrain indigenous peoples' collective property rights. The executive aimed to address the increasing complaints from the business sector about the difficulties of negotiating the purchase of land from indigenous communities. The Ombuds Office realized the danger that these measures posed to indigenous rights and sought a strategy to persuade politicians to pass a prior consultation law. Politicians had to be convinced that such a law would protect indigenous communities' land rights while also preserving the state's sovereignty.

Thus, in 2006, the office sought advice from representatives of the ILO on how to draft a bill on prior consultation. With the ILO's assistance, it prepared a bill that avoided using the conflictive language that was prevalent among the NGO community, thereby increasing its chance for approval by Congress. In addition, the Ombuds Office began to use constitutional litigation to channel indigenous communities' demands. In this regard, it filed a lawsuit before the Constitutional Court against one of the García administration's legislative decrees: Legislative Decree 1015, which reduced from 75% to 50% the number of community votes needed to sell communally owned lands. In its lawsuit, the Ombuds Office argued that the decree was unconstitutional because it was passed without first conducting a prior consultation.¹³

After the fatal outcomes in Bagua, the contributions of the Ombuds Office to the dialogue on prior consultation became crucial for indigenous organizations. The office collaborated with indigenous leaders and NGO representatives in a roundtable dialogue established in Santa Maria de Nieva in July 2009 to discuss a bill on prior consultation. The office's report *The Right to Consultation of Indigenous Peoples* was used as the main basis for discussion, with Ombuds representatives serving

12 Toward the end of the 1990s, and especially during the democratic transition, indigenous issues gained a greater institutional presence within human rights NGOs. In particular, the Coordinadora Nacional de Derechos Humanos (the National Human Rights Coordinating Committee), Instituto de Defensa Legal (Legal Defense Institute), and Asociación Pro Derechos Humanos (Pro Human Rights Association) became involved in indigenous issues. For example, the Coordinadora Nacional de Derechos Humanos founded a working group on indigenous peoples, which was initially composed of NGOs that had traditionally worked with indigenous groups but gradually incorporated new human rights NGOs (see Paredes 2018).

13 Expediente No. 00014-2008-PI/TC.

as facilitators. NGOs were originally invited to participate as guest observers in these roundtables, but their role became more active as the limited technical capacity of the indigenous organizations became clearer. NGOs working on indigenous issues have grown in the last twenty years in Peru and have been a valuable source of technical advice for indigenous leaders (Paredes 2019).

The results of the roundtable dialogue included a variety of proposals, but the one that received the most support by participants was the draft developed by NGOs and indigenous organizations and that drew strongly from the first draft of the Ombuds Office produced in 2006. The final bill was submitted to Congress in December 2009. Without the work of the Ombuds Office and the dynamic collaboration of NGOs, it would have been very difficult for indigenous organizations to construct this piece of legislation. The ombudswoman, Beatriz Merino, gave a speech to Congress the following month, urging it to pass the law. Congress finally approved the bill in May 2010. However, President García vetoed the decision, and the law was not promulgated until the following year,¹⁴ by newly elected president Ollanta Humala.

The creation of the Vice Ministry of Intercultural Affairs in 2010 also represented a crucial expansion of the state's attention to indigenous affairs and some guarantee of the implementation of the prior consultation law. Although the creation of this agency was not associated with the prior consultation law, the Ombuds Office and other civil organizations saw it as an opportunity to ensure the law's implementation. A lawyer from the Ombuds Office was designated as the head of this new vice ministry in 2011. He brought with him the Ombuds Office's experience and its connections to civil society networks acting locally and globally.¹⁵ This gave the new entity a profile different from that of other public agencies and more similar to that of the Ombuds Office.

The Ombuds Office has continued to play a critical role in defending the implementation of global norms on indigenous peoples. One example relates to the opposition faced by the Vice Ministry of Intercultural Affairs from other state actors (as well as the extractive industry) on the issue of who qualifies as "indigenous" for prior consultation. In 2013, Vice Minister of Intercultural Affairs Iván Lanegra resigned, publicly expressing his opposition to pressure from the Ministry of Mines and Energy to exclude indigenous Quechua and Aymara communities

14 Oficio No. 142-2010-DP/SCM, June 21, 2010.

15 Interview with Ivan Lanegra, Vice Ministry of Intercultural Affairs, 2015.

in the Andes from the database on indigenous peoples.¹⁶ The Ministry of Mines and Energy, seeking to facilitate the implementation of resource extraction projects throughout the Andean region, which is home to vast mineral deposits, had argued that Quechua- and Aymara-speaking Andean campesinos should not be considered indigenous because they intermixed with Spanish colonizers centuries ago and were integrated into domestic politics.¹⁷ The Ombuds Office immediately declared that the energy ministry's position was wrong and that it demonstrated a lack of understanding of indigenous rights in international law (Castillo 2013). The office noted that ILO Convention 169 was the best source of guidance for determining who should be considered indigenous and thus entitled to the right to prior consultation.¹⁸

In 2013, the Vice Ministry of Intercultural Affairs released the database of indigenous peoples, which contained fifty-five peoples, including Quechua and Aymara peoples from the Andes.¹⁹ However, the database remains highly controversial within the state and the extractive industry ("Ministro Mayorga: Creación del Ministerio del Ambiente y la Consulta Previa han significado un bache" 2014), both of which have effectively delayed the implementation of prior consultation in the Andes.²⁰ The Ombuds Office has been monitoring this situation, exhorting remediation of the problem. For example, it publicly responds to state officials, politicians, and company representatives when they make negative statements against the prior consultation process. Finally, four years after the passage of the prior consultation law, indigenous communities in the Andes began participating in a consultation process for mining projects (Anaya 2014).²¹

16 Ibid.

17 President Humala endorsed this position on television, arguing that indigenous communities are located mostly in the Amazon and that the Andes region has only "agrarian communities." The right to prior consultation, according to the president, is meant only for those who lack a voice and are unconnected to national political structures ("Ollanta reitera que espíritu de Ley de Consulta es darle voz solo a comunidades nativas" 2013).

18 Article 1 of ILO 169, which outlines to whom the convention applies, avoids a universal definition of indigenous peoples, instead providing general criteria to be taken into account in the recognition of indigenous peoples. These criteria include self-identification; traditional lifestyles; particular cultures, languages, and social organizations; and historical continuity in a given area.

19 The list of peoples is available at http://bdpi.cultura.gob.pe/sites/default/files/Lista_completa_pueblos_indigenas/Listapueblosind%C3%ADgenasuoriginarios.pdf

20 Interview with Ivan Lanegra, Vice Ministry of Intercultural Affairs, 2015.

21 This consultation process has experienced several problems. For example, representatives from the Ombuds Office have expressed concern that the pro-

Transnational Advocacy and Local State Capacity

The role of the Peruvian Ombuds Office in implementing global norms on indigenous peoples—such as the prior consultation process—shows how the capacity of local state actors is an important component of successful advocacy. These actors' legitimacy and strengthened capacity can be attributed in part to their strong connections with transnational human rights networks.

In the case of Peru, indigenous activism interacted intensely with the actions of state actors, such as the Ombuds Office. Officials in this office, however, are not typical bureaucrats. Many of them come from civil society and human rights organizations and are vocal advocates of human rights agendas.²² Their career paths often resemble that of the first ombudsman, Jorge Sántistevan, a Peruvian lawyer who began his career at a local NGO—the Centro de Estudios y Promoción del Desarrollo (Center for the Study and Promotion of Development)—and then worked at the ILO and the United Nations High Commissioner for Refugees.

The Ombuds Office's ability to recruit talented staff from human rights NGOs and university networks contributes to its identity as part of a larger "community" with clear normative commitments. This identity could also be one of the reasons behind the fact that the office has avoided politicization and irrelevance, as has been the case with similar institutions in other countries (Pegram 2008, 2011; Ugla 2004).

Overall, despite Peru's reputation as having a relatively weak state (see, e.g., Soifer 2015; Dargent 2015), the Ombuds Office remains an exception due to its excellence in defending human rights. The result is a deep engagement with civil society; a territorial reach with twenty-eight functioning local branches; the effective representation of marginalized groups; and rapid answers to the call of citizens when human rights are reported in danger.

Moreover, the office's relationship with ILO members during the Bagua conflict and its constant use of channels within the inter-American human rights system (in coordination with several NGOs that work with United Nations system and the international cooperation offices of the German and Spanish governments, among others) has helped institutionalize the indigenous agenda in the public arena. The Ombuds Office's connections with international cooperation

cess emphasizes formalisms and weakens real participation. Nonetheless, they consider Peru's prior consultation process to have uncovered a new terrain for negotiation for indigenous peoples.

22 Interview with Rolando Luque, Ombuds Office, 2015.

legitimize its expertise vis-à-vis politicians and other state actors. In addition, politicians recognize the office's knowledge of international indigenous law. The office has therefore become a source of solutions for politicians during critical moments, particularly those under international scrutiny, as was the case of Bagua. Most importantly, Ombuds Office officials find that their knowledge of the language of the state—a characteristic that indigenous organizations and NGOs often lack—is crucial to advancing the entity's work. According to the head of the office's indigenous affairs department, staff members' familiarity with both the functioning of the state and international indigenous and human rights norms has been important for influencing politicians, framing congressional debates, proposing legislation (such as the prior consultation law), and identifying points for negotiating the institutionalization of prior consultation procedures.

Conclusion

The case of Peru is not unique. In other contexts as well, local state capacity and legitimacy has enhanced advocacy efforts around the institutionalization of the prior consultation process for indigenous peoples. For example, in Colombia, the Constitutional Court has been crucial in institutionalizing prior consultation procedures. The Peruvian and Colombian cases are similar in that relevant state institutions reveal normative and epistemic connections with the transnational human rights movement. The absence of the same type of actors in Bolivia, for instance, also tells us something about the importance of the legitimacy and capacity of local state actors. Moreover, the greater power of the Constitutional Court in Colombia compared to the limited "persuasive" power of the Ombuds Office in Peru illuminates why prior consultation procedures have been more widely enforced in Colombia than in Peru.

In sum, this chapter suggests that local state actors that are connected to networks of transnational activism can play a crucial role in the way that globalized and diffused norms are institutionalized within countries.

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**6. “Translating” and “Editing”
Human Rights Norms: The Politics
of the Domestic Implementation
of International Human Rights
Treaties**

Enrique Peruzzotti

Activists beyond Borders, published in 1998, was a groundbreaking analysis of a distinctive form of interaction between authoritarian states, domestic advocacy networks, and the transnational arena—interaction that was made famous as the “boomerang pattern” (Keck and Sikkink 1998, 12–14). The analysis showed how under situations of “really closed” domestic political opportunity structures, the linkages that domestic norm entrepreneurs established with transnational advocacy networks could exert an indirect yet still effective form of political pressure over authoritarian rulers responsible for massive human rights violations. The authoritarian blockage of human rights claims, Margaret Keck and Kathryn Sikkink argued, provided incentives for domestic human rights movements to redirect their political energies away from a domestic setting that was hostile or indifferent to their claims and seek out support in the international arena. By becoming embedded in transnational advocacy networks, domestic human rights movements were able to exert influence on national politics in an indirect way, thanks to the mobilization of foreign governments and international organizations on their behalf.

The “boomerang pattern” was later expanded into a “spiral model” to include the subsequent dynamics and changes that the initial interaction triggered in the domestic and international political opportunity structures. The boomerang pattern was considered the initial step in a series of interactions between global and domestic political processes that would eventually come to an end once democratic and human rights norms became internalized by the government and society in which human rights violations were taking place. The “spiral model” describes each of the stages of a gradual process of diffusion of human rights ideas and norms from the global arena into a specific domestic setting.

Is there any life for transnational advocacy networks and institutions once global human rights norms become internalized? What

happens to the diffusion of international human rights norms once the final stage of the spiral model is completed? Does the internalization of human rights norms bring to an end the dynamic between global and domestic activists and institutions? These are some of the questions that this chapter seeks to address. It will do so by analyzing different scenarios drawn from the Latin American context in the wake of democratization. The success of the regional wave of democratization resulted, to borrow Sikkink's expression, in an impressive continental human rights "norm and justice cascade" that profoundly altered the contextual conditions under which advocacy networks operate (Sikkink 2011). A central claim of this chapter is that the successful internalization of human rights norms does not put a halt to the interaction between domestic and global activism and institutions, though it does profoundly transform it. The end result is the emergence of a novel scenario for the unfolding of human rights politics and of patterns of politicization that differ those that predominated under authoritarian rule. The most important change refers to the framing of human rights conflicts. There is no longer a discursive battle over the status and legitimacy of human rights that pits pariah states against advocacy networks. Instead, following the completion of the spiral process, human rights norms play a prominent role in the legitimation of these new democratic regimes. Yet the acceptance of human rights norms—which frequently results in states' ratification of international human rights treaties—opens up a different type of conflict, one over the domestic implementation of the newly acquired obligations. An important aspect of this conflict is how the abstract ideals of global human rights norms translate into specific public policies and institutions. Those "translating" efforts are usually promoted by two subtypes of politics. The first one is the so-called *politics of compliance*: domestic advocacy networks act as compliance coalitions that seek to make states' commitments effective. Meanwhile, the second one, the *politics of editing*, supposes some degree of disagreement over the adequacy of those global normative frameworks for domestic politics. In this second form, opposing advocacy coalitions disagree over specific aspects of an international norm, with some in favor of the norm's domestic incorporation and others seeing it as insensitive to local cultural values and social conditions.

The next section briefly outlines the dramatic shifts that have taken place in Latin America since democratization and how they have resulted in a completely new scenario than the one that inspired the boomerang and spiral model. The following sections then present two contemporary variants of human rights advocacy by analyzing a specific subset of rights politics: that promoting the rights of children. The

conclusion returns to the question about the linkages and interactions between local and global advocacy networks and institutions, arguing that (i) the relative weight of each of those arenas has changed since democratization, with domestic advocacy coalitions acquiring a greater role and centrality, and (ii) in some cases, advocacy networks question and seek to redefine certain dimensions of the global framework.

From a Conflict over the Legitimation of Human Rights to One about Their Domestic Translation and Implementation

The political and cultural transformations brought about by the third wave of democracy established a very different scenario for the unfolding of human rights politics than the one which originally inspired the writing of *Activists beyond Borders* (Huntington 1993). This is especially the case for societies such as Latin American ones, where the transitions from authoritarian rule resulted in the successful consolidation of democratic regimes and the active embrace of human rights norms throughout the continent (Hagopian and Mainwaring 2005; Sikkink 2008). As a consequence of sweeping political, cultural, and institutional changes, the domestic opportunity structure in which contemporary human rights politics takes place was radically transformed to the extent that the features upon which the boomerang pattern (and subsequently the spiral model) was predicated no longer hold.

What was the original scenario that led to the emergence of human rights politics in Latin America? What were the main features of the political opportunity structure and of advocacy politics under military authoritarianism? The boomerang pattern was the direct outcome of a domestic and regional setting characterized by the following features:

- *A cultural setting in which human rights norms lacked domestic legitimacy.* On the one hand, many of the authoritarian regimes committed massive human rights violations and were hostile to any attempt to expose their wrongdoings. On the other, human rights claims had little resonance among domestic societies.
- *A closed (and repressive) domestic political opportunity structure and an open transnational one.* A hostile state and an indifferent society forced human rights activists to look abroad for support and alliances. Their advocacy efforts concentrated on the different entry points offered by an open supranational political opportunity structure.
- *An imbalanced composition of transnational advocacy networks.* These networks consisted of domestically weak and isolated groups of

“norms entrepreneurs” on the one hand, and strong and influential Western governments, international nongovernmental organizations, and multilateral agencies on the other.

- *A hostile or reluctant domestic environment for the diffusion of global human rights norms and standards.*

The region’s subsequent democratic consolidation and impressive diffusion of human rights practices and institutions (“norm and justice cascade”) radically altered the scenario in which human rights politics takes place. Nowadays, many Latin American societies have, in a relatively short period, moved from violators to promoters of human rights ideals and institutions (Sikkink 2008). What does this mean for human rights politics? How has the domestic and regional scenario evolved since the original formulation of the boomerang and spiral models? The aforementioned features upon which the boomerang and spiral model were based no longer hold. Instead, the current scenario is characterized by the following:

- *A redefined cultural setting.* Processes of collective learning have resulted in a major reframing of politics: in contemporary Latin America, human rights norms and ideals are not only socially legitimate but actively promoted by state authorities and regional institutions (Peruzzotti 2002). In fact, several countries in the region have become “‘exporter[s]’ of human rights tactics, ideas and experts” (Sikkink 2008, 2).
- *An open (and frequently rights proactive) domestic political opportunity structure and an open transnational one.* As a result of their democratic consolidation, Latin American countries have institutionalized rights promotion and protection within their various policy mechanisms, and permanent networks of advocacy organizations have emerged (Peruzzotti 2012).
- *A new axis for human rights politics.* Human rights politics no longer revolve around a state-versus-society or global-versus-domestic axis; rather, state institutions have now become active promoters of the human rights agenda. Domestic democratic politics have consequently acquired a position of preeminence, displacing the centrality that the transnational dimension had in early human rights struggles. The role of global actors, while not completely eliminated, has lost relevance in relation to the one played in the pre-democratization scenario. Political agency moves to the domestic scenario provided by the new democratic regimes: domestic civil society organizations and networks, as well as state agencies, now play a prominent role in determining the scope and pace of human rights

politics.¹ The domestic political opportunity structure has not only opened up to those claims but also become more complex thanks to civic and institutional innovations. As a result, ombudspersons' offices,² courts, secretariats for human rights, and local advocacy organizations and movements now populate the domestic scenario and act as the main protagonists of human rights dynamics (Sieder, Schjolden, and Angell 2005; Peruzzotti and Smulovitz 2006).

- *Democracy and democratization pressures anchored in domestic practices and institutions.* Advocacy efforts, no longer the product of external diffusion, now deal with the more specific task of translating global norms into domestic public policies and institutions. In some cases, there is even an attempt to edit global norms to make them more adequate and sensitive to local realities.

In such a redefined domestic scenario, the politics of human rights develops new patterns. The "cartography of the advocacy ecosystem," to borrow Peter Evans and César Rodríguez-Garavito's expression, has changed, leading to the emergence of new forms of engagement (Evans and Rodríguez-Garavito in this volume). The following sections describe two different forms of interaction to illustrate the transformations provoked by advocacy politics in a post-authoritarian context. Each of the patterns illustrates a particular form of interaction between domestic and global actors and institutions. The cases are drawn from the Latin American context, specifically from Argentina, Chile, Ecuador, and Bolivia. The first pattern, the *politics of compliance*, involves a conflict over how to translate a broad human rights treaty (in this case, the Convention on the Rights of the Child) into different national settings according to the priorities set by the relevant advocacy networks. The second pattern, the *politics of editing*, differs from the first in the sense that the conflict is not so much over how to translate a treaty

1 This trend is related to what Louis Bickford calls a convergence toward a "global middle" thanks to the emergence of democratic and middle-income countries in the South that allow for the proliferation of new advocacy networks and of organizational capacities (Bickford in this volume). Some of those networks have quickly turned into exporters of tactical and institutional innovations to both their own regions (justice cascade) and to the global system. See, for instance, Sikkink's description of the innovations that the Argentinean human rights movement promoted both in Latin America and worldwide (Sikkink 2008).

2 The ombudsperson has been a key entry point into the intrastate system of horizontal accountability and a crucial ally for local advocacy networks. It has also served as an important intermediary between global networks and local civil society (Pegram 2015). See, for instance, the role it has played in implementing the mechanism of prior consultation in Peru (Paredes in this volume).

into specific policies or institutional arrangements but rather about whether its provisions are actually right or appropriate for the domestic context in the first place.

International Human Rights Treaty Ratification and the Domestic Politics of Compliance: Implementing the Convention on the Rights of the Child in Ecuador, Chile, and Argentina

As argued above, the boomerang and spiral models focused on the diffusion of human rights ideas through transnational advocacy networks to habituate international rights norms in domestic settings that were initially hostile to them (Keck and Sikkink 1998; Risse and Sikkink 1999). Less attention, however, has been paid to the role that international human rights norms and transnational advocacy networks play once such goals have been accomplished and international human rights treaties have been domestically ratified. Under these circumstances, political struggles no longer suppose a dispute between human rights advocacy networks and state authorities over the legitimacy of human rights claims. Rather, the struggles take place in a scenario where all domestic actors recognize the legitimacy of human rights norms and the state has assumed a legal commitment to upholding them.

A state's ratification of an international human rights treaty opens up a domestic opportunity for advocacy networks to demand that treaty's implementation. Treaty implementation, however, is not a technical, politics-free process that is carried out in isolation by different state agencies. On the contrary, treaty ratification gives life to a particular subtype of rights politics—the politics of compliance—in which actors clash over divergent interpretations of the various treaty provisions and how they should be translated into specific public policies or institutional arrangements. Compliance debates are consequently filtered through the lens of domestic politics and conditioned by the specificities of national political cultures and the political priorities of governments and advocacy networks alike. This is why the politics of compliance usually unfolds over time in nationally contingent and path-dependent ways (Grugel and Peruzzotti 2007, 2010, 2012).

The workings of the politics of compliance can be illustrated by the diverging patterns through which specific provisions of the Convention on the Rights of the Child (CRC) were selected and translated into national-level policies in Argentina, Chile, and Ecuador. In each case, the same treaty resulted in very different outcomes, depending on the

nature and priorities of the advocacy coalitions that were pushing the children's rights agenda in each of those societies.

The case of Ecuador combined a state that is a "sincere ratifier" (Simmons 2009) with a strong and unified civic advocacy network (the Foro Ecuatoriano Permanente de Organizaciones por y con los Niños, Niñas y Adolescentes). The presence of, on the one hand, a relatively strong and active rights-based advocacy network that had been mobilizing on behalf of children's rights long before Ecuador's ratification of the CRC³ and, on the other, a sincere ratifier committed to promoting institutional and policy change in line with international standards provided a crucial impulse to the CRC agenda in Ecuadorian politics. Ecuador not only quickly passed legislation governing state responsibilities toward children but also promoted significant institutional changes by creating an interdepartmental agency to coordinate public policies for young people and children (the Sistema Nacional Descenztralizado de Protección Integral a la Niñez y Adolescencia).

The case of Chile combines a "mixed ratifier" (strategic and normative principles are both present in the state's decision to ratify the CRC, with the state restricting the implementation agenda to those areas that fit its political objectives and needs) and a weak civil society compliance network. Such a combination resulted in a state-led compliance pattern: governmental administrations were able to shape the meaning of compliance to fit to their respective political goals and agendas. In brief, the state was keen to ratify the CRC but equally keen to determine the meaning and reach of reform after ratification. As a result, it played a dominant role in framing children's rights policies in ways that essentially complemented its already established political priorities: children's rights were attached to a targeted governmental agenda of social policy and educational reform. An action plan was drawn up in 1992, shortly after the treaty's ratification, and was upgraded in 2000, committing the government to the extension of health care and access to education to Chile's poor children and young people.

The case of Argentina comes closer to the notion of a "false ratifier" (Simmons 2009) in the sense that the act of ratification was regarded as sufficient in itself and no further reforms were initially contemplated by state authorities. Despite the strong presence of human rights organizations in Argentina, there was a significant vacuum around the specific agenda of the rights of children and young people. In fact, it was only after ratification that a compliance network was established

3 Ecuador was the first country in Latin America, and the third in the world, to ratify the CRC.

(the *Comité Argentino de Seguimiento y Aplicación de la Convención Internacional sobre los Derechos del Niño*, or CASACIDN).⁴ The creation of CASACIDN as a permanent lobbying network on children's rights, however, did not necessarily result in greater governmental responsiveness on the subject. The network was unable to change the fact that governmental commitment to reform was low and that state actors largely paid lip service to rights principles, making it difficult for CASACIDN to have its voice be heard inside the state. In contrast with Ecuador and Chile, where governments embarked on a series of partial reforms of their own accord and introduced a minimal overhaul of policies, in Argentina the state refused to contemplate any initiative at all after signing the convention. State officials were willing to adapt their language, but not their policies, to the CRC principles. Rights activists tried, to no avail, to argue that the 1994 constitutional reform granted constitutional status to international treaties and that ratification should therefore have made an overhaul of the country's policies on children an automatic process. Unable to make its voice heard inside the executive branch, CASACIDN focused on parliamentary lobbying and was able, gradually, to at least put reform of the national child-care institutions on the agenda. This was eventually achieved via the introduction of a new children's code in 2005, almost fifteen years after the CRC was ratified.

These three diverging patterns of implementation of the same international human rights treaty illustrate the workings of a particular subset of human rights politics—the politics of compliance—that describes a significant portion of advocacy politics in post-authoritarian settings. Unlike the classical framework of human rights struggles under authoritarianism, the issue at stake is not that of forcing reluctant authoritarian states to acknowledge human rights norms. On the contrary, in most of the new Latin American regimes, states have actively embraced global human rights treaties. The conflict here is of a different nature: it revolves around different ways of “translating” such ideals into domestic policies and legislation. In each of the cases described above, international human rights treaties were connected with local, contingent, grounded, and inherently domestic acts of politics and, in the process, took a life of their own: ratification meant different things depending on the nature, composition, and preferences of the respective compliance coalitions.

4 The creation of this particular domestic advocacy network was promoted by the United Nations Children's Fund (UNICEF) and other global advocacy organizations. While there was a strong local human rights network, the specific question of children's rights had not been on its agenda.

Domestic Editing of Global Human Rights Norms: Child Labor Debates and ILO Convention 182 in Bolivia

The second case refers to a specific conflict over the question of child labor. In Bolivia, there is a clear divide over the rightness of the provision on child labor codified in International Labour Organization (ILO) Convention 182 (Fontana and Grugel 2015). Bolivia's ratification of ILO Convention 182 thus opened up a heated debate on whether child labor should be eliminated or legally regulated. The issue at stake is the pertinence of a global norm that seems to clash with ingrained local identities and practices. In this case, the political conflict is not one of translation (as was the case with the politics of treaty implementation), since it involves an attempt by advocacy coalitions to question and eventually "edit" certain aspects of the global norm to adapt it to local normative standards. Nor is it one that contests the overall legitimacy of the human rights framework: challenges to the eradication argument are framed in the language of rights (eradicating child labor is a form of age-based discrimination). Instead, the conflict reflects polarization around a specific treaty provision that is perceived by certain sectors of political and civil society as inappropriate and conflicting with Bolivian cultural norms. The argument against the eradication of child labor resembles that raised by Daniela Ikawa's chapter in this volume: the content of rights and the forms of redress should be sensitive to context and constituency. In other words, the content of children's rights in Bolivia should be different from those applied to affluent and urbanized countries.

The end result is a political divide that pits two advocacy coalitions—each consisting of both local and global organizations—against each other. On the one hand is a group of local and international pro-eradication nongovernmental organizations, and on the other is a set of organizations of working children that defend their right to work as a human right and that are part of transnational advocacy networks that promote the right of children above a certain age to work (such as *Terre de Hommes* and *World Vision*) (Fontana and Grugel 2015, 70).

Given the local salience of the issue and the ingrained practice of child labor in Bolivia (particularly in rural areas), the question of the appropriateness of the legal prohibition of child labor has been on the public agenda since Convention 182 was ratified by the Bolivian government in 2003. After Evo Morales was elected president in 2006, a national consultation was held to update the Code for Children and Adolescents. The updated code containing specific guidelines for the regulation of child labor (in conflict with the ratified treaty) was

approved by the Senate in 2017. Specifically, Bolivia's domestic legislation conflicts with the global norm by lowering the legal working age from fourteen to ten for self-employed children and to twelve for salaried ones as long as they are authorized by the Office of the Ombudsperson for Children (Fontana and Grugel 2015, 63).

Conclusion

As argued in the introduction to this volume, in recent decades—and partly as the result of the third wave of democratization—the ecology of organizations, networks, practices, and strategies of human rights advocacy has experienced profound changes. Many democratized states have shifted from being targets to becoming allies of transnational advocacy networks, actively endorsing international treaties while simultaneously creating new domestic mechanisms for rights promotion and protection. Domestic political opportunity structures have thus grown more complex, providing a multiplicity of entry points for actors to make their claims (ombudspersons' offices, human rights secretariats, courts, and so forth) and allowing for the institutionalization of an intricate web of domestic advocacy organizations. In this new context, domestic dynamics have gained greater weight, occupying a place of preeminence in determining the scope and fate of human rights politics in new democracies. This does not mean, however, that interactions between the domestic and the global have become irrelevant. It simply means that some global actors and advocacy networks have lost their centrality as the global scenario has grown more multipolar. Today, the flow of human rights politics can no longer be understood as a unidirectional process of diffusion from the affluent West to the developing South. The salience of a "global middle" has resulted in a more complex ecology of rights politics and in two-way processes of human rights norm diffusion. This chapter's exploration of two specific patterns of contemporary human rights politics in Latin America illustrates how Southern advocacy networks are playing an increasingly prominent role both as "translators" and as "editors" that seek to adjust global norms to local demands and realities.

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7. Building and Breaking Solidarity: Learning from Transnational Advocacy Networks and Struggles for Women's Human Rights*

Cecilia MacDowell Santos

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In the past two decades, nongovernmental organizations (NGOs) working in Latin America have increasingly engaged in transnational legal mobilization, using the inter-American human rights system to pressure states to make legal and policy changes, to promote human rights ideas and cultures, and to strengthen the demands of social movements (C. Santos 2007). In addition to professionalized human rights NGOs, diverse feminist and women's NGOs, as well as victims of human rights abuses, have engaged in transnational legal activism as a strategy to reconstruct and promote women's human rights discourses and norms. This type of legal mobilization illustrates what Margaret Keck and Kathryn Sikkink (1998) call "transnational advocacy networks" (TANs). Indeed, the human rights and feminist NGOs involved in transnational legal mobilization create networks to communicate and exchange legal and other kinds of knowledge, forming transnational alliances to "plead the causes of others or defend a cause or proposition" (*ibid.*, 8).

Yet contrary to Keck and Sikkink's original conceptualization of TANs as "forms of organization characterized by voluntary, reciprocal, and horizontal patterns of communication and exchange" (*ibid.*, 8), researchers have shown that the relationship between transnational activist actors is often asymmetrical and contentious (e.g., Thayer 2010; Mendez 2002; Farrell and McDermott 2005; Rodríguez-Garavito 2014). The emerging scholarship on transnational legal mobilization tends, however, to overlook the relationship between NGOs centered on different issue areas (human rights and feminism, for example) and between NGOs and the victims whose knowledge and experience serve as the basis for transnational legal mobilization practices. Thus, an examination of the ways in which human rights and feminist NGOs, as well as victims of women's rights abuses, interact with one another might reveal who is considered a legitimate actor in the international human (and women's) rights field, and whose strategic vision

on human rights and transnational justice becomes hegemonic within this field.

Drawing from research on women's human rights cases presented against Brazil to the Inter-American Commission on Human Rights (IACHR), this chapter shows that the practice of transnational legal mobilization is contentious and involves unequal knowledge-power relations.¹ International and domestic human rights NGOs that specialize in transnational human rights litigation, feminist advocacy NGOs, grassroots feminist NGOs, and victims alike engage in transnational legal mobilization and exchange different types of knowledge. However, the work of translating their knowledge through transnational legal mobilization can both build and break solidarity. The legalistic view of human rights held by the more professionalized NGOs tends to prevail over other perspectives. In what follows, I will draw on two cases of domestic violence to illustrate these points. Before examining these cases, I briefly explain the approaches to human rights and transnational legal mobilization that inform my analysis.

Transnational Legal Mobilization as Translation of Human Rights Knowledges

The legal mobilization of human rights can be viewed as a "politics of reading human rights" (Baxi 2006)—that is, a discursive practice of translation that both includes and excludes the representation of varying forms of human rights violations, as well as different ideas and conceptions of human rights and justice. In her approach to the "vernacularization," or translation, of global women's human rights ideas and frameworks into local settings, Sally Engle Merry (2006) refers to transnational activists as "translators/negotiators" embedded in power relations between the global and the local. Millie Thayer (2010) also examines the transnational process of translating gender

1 This chapter draws on research conducted for the project "What Counts as 'Women's Human Rights'? How Brazilian Black Women's and Feminist NGOs Mobilize International Human Rights Law," supported by the Faculty Development Fund at the University of San Francisco. This project was part of the larger research project "ALICE – Strange Mirrors, Unsuspected Lessons: Leading Europe to a New Way of Sharing the World Experiences," coordinated by Boaventura de Sousa Santos at the Center for Social Studies at the University of Coimbra, during 2011–2016. A preliminary version of this chapter was presented at the workshop "Transnational Advocacy Networks: Reflecting on 15 Years of Evolving Theory and Practice," held at the Watson Institute for International Studies, Brown University, April 2015. An expanded version was published in the *Journal of Human Rights Practice* in 2018 (C. Santos 2018).

discourses as practices embedded in power relationships, but she goes beyond a global-local dichotomy, showing that “local” actors, such as rural women workers in Northeast Brazil, are not simply receivers of a global feminist or gender discourse; they are already embedded in global feminist discourses. Building on Thayer’s perspective, I would add that victims of human rights abuses are not isolated “local” actors, either. While local actors’ legal and political strategies to achieve justice may differ from those of legal experts and professionalized human rights NGOs, they also embrace aspects of legalistic views on human rights and justice.

The “epistemologies of the South” (B. Santos 2014) framework provides further analytical insights to conceive of transnational legal mobilization as a practice of translating diverse human rights knowledges beyond the global-local divide. The global South is understood in both a geopolitical sense and an epistemic one, the latter of which corresponds to an “ecology of knowledges”—that is, diverse types of knowledge produced by marginalized groups in the global South and North alike (ibid.). Scientific/legal knowledges can also be part of the ecology of knowledges insofar as they contribute to the struggles of oppressed communities and individuals. Acknowledging the existence of this ecology of knowledges, learning from them, and working *with*, not *for*, the oppressed, are considered part of global social justice work. Under this perspective, intercultural translation is necessary to forge alliances between marginalized and privileged epistemic communities (ibid.). Yet it is important to ask what kinds of transnational legal mobilization practices correspond to an “epistemology of the South.”

According to Boaventura de Sousa Santos and César Rodríguez-Garavito (2005), “subaltern cosmopolitan legality” is the type of transnational legal mobilization that challenges hegemonic conceptions of law. Subaltern cosmopolitan legality includes an expansion of the conceptions of law in four major ways. First, legal mobilization must be combined with political mobilization. Second, legal mobilization must go beyond individualistic conceptions of rights, even though struggles for individual rights need not be abandoned. Third, subaltern cosmopolitan legality can include legal, illegal, and nonlegal strategies. Finally, the struggles must be articulated at different scales of action—local, national, and transnational.

Cheryl Holzmeyer’s (2009) analysis of TANs and grassroots mobilization in the case of *Doe v. Unocal* illustrates how the transnational legal mobilization of human rights can constitute subaltern cosmopolitan legality. In this case, she found that the human rights discourse served as a common vocabulary and counterhegemonic resource for

the case's litigators and grassroots activists not directly involved in the lawsuit. In addition to having indirect material effects on the organizational capacities of these actors, mobilization around *Doe v. Unocal* had the symbolic effects of rights consciousness and transnational solidarity. While Holzmeyer acknowledges the existence of tensions between these two sets of actors (litigators and activists), the focus of her analysis is on the synergies between them. As illustrated by the following cases of domestic violence brought to the IACHR against the Brazilian state, transnational legal mobilization can spark both alliances and conflicts, building and breaking solidarities throughout the course of litigation.

Mobilizing Women's Human Rights before the IACHR: Who May Cross the Gate?

Types of Cases, Knowledges Mobilized, and Legal Mobilization Strategies

Since the 1990s, international and domestic human rights NGOs have increasingly sent petitions to the IACHR to denounce human rights abuses in countries throughout Latin America. The domestic adoption of regional human rights norms in most of these countries has created opportunities for transnational "strategic litigation" led by NGOs (Cardoso 2012). Brazil, for example, ratified the American Convention on Human Rights in 1992 and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (known as the Convention of Belém do Pará) in 1995. In 1998, it recognized the jurisdiction of the IACHR.

NGOs select "paradigmatic cases" to show that a particular type of human rights violation is endemic and requires both individual remedies and domestic legal or policy changes. They form TANs to promote the rights of groups and individuals who are marginalized and subjected to abuses, including children in situations of vulnerability, indigenous peoples, black people facing racism, women in situations of domestic violence, and so on. The petitioners often include international and domestic NGOs, as well as victims. In the cases relating specifically to women's human rights filed against Brazil, various types of NGOs are part of the litigation process, including international and domestic human rights and feminist NGOs, blacks' rights NGOs, and grassroots feminist and social movement organizations.

The IACHR's annual reports do not consistently present data on the petitions and cases. Drawing on the reports from 1969 to 2012, I

have identified approximately eighty cases filed against Brazil that received admissibility and inadmissibility decisions. Of these cases, only seven concerned women's human rights; they focused particularly on violence and discrimination against women (C. Santos 2018). Given the small number of cases and the year of the first petition (1996), it is clear that the IACHR is new terrain for all of these actors' engagement with transnational litigation on women's human rights.

But what the IACHR's reports do not tell us is how litigators develop and negotiate their legal strategies. What role does each actor play in the process of mobilizing women's human rights? Are all types of NGOs and the victims viewed as legitimate actors in the human rights and women's rights TANs? Can they all knock on the door of the IACHR? Two cases of domestic violence—*Márcia Leopoldi v. Brazil* and *Maria da Penha v. Brazil*—shed light on these questions.

The case of *Márcia Leopoldi*, a young woman who was assassinated by her ex-boyfriend, was filed before the IACHR in 1996. This was the first case on women's human rights to be presented against Brazil. The petition was signed by the Center for Justice and International Law (CEJIL), Human Rights Watch/Americas, the Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM), and União de Mulheres de São Paulo. The second case, filed on behalf of *Maria da Penha*, a woman who survived attempted murder by her ex-husband and who became paraplegic as a result of this aggression, was filed in 1998. The petition was signed by *Maria da Penha* Maia Fernandes, CEJIL, and CLADEM. Both petitions alleged violations of the American Convention on Human Rights and the Convention of Belém do Pará. Drawing on interviews with the NGOs' representatives and the victims, I identified the following types of knowledge mobilized by the petitioners: human rights legal knowledge; feminist legal advocacy knowledge; feminist popular knowledge; and corporeal knowledge.

Human rights legal knowledge relies on a legalistic framework of human rights. It is used by professionalized NGOs engaged in strategic litigation within and across borders. CEJIL embodies this type of legal mobilization, specializing in litigation in the inter-American human rights system. CEJIL works with the system to strengthen it and to promote human rights and democracy. Founded by attorneys in the United States, the organization has offices in various countries in the Americas, including Brazil. It is a major legal actor in the cases presented against Brazil in the IACHR; indeed, it is a petitioner in five of the seven aforementioned cases on women's rights. CEJIL selects and mobilizes its cases in partnership with local NGOs and local attorneys, who follow up on the cases in the relevant domestic courts and help

with mobilization outside of courts. When choosing its cases, CEJIL also ensures that the victims consent to filing the complaint and are willing to cooperate with the legal action. These conditions help guarantee the “success” of the case. A “good case” is one that exemplifies a pattern of human rights violations and can be used to establish a judicial precedent and promote domestic policy or legal changes. A successful case does not necessarily mean that the IACHR will find the state guilty of the alleged violations. Instead, it might involve a friendly settlement between the petitioners and the state. But what is necessary is that the case be admitted by the IACHR so that it can be used as a weapon to pressure the state in question. Thus, CEJIL takes care to frame its cases according to the procedural and material normative requirements for admissibility. The organization’s strategic use of international human rights norms is counterhegemonic to the extent that it confronts the anti-human rights discourses and practices of state and nonstate actors. Yet CEJIL’s legalistic perspective may also be viewed as hegemonic vis-à-vis nonlegal subaltern cosmopolitan mobilization practices.

The second type of knowledge, feminist legal advocacy knowledge, also relies on a legalistic framework of human rights. It is used by both domestic and international professionalized feminist NGOs to disseminate and implement international women’s human rights norms at the domestic level. CLADEM, a regional network of feminist legal experts established in 1987, carries out this type of transnational feminist advocacy work. Like CEJIL, CLADEM has regional offices in different countries in Latin America, including Brazil. Unlike CEJIL, however, CLADEM does not specialize in transnational litigation and does not center exclusively on the use of the inter-American system. But it has begun to develop a “global legal program” dedicated to transnational strategic litigation both in the inter-American system and before United Nations bodies. Finally, also like CEJIL, CLADEM mobilizes its cases in partnership with local NGOs.

The third type, feminist popular knowledge, is mobilized by grassroots organizations such as União de Mulheres de São Paulo. These are voluntary associations that use the women’s rights discourse and laws to empower women, change cultural norms and stereotypes on gender, and reform state institutions and political cultures. They work both against and with the legal system, organizing campaigns and protests denouncing impunity and seeking the enactment and enforcement of domestic violence policies and legislation. União de Mulheres, which was established in the early 1980s, is one of Brazil’s oldest and most active feminist grassroots organizations. Since 1994, it has offered courses on feminist popular legal education (*promotoras legais populares*)

that are taught in part by feminist law professors and legal professionals (including members of CLADEM–Brazil and other feminist NGOs). Even though União de Mulheres provides legal advice and emotional support to women who are victims of domestic violence, it does not initiate litigation either locally or internationally (*Márcia Leopoldi v. Brazil* is an exception). While União de Mulheres shares CEJIL’s and CLADEM’s goals to promote human rights, justice, and policy reform through transnational legal mobilization, its approach to the state and to domestic and international legal systems is not legalistic. Instead, it approaches legal mobilization from a critical, oppositional perspective. Legal mobilization is seen as an additional weapon that must work in the service of social and political struggles—the objective is not to strengthen the inter-American human rights system but rather to use the system to strengthen the demands of the women’s movement.

Finally, victims of human rights violations bring in a distinct type of experience and knowledge. Not all victims may gain consciousness of their rights or fight for justice. But the victims and their family members who are engaged in legal mobilization share a common knowledge rooted in their bodily experience of physical, psychological, and emotional harm. The search for justice is sparked by a distinct experience of indignation that starts with the act of violence and is transformed into a type of corporeal knowledge that drives a reaction or a struggle for justice. Survivors of domestic violence, such as Maria da Penha and the sister of Márcia Leopoldi, have gained consciousness of their rights and have learned about the legal system in the process of fighting for justice, which started before they met their NGO allies. Their corporeal knowledge, their personal experience learning about law and facing an unjust legal system, and their representation of the double act of violence (interpersonal and institutional) through the oral and written narration of their stories were crucial for the transnational legal actions that they initiated in partnership with the human rights and feminist NGOs that crossed their paths as they searched for justice. These victims became rights holders and activists, they gained consciousness of their human rights as women, they taught and learned from the NGOs, and they became actors in TANs, even if temporarily and not necessarily by joining a human rights or feminist organization.

Under this perspective, the *Leopoldi* and *Maria da Penha* cases illustrate that cosmopolitan and local actors learn from one other’s knowledges of harm and rights violations, as well as from their legal and political repertoires of action, resources, and strategies. These actors’ subjectivities and identities may be transformed in the process of transnational legal mobilization. Moreover, this process involves not only

alliances but also tensions and conflicts. The actors may produce what I dub a “convergent translation” of their knowledge, building solidarity and a common strategy to pursue justice. Yet a “divergent translation” may lead to breaking solidarities in the process of legal mobilization.

Convergent and Divergent Translations: Building and Breaking Solidarities

Márcia Leopoldi was assassinated in 1984 by her ex-boyfriend, José Antonio Brandão Lago, in the city of Santos, near the city of São Paulo. Following her death, Deise Leopoldi, Márcia’s only sister, began to struggle for justice. Coming from a white, upper-class family, Deise was able to hire well-known attorneys to assist the public prosecutors in charge of the case. In the second trial that took place in the early 1990s, the jury found Lago guilty. He was sentenced to fifteen years in prison. However, he fled and was not arrested by the police until 2005. This arrest was made possible thanks to Deise’s appearance on the popular TV show *Mais Você*, broadcast every morning by the network Rede Globo. Deise was invited to talk about domestic violence, and during her appearance she took the opportunity to show Lago’s picture.

By that time, Deise had become a feminist activist and was a member of União de Mulheres de São Paulo. She had heard about this organization through one of the lawyers working on the case. In 1992, she contacted União de Mulheres in search of support. That same year, she joined the organization, where she participated in its campaign “Impunity Is an Accomplice to Violence.” The case of Márcia Leopoldi served well for the purpose of this campaign. União de Mulheres actively mobilized around the case by organizing a protest outside the courthouse when the second trial was held, publishing a poster with Lago’s picture, and even publicizing the case during the Fourth World Conference on Women, held in Beijing in 1995.

In 1994, CLADEM–Brazil and União de Mulheres de São Paulo began to discuss the idea of filing this case before the IACHR. This discussion took place when CLADEM–Brazil members taught classes in the first course on popular legal education for women, organized by União de Mulheres. The following year, Brazil ratified the Convention of Belém do Pará. CLADEM–Brazil members thought that the case would be ideal for testing the application of the convention and for pressuring Brazil to establish domestic violence laws and policies. During that time, Brazil had created over 200 women’s police stations (police stations specializing in crimes with women victims) throughout

the country, but there was no comprehensive law or policy to effectively confront the problem of domestic violence against women. CLADEM–Brazil and União de Mulheres thus agreed on the importance of bringing the case to the IACHR and sought the support of CEJIL in doing so. CEJIL had not yet mobilized on a women’s rights case, so this provided the organization with an opportunity to expand its scope of work, using the Convention of Belém do Pará to hold the Brazilian state accountable while setting judicial precedent for the entire Latin American region. Thus, all actors learned and benefited from this alliance in the *Leopoldi* case. Meanwhile, Deise was hopeful that justice was going to be finally delivered.

However, the IACHR did not open the case immediately. It took two years for the commission to assign a number to the case (petition number 11,996). And it was only in 2012— sixteen years after the petition was filed—that it published a report, deeming the case inadmissible (report number 9/12). According to the IACHR, the case had been resolved domestically when Lago was arrested in 2005. CEJIL and CLADEM–Brazil agreed with the IACHR’s position. In fact, their representatives in Brazil had a disagreement with Deise Leopoldi and União de Mulheres over whether to pressure the IACHR to admit the case once Lago was arrested. Deise and União de Mulheres considered that Lago had been arrested thanks to their mobilizing efforts. They wanted to use the case to show that the Brazilian state was negligent and did not protect women from violence. To this end, they published a book in 2007 (Leopoldi, Teles, and Gonzaga 2007) providing a detailed history of Deise’s and União de Mulheres’ struggle for justice in the case. The book also recounts the NGOs’ conflicting strategies to pursue justice in the IACHR (ibid., 117). Bypassing CEJIL and its assigned role as the primary interlocutor with the IACHR, Deise and União de Mulheres sent a copy of the book to the IACHR in 2010 and requested that the case be admitted. This was the final move that broke their alliance with CEJIL and CLADEM–Brazil. Although União de Mulheres continued to collaborate with these NGOs in other types of mobilization practices and in another case relating to political violence, the transnational solidarity that had been forged with the family victim was broken by the time the IACHR published its inadmissibility report in 2012.

Despite the IACHR’s dismissal of the case, the subjectivity and the identity of the victim—in this case, a family victim—were clearly transformed in the process of transnational legal mobilization. Deise moved to the city of São Paulo, joined a feminist grassroots organization, and became a feminist activist fighting to change the legal system and to end domestic violence against women. CEJIL and CLADEM–Brazil,

however, do not consider *Márcia Leopoldi v. Brazil* a “successful” case. Although the case is mentioned on CLADEM’s website, neither CLADEM–Brazil nor CEJIL have made efforts to bring it to the public’s attention, as opposed to the *Maria da Penha* case.

Maria da Penha v. Brazil is a perfect example of all types of effects (material and symbolic, direct and indirect) alluded to by Rodríguez-Garavito (2011) and Holzmeyer (2009). It illustrates a “convergent translation” of different types of knowledge and a process of building solidarity among all actors involved. It also contributed to empowering the victim, who became an activist and joined an organization, though not a feminist or human rights NGO.

Maria da Penha is a white, middle-class, well-educated, disabled woman who lives in the city of Fortaleza in Northeast Brazil. In 1983, she was the victim of attempted murder by her then husband, Marco Antonio Heredia Viveros. He was found guilty by a second jury and sentenced to ten years in prison. But he appealed, and the case was pending in the Superior Court of Justice until 2001. As noted above, *Maria da Penha v. Brazil* was filed before the IACHR in 1998, two years after the *Leopoldi* case. The petition was signed by Maria da Penha, CEJIL, and CLADEM–Brazil. A representative from CEJIL visited Fortaleza in 1998 in search of paradigmatic cases on violence against women. She learned about the *Maria da Penha* case through the State Council on Women’s Rights of Ceará. In 1994, the Council had published the first edition of Maria da Penha’s book, *Sobrevi . . . Posso Contar (I Survived . . . I Can Tell My Story)* (Fernandes 1994). The book narrates her corporeal and legal knowledge of violence and injustice. It shows how she became a survivor of domestic violence, describing her search for justice and denouncing the inefficiency of the legal system and the impunity of the perpetrator. Thus, the book and Maria da Penha’s involvement in the transnational litigation action were fundamental for CEJIL’s preparation of the petition sent to the IACHR and for the development of the case. Yet, a sign of CEJIL’s role as the main interlocutor with the IACHR was that only CEJIL had a copy of the petition.

When I visited Fortaleza in 2008 to interview Maria da Penha, I was impressed with her involvement in various activities relating to domestic violence against women. At the time, she was the president of the Associação de Parentes de Vítimas de Violência (Association of Relatives of Victims of Violence). She was also a member of the State Council on Women’s Rights. She had just received reparations from Ceará State, as recommended by the IACHR’s 2001 report on the merits of her case. She knew all of the institutional agents working for the network of services that had been created in the city of Fortaleza, as mandated by the

then newly created domestic violence statute, Law No. 11340/2006, also known as the Maria da Penha Law. This law was given this name by then president Luiz Inácio Lula da Silva as a result of Maria da Penha's successful case. The president invited Maria da Penha to a ceremony in 2006 in Brasília, the nation's capital, for the signing of this law. This ceremony received wide coverage in the media.

Even though this case was not the only factor that contributed to the creation of the Maria da Penha Law and to increased public awareness of domestic violence, it is evident that transnational legal mobilization on the case produced positive material and symbolic effects. In addition to illustrating the alliances between feminist and human rights NGOs, Maria da Penha's story and her persistent struggle for justice also served as inspiration for Deise Leopoldi. Deise contacted Maria da Penha in the mid-2000s to seek advice on how to approach the IACHR. Deise also followed the footsteps of Maria da Penha by writing a book about her struggle for justice. Yet from a legal perspective, the *Leopoldi* case did not carry the same potential to produce legal reform as the *Maria da Penha* case did.

Nevertheless, these two cases illustrate that transnational legal mobilization involves the task of translating different human rights knowledges. Even though international human rights NGOs based in the global North tend to have more knowledge of the norms regulating transnational litigation and often operate as gatekeepers for accessing the IACHR, they also share this legal knowledge with domestic human rights NGOs in the process of transnational legal mobilization. Moreover, human rights NGOs working at all levels have expanded their issue areas and have made alliances with feminist organizations. However, "local" grassroots NGOs and victims are not necessarily perceived as legitimate legal mobilization actors and members of TANs.

Transnational legal mobilization has the potential to produce not only material and direct effects on domestic laws and policies but also, as noted by Holzmeyer (2009), indirect effects such as the increased organizational capacity of NGOs participating in TANs and the promotion of diverse actors' rights consciousness. In addition, victims are important actors in TANs and can become activists in their own right. Thus, research and legal advocacy on human rights generally and women's human rights in particular must pay attention not only to the material impacts of legal mobilization but also to the interactions between the actors involved and to their subjective experiences, broadening the generally accepted view on who counts as human rights advocates.

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8. Rights for Real People, Networks, and a View from Everywhere

Daniela Ikawa

What makes human rights an appealing theory of justice is their universal scope of protection. However, international human rights law has not yet reached that degree of protection. In its evolving stage, it still presents a key problem: it has not included in its content and procedures all the diverse life experiences of the individuals it aims to protect. Law is still based, in great part, on the experiences of dominant groups (Robson 1997; Brown 2002, 420; Butler 1996). In order to become a more effective and truly universal framework of justice, international human rights law will need to continue including the voices of differently situated individuals, especially the most vulnerable. Universal human rights spring not from a view from nowhere (Nagel 1986) but from a view from everywhere (Ikawa 2014).

By connecting the local experiences of real people to a global system of norms, human rights networks can play an important role in building a more effective and universal human rights framework. This local-to-global connection operates in two spheres: a substantive sphere, where the content of rights reflects the needs of real individuals as opposed to the needs of the allegedly abstract subject of liberalism, and a procedural sphere, where the inclusion of new voices slowly leads to a shift in the balance of power among those responsible for producing norms, as well as to new frameworks of collaboration among stakeholders.

As to the substantive sphere, universalism is achieved by taking into consideration the specific violations and obstacles faced by differently situated individuals in exercising their rights. Let us take, for instance, the right to health. The content of the right to health for a white, rich, heterosexual, able-bodied man living in a dictatorship will be different from the content of such a right for a black, poor, pregnant woman living in a democratic but economically unequal country. While the former might need assurances that his oppressive government will

fulfill its negative obligations and will not bar him from getting to the best private hospital in town, the latter might need assurances that the government will fulfill its positive obligations to establish a reliable system of public health that provides for adequate obstetric services without racial discrimination.¹

The procedural sphere is closely connected to the substantive sphere. To be universal, human rights need to include the voices of differently situated individuals in their making. Universalism cannot be built from a view from nowhere. The solipsist Kantian alternative of envisioning universal norms by detaching oneself from all experience—by situating oneself in an allegedly disembodied and decontextualized place (Kant 1785)—has great potential to lead to a partial perception of justice: the perception of dominant groups. Although attempts to achieve higher degrees of impartiality are positive, they need to recognize that impartiality and universality are built collectively (Ikawa 2008), as no one can either fully detach oneself from one's own circumstance (Moi 1999) or fully capture the vast array of life experiences while attached to one's single and limited circumstance. A view from everywhere is, therefore, a more humbling and inclusive approach to the construction of universal norms. However, it requires a shift in the balance of power among those responsible for producing these norms, both with regard to the voices being heard and with regard to the forms of collaboration forged among stakeholders.

This chapter focuses on some of the substantive and procedural steps taken by networks and coalitions working on the protection of economic, social, and cultural rights—especially the NGO Coalition for the Adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the International Network for Economic, Social and Cultural Rights (ESCR-Net)—toward the construction of a more effective and universal human rights framework. Three specific challenges are analyzed: the idea of economic, social, and cultural rights (ESCR) as quasi-rights, the particular situations of vulnerability of those who are subject to ESCR violations, and the growing complexity of the content and making of rights. Exploring these challenges will also shed light on changes in the work of human rights networks over the past decade.

1 For an example of the latter interpretation, see the United Nations Committee on the Elimination of Discrimination against Women, *Alyne da Silva Pimentel Teixeira v. Brazil*, Views: Communication No. 17/2008, UN Doc. CEDAW/C/49/D/17/2008 (2011).

Quasi-Rights and Law as a Tool

During most of the twentieth century, one of the main challenges facing the protection of ESCR was the lack of recognition of ESCR as full rights. Even when domestic and international law started to refer to those rights, they were not taken as seriously as civil and political rights. The relevance of this challenge became even clearer when the human rights movement started to view human rights law not only as an end but also as a tool that could empower those occupying lower positions of power to fight for justice. The perception of ESCR as justiciable, legally binding rights was therefore key to ensuring protection. The later decades of the twentieth century indeed saw the increased recognition of ESCR as fundamental, justiciable rights, especially in Europe and Latin America. In the international sphere, however, the protection of ESCR initially lacked one of the main mechanisms of protection available to other rights: the possibility of bringing individual claims before United Nations treaty monitoring bodies. That gap was slowly filled by the opt-in clause included in the International Convention on the Elimination of All Forms of Racial Discrimination, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and the Optional Protocol to the Convention on the Rights of the Child, but until 2008, there was no treaty that specifically protected ESCR through the use of individual and group-based claims.

A vast number of nongovernmental organizations (NGOs) working on ESCR saw this gap as having not only direct but also symbolic consequences for the protection of ESCR. As a result, they formed the NGO Coalition for the Adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. This coalition not only successfully advocated for a new protocol, which was adopted in 2008, but also discussed and lobbied for a protocol with stronger rules of protection. The protocol was in great part, therefore, the result of NGOs' collaborative work before local governments and intergovernmental organizations. And although there are still challenges ahead, such as universal ratification (only twenty-three states had ratified the protocol as of October 2018) and the effective use of the protocol by litigators, the protocol's adoption has strengthened the perception of ESCR as full rights.

I would describe this first form of collaboration as converging collaboration. Here, organizations with diverse backgrounds, from both the global North and the global South, brought their own contributions

to discussions on the protocol with a single goal in mind: the adoption of a more protective instrument. One of the results of such contributions was the adoption of a standard of review that reflected not the European “margin of appreciation,” which grants a large space for states’ discretion in the protection of rights, but rather the South African “reasonableness” standard, which represents a more structured standard of review that incorporates a focus on the allocation of resources, special protection for disadvantaged groups, and the principle of nondiscrimination (United Nations Committee on Economic, Social and Cultural Rights 2007).

Converging forms of collaboration that include contributions from organizations in the global North and global South alike have strengthened the idea of ESCR as legally binding rights from a bottom-up—or, rather, a local-toward-global—perspective that further legitimizes their protection. Although collective initiatives have been valued in the international human rights movement for decades, the focus on the “local” (and according to local voices) for the adoption and effective use of universal norms is a more recent, yet extremely relevant, advance. Moreover, the further recognition of ESCR as justiciable rights has allowed NGOs initially focused on the protection of ESCR (as well as networks formed by such NGOs) to expand their scope to issues of indivisibility. Such expansion occurs, however, within a very specific approach to rights, one more commonly present in ESCR NGOs than in traditional civil rights organizations—an approach that links rights to the need for institutional reform in order to make rights more effective for all, including the most vulnerable.

The Most Vulnerable: Universal Rights for Real People and a View from Everywhere

A second challenge faced in the protection of ESCR is the fact that those affected by ESCR violations are usually members of the most vulnerable groups in society. Poverty overlaps with discrimination, aggravating particular situations of vulnerability. In this vein, networks have the role of asking their members what their needs are. Knowledge about the needs of the most vulnerable groups, according to the groups themselves, is the basis for a rights framework that aims at being truly universal.

This should not be about an identitarian construction of human rights, however. Rather, it should be about considering different life experiences, often linked to multiple and changing identities, in the

interpretation of rights.² Such a process can be seen in strategic litigation and international advocacy. Below, I explore two examples of the infusion of local experiences into the content of domestic and international human rights law: (i) the set of strategies adopted by ESCR-Net to expand the content of civil rights before Canadian courts and before the United Nations Human Rights Committee and (ii) the *Endorois* case in Kenya.

Advocacy to Broaden the Content of Civil Rights in Canada and the International Level: The *Tanudjaja* and *Toussaint* Cases

The connection between civil rights and ESCR has been forged by members of ESCR-Net since 2013 within the Canadian context, where ESCR are not constitutionally recognized as fundamental rights. In particular, the strategy has centered on litigation support for the cases *Jennifer Tanudjaja et al v. Attorney General of Canada and Attorney General of Ontario*³ (before domestic courts) and *Nell Toussaint v. Canada* (before the United Nations Human Rights Committee),⁴ as well as two advocacy initiatives calling for the reinterpretation of the right to life by the Human Rights Committee. Here we have examples of converging forms of collaboration that bring together local, regional, and international organizations toward a single goal, but without losing the distinct voices of each organization. The possibility of diverse participation has led to a more plural perspective regarding the content of the right to life. In the same vein, litigation of the *Tanudjaja* and *Toussaint* cases has reflected the need to reinterpret the rights to life and

2 Identity politics are usually based on the idea of identity as a fixed, pervasive, unique trait that defines one's personality and one's role in society. The idea of pervasiveness sprang from feminist critical theory in the 1960s in relation to biological determinism and how having particular reproductive organs framed who a person should be and act in society. This idea can be applied to other characteristics, however, such as a person's disability, race, and age, creating a very restrictive and simplified view of whom specific individuals are and can be. It is that perspective of individuals and groups that provokes a response, equally restrictive, of social movements. What I am proposing here is to inform international human rights law not from the point of view of individuals as defined by single characteristics of gender, race, disability, and so forth but from the point of view of individuals' multiple and changing characteristics—by narratives derived from particular circumstances.

3 *Jennifer Tanudjaja et al v. Attorney General of Canada and Attorney General of Ontario*, Court File No. C57714 (ongoing process), <http://www.socialrights.ca>.

4 United Nations Human Rights Committee, *Nell Toussaint v. Canada*, Views: Communication No. 2348/2014, UN Doc. CCPR/C/123/D/2348/2014 (2018).

to personal security, as well as the principle of nondiscrimination, in Canada from the perspective of particular individuals whose rights are being threatened.

In the *Tanudjaja* case, the plaintiffs were “a young single mother in receipt of social assistance living in precarious housing with her two sons”; a man who lost his job and was unable to pay rent after being diagnosed with cancer; a father who was “severely disabled in an industrial accident” with two children with disabilities, living in a non-accessible apartment; a mother of two young sons “who became homeless when her spouse suddenly” passed; and an NGO that provides services to low-income tenants and the homeless in Ontario. To them, as well as to other similarly situated individuals, the rights to life and personal security are being threatened due to the Canadian government’s failure to provide adequate housing. As they argued in their claim, if the lack of a national housing strategy results in the complete lack of shelter or in inadequate living conditions for some, these individuals’ rights to life and personal security are being violated or endangered. Moreover, failing to consider threats that affect certain individuals’ rights to life and personal security or refusing to protect certain individuals’ rights to life and personal security consists of discriminatory treatment. ESCR-Net’s Strategic Litigation Working Group, in coalition with Amnesty International Canada, has provided amici before Canadian courts to highlight this particular interpretation of traditional civil rights: for the plaintiffs, the protection of civil rights requires the adoption of a national housing plan by the Canadian government.

In the *Toussaint* case, recently decided by the United Nations Human Rights Committee, ESCR-Net’s Strategic Litigation Working Group presented a collective amicus in August 2015 that highlighted the connection between the right to life (and other civil rights) and the right to health of undocumented migrants in Canada. It also stressed the need to recognize positive state obligations with regard to civil rights, and not just ESCR. Nell Toussaint, a citizen of Grenada who has been residing in Canada since 1999, filed her claim before domestic courts while she was still undocumented. She argued that her right to life had been violated due to a lack of access to the public health system in Canada. After domestic courts failed to grant her adequate remedies, she brought her case to the United Nations Human Rights Committee in 2013. The case has been developed not only through litigation, though. ESCR-Net members, the Social Rights Advocacy Centre (Canada), and the Global Initiative for Economic, Social and Cultural Rights (United States) presented a parallel report on Canada

in June 2015 focusing on the issues of indivisibility, positive state obligations, and an extended interpretation of the right to life from the perspective of undocumented migrants. Moreover, more than twenty ESCR-Net member organizations and partners sent contributions to a half-day discussion on the right to life organized by the Human Rights Committee that same month, stressing the indivisibility among rights (particularly between the right to life and ESCR) and the need to recognize states' positive obligations under the right to life in order to protect the rights of differently situated individuals. Contributions also highlighted the role of international human rights law in protecting vulnerable groups, including detainees, women, and LGBTQI people. They argued that to ensure the protection of vulnerable groups, international human rights bodies such as the Human Rights Committee have the responsibility to interpret rights from the perspective of those groups—that is, to understand and respond to the specific challenges these groups face in exercising their rights.

This collaboration around the right to life was aimed not only at enriching international human rights law by expanding the concepts of the rights to life and personal security, as well as of the principle of nondiscrimination, but also at reassessing ESCR-Net's approach to the indivisibility of rights. Although the network's initial focus had been on strengthening ESCR through direct advocacy and litigation, as ESCR became more widely recognized, it seemed more strategic to focus efforts on the protection of ESCR through civil and political rights when necessary. In this sense, the focus shifted to local needs and opportunities for change as opposed to normative requirements for the direct protection of ESCR, whenever such protection requested an indivisibility-based approach. And again, here we have a multicentered, yet converging, collaboration in the production of universal rules of protection.

Work on Implementation and Empowerment: The *Endorois* Case

The reinterpretation of human rights can take place both during litigation itself and during the implementation of a ruling. The *Endorois* case,⁵ aimed at protecting the right to land of a pastoralist community in Kenya, is a good example of the latter. Originally litigated by the Endorois Welfare Council and two ESCR-Net member organizations (the Centre for Minority Rights Development and the Minority Rights Group International), it led the African Commission on Human and

5 African Commission on Human and Peoples' Rights, *Cemiride, MRG and EWC v. Kenya*, 276/03, November 25, 2009.

Peoples' Rights to adopt in 2010 a relatively (and in this sense paradigmatically) detailed set of recommendations for the government of Kenya that included land restitution for the indigenous Endorois people, compensation for all their losses, and the payment of royalties for existing economic activities on their land. The ruling marked the beginning of a new challenge: that of implementation (see ESCR-Net 2014c). Recognizing that the subjects of human rights are real people implies also recognizing the need to provide for real protection and real change. Assisting with the implementation of judicial decisions is a central tool for such change that was identified as such within ESCR-Net's Strategic Litigation Working Group during the network's 2008 general assembly. Having started with more general discussions on the challenges to implementation, the working group has recently begun focusing on understanding challenges in specific cases, as it is at the local sphere that more complex, concrete challenges will be faced, hopefully addressed, and brought back to international spheres of protection in order to improve the latter's mode of operation.

In the case of the Endorois, concrete challenges have included three decades of community mobilization and litigation in domestic and regional spheres. They have also encompassed, among others, the struggle of less powerful voices within the community. ESCR-Net's response to such challenges has been what I term holistic collaboration. Here, organizations from the global North, such as Minority Rights Group International, and from the global South, such as Dejusticia in Colombia, the Kenyan Human Rights Council and the Endorois Welfare Council in Kenya, formed in 2012 a core group of ESCR-Net members and partners to tackle, in a sustainable manner, the changing needs springing from a long and politicized process of implementation. This group gave continuity to the process while identifying new issues and opportunities, sharing resources in response to a single strategy built collectively, avoiding the duplication of efforts, and bringing new organizations to the table when necessary. The key feature of their holistic collaboration was their continuing dialogue, through which political changes—as well as changing needs and opportunities—were assessed from local and global perspectives. Such forms of collaboration encompass other forms, such as converging forms of collaboration, mentioned above, and what I would call bilateral (and more punctual) forms of collaboration, which are related to very specific needs.

With regard to the inclusion of less powerful voices within the community, a holistic, dialogical, and participatory approach that involves community groups beyond the male leadership of the Endorois people has also been adopted. Member organizations in Kenya and

in the United Kingdom have conducted surveys to assess how differently situated members within the Endorois community perceive loss and expect reparations. One oft-stressed concern among parents and youth relates to education—a concern, therefore, that goes beyond land restitution and the idea of backward-looking reparations. In this light, workshops involving community members from different locations and of different genders and ages have been conducted, also by ESCR-Net member organizations, on reparations, restitution, and the registration of community members to assess who has a right to the land. The latter workshop has opened up a new opportunity for the further inclusion of women in the implementation process and has provided a good example of how broadly impact should be assessed. Impact should refer not only to material results but also to symbolic ones (Rodríguez-Garavito 2011, 1679)—in this case, the process of women’s empowerment.

The process of implementation and the registration of community members can be used to promote further inclusion because it encompasses the interests of diverse members of the community and because its results stand to have an impact on the community as a whole as opposed to just its leaders. The registration process can define both the beneficiaries of future resource distributions (derived from compensation, royalties, and land restitution) and those with authority to monitor and decide on the forms of distribution that will take place. The inclusion of women in this process can therefore have both medium- and long-term impacts—that is, impacts directly related to the implementation of the 2010 ruling and impacts that go beyond such implementation. Endorois male leaders have supported inclusion based on the idea that the same international human rights law that has given them their land back also supports gender equality; that paternalistic views of traditional cultures cannot grasp these cultures’ capacity to change; and that there are traditional structures of power, such as the ones that allow for arbitrary evictions and gender oppression, that could and should be challenged. The symbolic, indirect impact regarding inclusion may be as relevant as the material impact found in the actual implementation of the decision: it represents an endorsement of individual dignity that allows legal, social, and institutional structures to be built and reformed in a way that reflects the idea that individuals should be treated as equals.

In view of complex local realities and diverse, changing life experiences, the *Toussaint*, *Tanudjaja*, and *Endorois* cases, as well as further advocacy concerning the right to life, show that the content of universal human rights should be fed by local narratives. Such narratives can

be channeled through litigation and advocacy, building the global not from a top-down perspective but through dialogue—through a view from everywhere. As Thomas Nagel puts it, there are certain types of knowledge in the world that can better be understood subjectively. Life experiences and narratives—the basis for understanding needs and rights—can be located in that category. In this sense, rights litigation and advocacy can be central tools for the drafting of a more inclusive, multicentered, and truly universal human rights law.⁶

Growing Complexity: Voices, Content, and Risks

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Daniela Ikawa

A third challenge faced by networks in the construction of a more effective and universal human rights framework is the growing complexity of international human rights law, especially when dealing with ESCR. By this I do not mean that ESCR are more complex because they are linked to public policies and institutional reform, while civil and political rights are not. Both categories of rights should be connected to social and institutional reform, where necessary, to protect rights for all—from more accessible voting systems to more effective housing policies. However, it has been in the advocacy for ESCR that such a connection between rights and structural reform has become more apparent (and where it has been challenged).

Complexity has grown not only in terms of the increasing number of voices being heard but also in terms of the content of rights. The role

6 Nagel's view of nowhere is an attempt to balance subjective and objective views in order to find universal norms. He understands the need to consider individuals' contexts and the relevance of deliberation. He also underscores that objectivity might not extend to all norms and that even for those norms covered by it, the types and levels of objectivity may vary. Moreover, objectivity might not be final. Such elements of his theory are relevant here: the consideration of context, the consideration of deliberation or dialogue, and the notion that objectivity is neither all-encompassing nor definitive (and is open to further discussion). In part, however, Nagel seems to be considering objectivity in spite of subjectivity (Nagel 1986), while we consider objectivity (or, in our words, universality) due to the consideration of subjective contexts and narratives. Like Nagel, I believe that deliberation over what each person considers to be universal is quite relevant. Individual narratives might include not only egoistic interests but also issues of broader justice. The difference, however, seems to lie in our focus. While I focus on the construction of universal norms, Nagel focuses on their discovery. Therefore, I use a view from everywhere instead of a view from nowhere to describe universality for the purpose of human rights. Finally, such a construction of universal human rights norms is perceived here as part of an ongoing process that might not have a particular end. At the same time, it is not a completely unstructured process that can lead to any result that will then be legitimized. The process is framed around the preexisting foundations of a human rights framework, which encompasses the ideas of individual dignity, equal respect, and the intrinsic value of each human being.

of networks is actually not to simplify but to help build this complex framework, at least with regard to vulnerable groups whose rights have been violated.

The attempt to encompass a larger variety of voices—including the voices of the most vulnerable—in the framing of rights has clarified the growing risks faced by affected individuals and communities, as well as by human rights defenders. One such risk comes in the form of criminalization. Unfortunately, the criminalization of rights defenders and social movement leaders has been identified as a widespread practice by ESCR-Net's System of Solidarity. This system, which embraces more traditional forms of civil and political rights protection, shows, once again, how the practice of an ESCR network can become increasingly attached to the principle of indivisibility among rights. After all, violations do not choose among categories of rights.

In 2014 and 2015, the System of Solidarity addressed the criminalization of human rights defenders in Egypt, Guatemala, Mexico, and Cambodia, where domestic law has been twisted to harass, silence, and punish advocates working in defense of ESCR. In Egypt, the director of an ESCR-Net member organization, the Land Center for Human Rights, was charged and sentenced in absentia in 2013 with “contempt of religion, atheism and inciting to sedition and bloodshed” under article 98 of the Blasphemy Law, after he published the book *Where is Allah?*, which describes the life experiences of farmers in the country. ESCR-Net has been advocating before the Egyptian government for the director's rights to freedom of thought and religion. In Guatemala, three human rights defenders from Huehuetenango were arrested in 2015 for opposing several development projects headed by Spanish, Canadian, and Italian corporations. The mining and hydroelectric projects commenced without taking into account indigenous communities' right to free, prior, and informed consent. ESCR-Net has advocated before the government for these defenders' right to a fair trial. In Mexico, not only has the federal government refused to implement a court decision (Amparo 631/2012) recognizing the right of the Yaqui tribe to be consulted on the construction of an aqueduct that will have a dire impact on their lives, but it has also allowed the detention of Yaqui community leaders. This System of Solidarity intervention and the related actions of ESCR-Net's Mexican members Centro Mexicano de Derecho Ambiental (Mexican Center for Environmental Law) and Fundar contributed to the release of one of the leaders in March 2015. Finally, in Cambodia, the network advocated before the government to free seven human rights defenders who had been imprisoned after peacefully protesting

against the eviction of almost 20,000 people living around Boeung Kak Lake. In this case, the activists were released in April 2015.⁷

The work on behalf of human rights defenders is made possible due to the exchange of information among human rights organizations, as well as the relationships of trust built within networks over time; in other words, it is made possible through holistic forms of collaboration. Such relationships of trust improve the network's capacity to identify risks and to attest to members' credibility, contributing to the empowerment of human rights activists and social movement leaders.

Conclusion

Challenges posed to ESCR networks in recent decades have not been completely overcome, but procedural and substantive steps taken to address them have revealed opportunities for improving human rights protection. First, advances in the perception of ESCR as legally binding rights have allowed ESCR NGOs (and networks) to approach rights more fully through the principle of invisibility. In other words, they have allowed networks to strengthen their focus on the protection of ESCR through a variety of tools, including a redefinition of civil and political rights. Second, challenges regarding the heightened vulnerability of affected individuals have provoked responses in terms of protection, such as the System of Solidarity. This system has been strengthened over time as relationships of trust and exchange among members increase. Third, challenges have further clarified the need to reformulate international human rights law so that it reflects a growing number of voices and more effectively protects the rights of all. Finally, challenges have stressed the need to become more attentive to new forms of collaboration that extend over longer periods of time and that combine a diversity of backgrounds and experiences with shared normative and political goals.

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7 For more information on these initiatives and their impact, see ESCR-Net (2014a, 2014b, 2014d, 2015); Centro Mexicano de Derecho Ambiental (2015); International Federation for Human Rights (2015).

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9. International Human Rights Advocacy and “New” Civic Activisms: Divergences, Contestations, and Complementarity*

Doutje Lettinga

* This chapter is based in part on an article co-authored with Femke Kaulingfreks (Lettinga and Kaulingfreks 2015) but reflects my own evolving thinking on the subject matter. Moreover, the views expressed herein are my own and do not necessarily represent those of Amnesty International.

Introduction

Over the past few years, streets and squares across the world have become the sites of massive demonstrations, strikes, occupations, riots, rebellions, and revolutions. From the uprisings in North Africa and the Middle East to the anti-austerity protests in southern Europe, from the occupation of squares in European cities by the global Occupy movement to the riots and protests on the streets of Brazil, Ukraine, and Turkey, and from the anticorruption movement in India to Black Life Matters demonstrations in the United States, since 2010 people across the globe have been rising up against injustice, deprivation, and the abuse of power.

Some of these eruptions, particularly in North Africa and the Middle East, have prompted government crackdowns or have ended in chaos and civil war, or both. In the short term, they did not have the impact or the sustainability that was projected on them by the media and the international community. But “the age of mass dissent is here to stay” (CIVICUS 2014, 1). Not only do some movements such as the Occupy movement continue to manifest themselves through smaller public actions and in less visible, local grassroots initiatives, but new street protests also continue to emerge in other middle-income countries (such as Malaysia, Thailand, and Venezuela).

That these protests are erupting in emerging economic powers such as Turkey and Brazil is no coincidence; the protests are not necessarily driven by the poorest and most marginalized. Rather, the rising expectations of a growing and empowered middle class that demands an improved quality of life are coming into conflict with the inability or unwillingness of governments to deliver public services. This generates an expectations gap that can become a source of conflict and social tension (European Strategy and Policy Analysis System 2012). While the emergence of the “global middle” (see Evans and Rodríguez-Garavito in this volume) has lifted millions of people out of poverty,

inequalities continue to rise within and between countries, affecting young people and the poor in particular (Organisation for Economic Co-operation and Development 2014). As long as the governance gap persists at the local and global levels, and the aspirations of citizens for greater redistribution of wealth, equal rights, and direct participation in political processes are not met, more citizen activism is likely to follow.

What do these contemporary civic activisms that largely organize outside the context of nongovernmental organizations (NGOs) mean for established human rights organizations? In this chapter, I argue that these citizen-led activisms carry with them a lot of energy, ideas, and resources that can, if channeled well, be a source for progressive change. But they also fundamentally challenge the way that international human rights organizations (IHROs) have been operating in at least three ways: new activists use different vocabularies for change, experiment with networked and horizontal ways of organizing, and enable radical, disruptive repertoires of action. As a result, they are contesting dominant modes of operating and related power relations that permeate the human rights landscape.

Geographical distinctions intersect with these divisions because the larger IHROs are traditionally based in the global North, while the more powerful social movements are increasingly found in the global South (notwithstanding the presence of movements in the North and the relocations of IHROs to the South). While some IHROs are already engaged in a process of internationalization to meet some of the challenges at stake (Levine 2014; Shetty 2015), they will need to change their modus operandi more fundamentally if they wish to forge direct links with and increase their accountability to these citizens' movements. In the conclusion, I suggest different ways of interaction between both types of civic engagement that may enhance their complementarity and mutual strength.

Throughout the chapter, I refer to IHROs such as Amnesty International and Human Rights Watch because they are, despite their differences, archetypical examples of institutionalized human rights organizations that work from a legal human rights frame (I am also personally most familiar with these two organizations since I have worked for both of them). Along the continuum of approaches to social change, however, lies a myriad of global to local human rights organizations whose strategies, discourses, and frameworks connect and sometimes overlap with those of IHROs as well as with those of other movements and social justice discourses. Within this ecosystem (Rodríguez-Garavito 2014), some organizations have closer connections than

others to the groups and movements on the streets. Moreover, IHROs themselves can be internally heterogeneous. Over time and within one organization, different contestations take place, different strategies are explored, and different approaches dominate. While this chapter tries to discern some distinctive features of contemporary civic activism that appear to contradict and challenge IHROs’ ways of organizing and operating, in reality the contrast will not always be so stark given the dynamic, evolving, and contextual nature of human rights work.

In line with the purpose of this book, and in order to limit the scope of the activism under scrutiny, this chapter will focus on those bottom-up rebellions and expressions of widespread discontent that are committed to social justice, human dignity, and democracy. Nonetheless, the concept of “new” civic activism captures a multitude of protest activities that are organizationally very diverse (from mass protests and smaller-scale mobilizations in public spaces to online campaigns and autonomous direct action) and that can comprise various noncentralized forms of political action, including violent forms of struggle based on obscurantist or exclusive ideologies (Biekart and Fowler 2013, 531–2). In this chapter, such intolerant forms of “new activism” shown by xenophobic or extremist political groupings—such as the Alt Right, Pegida, and Génération Identitaire movements in Europe and North America—are distinguished from groups and movements that use disruptive methods as a means to progressive and peaceful ends. Also, there is always a risk that protest events may turn away from the inclusive and participatory ideals of some early activists and turn violent, racist, or sexist. Research on the role and strength of these more “uncivil” parts of civil society that emerge in both exclusionary and progressive movements is needed. This will help us better understand the differences and similarities between “civil” and “uncivil” types of new activism and allow us to strategize how IHROs can relate to both of them.

“New” Civic Activisms

Obviously, all types of activism emerge in their own social, historical, cultural, and political context. The uprisings in Egypt were different from their counterparts in Libya, even though they might be seen as part of a larger so-called Arab Spring. The anticorruption movement in India is different from the anti-austerity movement in Greece, even though the two movements are seemingly about similar issues of democracy, accountability, and social justice. Each protest event thus demands to be studied in its own specific context (see also Khanna et al. 2013, 9–10).

Nonetheless, several scholars have discerned commonalities in contemporary activisms, not only in their timing but also in their framing of grievances, their repertoires of action, and their modes of organizing. These scholars argue that that the events constitute a distinct shift in the character of civic engagement. Some speak about “new-style citizen movements” (Rood and Dinnissen 2013, 98–99), while others who take the events from 2010 onward as their starting point speak of “activisms 2010+” (Biekart and Fowler 2013).

Subterranean politics (Kaldor and Selchow 2012) and unruly politics (Khanna et al. 2013) are two other lenses through which these “citizen-centric civil society mobilizations” have been studied. While subterranean politics refers to a series of public mobilizations and collective action in Europe, the term “unruly politics” is a more comprehensive concept. It is used to describe the interventions of those who disrupt the framework of institutional power relations in more unconventional, confrontational, and sometimes illegal or violent ways because they feel excluded from institutionalized structures of politics to express their demands (Kaulingfreks 2015; Lettinga and Kaulingfreks 2015). Unruly politics has been defined as

political action by people who have been denied voice by the rules of the political game, and by the social rules that underpin this game. It draws its power from transgressing these rules—while at the same time upholding others, which may not be legally sanctioned but which have legitimacy, deeply rooted in people’s own understandings of what is right and just. This preoccupation with social justice distinguishes these forms of political action from the banditry or gang violence with which threatened autocrats wilfully try to associate them. (Shankland et al. 2011, cited in Khanna et al. 2013, 14)

By claiming new spaces for political action, by carrying out forms of action that are transgressive, and by rejecting the language of institutional politics, unruly politics is seen as moving beyond conventional understandings of how and where civic politics happen (see also Gready and Robins 2017). Given my focus on the “new” challenges that they pose for IHROs, I use the term “new civic activisms” to capture the agendas, repertoires of action, and modes of organizing of contemporary protest movements.

According to the literature, “new” civic activism has at least two distinctive features, which I elaborate on further below. First, contemporary activisms comprise new types of spontaneous and fluid organizing without designated leaders or sites of leadership, as well as new forms of “nondirected,” self-driven campaigning and collective, direct action. Today’s activists seek other spaces and mechanisms that

are neither institutionalized nor under the auspices of particular organizational umbrellas (Tadros 2014, 52). Second, activists increasingly use social media and electronic communication to challenge existing configurations of power. These new technologies enable forms of real-time, self-directed, and networked communication that can rapidly mobilize masses of geographically spread and ideologically diverse people.

It is important to note, however, that contemporary citizen-led mobilizations do not necessarily signify a definitive break with conventional social movements. They share a number of similarities with social movements and with established NGOs and are hence both old and “new” (Gready and Robins 2017). For example, they may build on, integrate, and adapt many of the organizational modes, methods, and strategies of older social movements. Some of the tactics used in present-day examples of civic activism undertaken outside the structures of formal organizations—such as sit-ins, boycotts, the occupation of public spaces, traffic tie-ups, and rioting and looting—resemble those used in earlier waves of protest and carry a similar disruptive power (Fox Piven and Cloward 1977). Despite such convergences with older social movements and NGOs, present-day acts of public defiance and rebellion still constitute a shift away from conventional strategies and modes of organizing that poses new challenges for IHROs, as discussed in the next section.

IHROs and Contemporary Protest Movements: Divergences

In their different vocabularies for change and their rejection of old, representative, and professionalized tactics for organizing and engaging with institutional politics, contemporary activists challenge the ways in which IHROs such as Amnesty International and Human Rights Watch have been operating and forging transnational networks (see Levine 2014; Lokshina 2015; Shetty 2015; Waltz 2015).

Different Vocabularies for Social Change

Across different regional contexts and different types of protests, actions, campaigns, and initiatives, activists have articulated common diagnostic frames that include a demand for democracy, social justice, and human dignity (Burke 2014; Glasius and Pleyers 2013; Ishkanian and Glasius 2013). One study of over 800 protests occurring worldwide between 2006 and 2013 (Ortiz et al. 2013) found that protestors’ main

grievances concerning economic injustice and austerity policies included demands for the reform of public services and pensions, for decent jobs and labor conditions, for progressive tax and fiscal policies, for improved living standards, and for access to land and affordable food, energy, and housing. Although rights claims were also visible, they were less prominent than those related to social and economic justice, which were not formulated in the language of rights and whose realization was not sought primarily through the domestic incorporation of international norms (Burke 2014; Ortiz et al. 2013). But the single demand that exceeded all others was the demand for “real democracy” (Burke 2014; Kaldor and Selchow 2012).

Recent pro-democracy movements in countries such as Brazil, Ecuador, Egypt, Russia, and Turkey mobilized to restore the basic tenets of liberal democracy, such as free and fair elections and noncorrupt political elites. In this sense, they seemed to contrast with Western protests, such as the M15 movement in Spain and the Occupy Wall Street movement in the United States, that focused on the structural limits of conventional forms of governance such as representative democracy. Nonetheless, both sets of movements shared a demand for democratization: democracy as an unfulfilled aspiration and practice (Glasius and Pleyers 2013, 555). In both authoritarian democracies and liberal democracies, protesters criticized existing structures of representation for not serving their interests (Anheier, Kaldor, and Glasius 2012; Glasius and Pleyers 2013; Kaldor and Selchow 2012). In both contexts, electoral democracy was seen as not giving an opportunity to alternate power structures (Glasius and Pleyers 2013, 556), often being associated with an economic system that produces and reproduces inequality (Burke 2014; Maeckelbergh 2014, 346). This apparent repudiation of institutional politics, in the form of electoral democracy, sometimes resulted in a rejection of partisanship, with protestors in Turkey and Brazil boycotting the visible presence of formal political parties in marches (Mische 2013).

While IHROs generally share a belief in the need to change the existing global political and economic order, their approach is fundamentally different. Organizations such as Amnesty International and Human Rights Watch have primarily associated human rights with international legal standards embedded in (multilateral) treaties, laws, jurisprudence, and declarations and therefore focus their advocacy on the state as the principal duty-bearer responsible for fulfilling the rights of individuals and groups (Chong 2010). Although IHROs have increasingly begun to incorporate a focus on private (corporate) actors and international financial institutions—such as the International Monetary Fund and

the World Bank—they tend to trace violations back to an (in)action of the state as opposed to systemic failures. While it is true that these organizations occasionally use more accessible rights language in their campaigning—embedding rights in broader notions of justice, fairness, and equality—they ultimately define rights in legal terms. This legal approach has several benefits, but it also circumscribes the range of possible interpretations of what concepts such as human dignity, social justice, and equality mean; what powerful actors’ duties are; who the duty-bearers are; and what policy solutions exist.

By contrast, activists in contemporary protest movements do not seek the realization of rights and justice primarily through the law. They tend to understand rights as broad moral concepts, at best regarding them as one of the available tools for achieving other causes (social justice, real democracy, and so forth) rather than as an end goal in and of themselves. Relatedly, most will seek solutions for poverty and exclusion in the transformation of prevailing power dynamics—whether social, ethno-cultural, economic, or political—that goes beyond the purely legal and beyond the state as the sole arbiter and deliverer of justice. This is evidenced by research showing that although protestors’ primary targets are their own national governments, their second-largest target is often “the political or economic system” or other undefined entities related to global injustice, such as “corporations,” “elites,” “the European Union,” and “the financial sector” (Burke 2014, 30).

In fact, the central target of human rights advocacy—the state—is fundamentally distrusted (Nader 2014) and sometimes sidelined by modern protest groups and movements that construct alternative political economies at the micro level. State-oriented human rights advocacy can therefore be perceived as too moderate by protestors who seek radical changes in ideological, economic, and political structures. IHROs’ rights-based advocacy can even be seen as entrenching the status quo by calling on the state to implement the law within the given system and seeking incremental policy changes instead of a radical disruption of the status quo.

Different Organizational Practices

Various scholars also observe a commonality in the modes in which modern protest movements are organized (Biekart and Fowler 2013; Rood and Dinnissen 2013). Present-day protests are not always instigated by a coherently structured collective that is formed around clearly formulated and shared political claims or a collective identity or ideology. Unlike traditional civil society organizations and older social

movements that evince at least a minimum degree of organization and whose actions are founded on a sense of shared identity, aim, or belief, new civic activisms are much more diverse, fluid, and decentralized. They bring together “disparate citizens who spontaneously coalesce around an issue even when there has been no previous organization” (Tadros 2014, 15). This enables unconventional, unexpected, and ad hoc alliances and coalitions between ideologically different or remotely connected groups and between persons from all walks of life and ages who do not necessarily share a prior agenda (see also Göle 2013).

Overall, contemporary protests are neither initiated nor organized by established civil society organizations such as NGOs, trade unions, and political parties. Although individual NGO employees often support or even join protest movements, they do so in their individual capacity and not on the basis of their organizational identity (Ishkanian and Glasius 2013). They do not play a central role in leadership, which is far looser and more scattered in modern-day protest movements (Participatory Research in Asia 2012, 10). Asef Bayat speaks in this respect of “nonmovements,” a term that refers to “the collective actions of noncollective actors . . . [that] embody shared practices of large numbers of ordinary people whose fragmented but similar activities trigger much social change, even though these practices are rarely guided by an ideology or recognizable leaderships and organizations” (Bayat 2010, 14).

The dissemination of new information and communication technologies has obviously facilitated these instant and informal forms of mobilization that are leaderless, replaceable, and horizontal. The unprecedented access to global information streams and networks unleashed by information and communication technologies has, first, enabled people to be more critical and outspoken vis-à-vis the state while simultaneously being more interconnected with peers across the world who hold similar aspirations and grievances. This shared awareness of what is going on in the world creates a basis for global activism (European Strategy and Policy Analysis System 2012). Second, disperse activists and organizations can exchange information, forge alliances, organize overnight, and launch online campaigns together with unprecedented speed and ease and without the need for an organizational structure. As a result, the use of information and communication technologies may structurally transform the interactions in activists’ networks.

Where new information and communication technologies have facilitated these new ways of organizing collective action, the claim for real democracy (as described in the previous section) shapes and

motivates them. For many activists around the world, democracy is considered not only a demand but a practice. Protestors in the Occupy movement, for instance, have instituted horizontal organizational structures in an effort to avoid creating the same rigid hierarchal power structures they are fighting against (Ishkanian and Glasius 2013, 9). The Occupy encampments are not based on creating a shared political program with formally anointed or agreed-on leadership, as they reject this kind of representative democracy and overbearing leadership (Maeckelbergh 2014; Sitrin 2012). Instead, the encampments practice the participatory forms of democratic debate and deliberation that have been absent in the political and economic policy decisions of the political elites they challenge. In this sense, the movement’s politics is not about creating a state of total anarchy but about creating “subversive ruliness” (Shankland 2012).

For IHROs, it can be difficult to engage with these fluid and leaderless movements in practical terms. Many protests have neither a central organization that mediates different positions nor one clearly formulated goal. While these unstructured types of organization may be successful in their ability to mobilize masses of people in a short amount of time and in their surprise effect on authorities, their activisms are also difficult to channel in nonviolent, durable, and effective ways. For IHROs that are used to controlling and steering actions initiated under their own organizational umbrella, it can be challenging to engage with such types of civic activisms not only because it requires them to relinquish this control (and hence power) but also because of the unpredictable outcomes of these actions and revolutions.

More fundamentally, IHROs’ traditional role as vehicles for change and emancipation has declined. As a result of their professionalized, centralized, and rather hierarchal modes of organizing, institutionalized human rights NGOs can be perceived as “highly alienating hierarchies” (Participatory Research in Asia 2012). Activists, instead of becoming members of such NGOs, often prefer to engage with unmediated politics, turning to social media for information and mobilization and creating political events on their own terms (Pantazidou 2013, 762). They reject having their message be represented by others, fearing that such mediated forms of communication will disempower them and distance them from defending their own identities, needs, and interests in the public sphere (Maeckelbergh 2014). In other words, contemporary activists reject both the “gatekeeper” role that large human rights NGOs have played and the latter’s “representation” of activists’ “interests” in formal institutional settings (including before political parties, government officials, and parliaments).

Different Tactics and Action Repertoires

The move away from conventional, representative, recognized forms of organization to citizen-led, anti-hierarchical, horizontal networks is echoed by a move away from traditional repertoires of action (Pantazidou 2013). Recognized and socially acceptable forms of participation and claim-making that are generally used by IHROs and that emphasize collaborative modes of political interaction are sometimes replaced by subversive, unruly, disruptive, or illegal direct action to confront the status quo.

Examples include the occupation or blocking of symbolic centers of political power, such as public squares, parliaments, and embassies, and the physical (albeit often nonviolent) resistance to eviction (Shankland 2012); the performance of loud and intrusive flash mobs in shopping malls and metro stations; the occupation of hospital tills so that patients can be seen without cost; and the reconnection of electricity in houses where provision has been cut (Pantazidou 2013).

Activists take direct actions not only to protest injustice but also to solve problems that the state fails to address, and thereby construct and enact new rules, norms, and practices to replace macro politics and economics. They step in to correct the ways in which they are governed and to demonstrate what a fairer system looks like, even when this implies transgressing existing laws, norms, and regulations. The aforementioned example of the occupation of tills at hospitals is illustrative of this trend of restructuring and replacing institutions and systems deemed as flawed and unjust. Other examples are the use of crypto currencies, the opening of neighborhood shops with locally produced food, and the undertaking of local educational reform initiatives. These innovative practices in the public sphere, autonomous from established (political, economic, or monetary) institutions, can eventually be transferred to state practices or the political space if established actors start recognizing and reifying them (Lutsevych 2013, 18). In other words, direct and unruly actions have become a tool to demand accountability and correct injustices, while at the same time helping oppose government policy and empower citizens (Pantazidou 2013, 765).

All of these actions can be organized without following a set of top-down instructions from central leadership (Participatory Research in Asia 2012, 10). As stated in the introduction, this lack of central coordination also carries the risk that contemporary protest movements can turn away from the inclusive and participatory ideals of other participants. Activism can turn violent, racist, or sexist and thereby reproduce oppressive power structures and mechanisms of exclusion, especially

because social media and other new technologies can sharpen ideological conflict, foster extremism, and disseminate disinformation, thereby dividing rather than uniting global civil society. Moreover, in recent years, Europe and North America have seen the uprising of other forms of unruly activism by nationalist, xenophobic, and sexist movements such as the Alt Right and Pegida. There is a real concern that these exclusionary and discriminatory understandings and expressions of citizen-led politics may be more enduring and better organized than their more progressive counterparts, which warrants more theoretical and empirical scrutiny. For IHROs in particular, these “uncivil” forms of new activism pose another challenge for their work, especially when such movements coopt the human rights agenda to exclude and marginalize minorities and when they become part of the institutional politics that IHROs need to engage and lobby.

Toward Complementarity

The global uprisings since 2010 indicate that there is a momentum for IHROs whereby they can seize on the energy and hope of a new generation of activists across different local contexts. In their more revolutionary vocabularies for change that go beyond the state as the main point of reference, their horizontal and loose modes of organizing outside established institutions, and their unruly, transgressive, and direct action repertoires, new civic activism are able to attract people’s energy to change sociopolitical realities in ways we have not seen for a long time. With the help of social media, these fluid, decentralized citizen-led networks have been able to mobilize masses of citizens around the world.

Despite their disruptive power, most present-day protest movements have failed to change the status quo in sustainable ways. Economic and political elites have managed to regroup and impede progressive social change instigated from below, such as by passing restrictive laws that stifle civil society activism (Carothers and Brechenmacher 2014). It is essential that IHROs forge synergies with contemporary protest movements and action groups so that the disruptive force of these explosive short-term mobilizations can be combined with IHROs’ long-term endeavors to bring about systemic change. But how?

Enabling and Supporting

One way in which IHROs can support contemporary activists is by continuing to advocate for a secure and enabling space for civil society activism in various national, regional, and international forums.

In many countries, protestors rising up against inequality, corruption, and injustice are confronted with various (subtle and harder) forms of state violence. According to one study, in more than half of the protests studied between 2006 and 2013, activists faced arrest, had injuries, or were killed as a result of state repression or violent clashes with other groups (Ortiz et al. 2013). Citizen surveillance is becoming more common to repress dissent, with state authorities maligning, harassing, intimidating, and threatening activists and organizations. In their advocacy and research work, but also through trial monitoring and legal assistance, IHROs can continue to play a role in creating a protective environment for activists engaged in new civic politics. Their global networks, access to and relations with state officials, resources, and skills can thus at moments be beneficial to the rights, security, and work of locally based activists.

However, IHROs defending the civil and political rights of activists in this way will need to find ways to overcome the mutual distrust that can exist between activists and established NGOs. Because of their close association with institutionalized power and their own high degree of institutionalization, IHROs can be seen as part of the elite class that has an interest in maintaining the status quo. Research indicates that ambivalent relations exist between some movements and established NGOs. For example, even though participants in street protests say that they appreciate the networks and professional experiences of NGOs and even have contact with them “behind the scenes,” they also see these organizations as at risk of being coopted by politics, too dependent on funding to be critical, and overly politicized (Ishkianian and Glasius 2013, 24–27; see also Lutsevych 2013). More research is needed to establish the extent to which such views vary between different types of NGOs (e.g., development, service delivery, and advocacy-based human rights organizations). But it is fair to conclude that IHROs can increase trust among protestors if they manage to maintain or ensure a certain critical distance from state authorities and other powerful elites.

Brokering

While helping protect an enabling space for civic activism through their human rights advocacy, IHROs could also choose to enable new activists to directly express their grievances and demands in national, regional, and international forums. As discussed above, contemporary activists tend to reject mediated forms of communication, including by NGOs that defend “their” rights before political parties, government officials,

and journalists. They prefer to directly express their own needs, identities, and interests through social media and self-created political events. Some, however, might be interested in engaging with powerful elites, even if only on their own terms. IHROs could help such activists by creating platforms where state and private actors can meet with “new civil society” actors who speak in their own capacity, alongside or even instead of institutionalized NGOs. IHROs could act as a kind of power broker without claiming to represent or speak for others.

Such a role requires that IHROs become more receptive to supporting activist groups and networks that organize outside established institutions with agendas different from their own. Basically, this requires a shift from supporting and giving voice to “human rights defenders” to giving voice to all marginalized or disenfranchised “rights holders” who mobilize to demand justice, a shift that might already be visible in some IHROs. There are risks and trade-offs involved in such a shift: IHROs have an interest in upholding and promoting their own specific human rights agendas, and sharing the stage with others might be at the expense of their own visibility. Also, rights holders themselves can become abusive in their struggle to change the existing political and economic order. Therefore, IHROs may still want to be selective in whom they give voice to, paying attention to minority and marginalized voices within the movements and being careful to avoid strengthening exclusionary, retrogressive, or oppressive strands. Also, while functioning as a broker, they may want to emphasize their own independence and impartiality. Maintaining a certain critical distance to the activism of rights holders is necessary if IHROs want to credibly hold activists to account for (future) violations in cases where the latter acquire power. Furthermore, as Daan Bronkhorst of Amnesty International the Netherlands points out, giving voice to rights holders can have other disadvantages:

Victims often are not objective, if only because of traumatisation. They may not be bound to the test of evidence that monitors would be submitted to. The (international) political situation may be far beyond the scope of their knowledge. The spokespersons, through their local ties, often have local interests. It may not be clear whom they are actually representing and what other voices they are suppressing. Most importantly, the “voice” of local spokespersons is nearly always selected by international organisations, since they are the ones with access to media politicians and public. (Bronkhorst 2014, 65)

These are valid concerns for IHROs that need to be openly confronted and discussed. Moreover, IHROs themselves increasingly face obstacles in their access to institutionalized power that must be

overcome. Even if IHROs decide to make this shift and help activists become their own agents of change, they will need to work hard to reestablish trust between activists and public institutions. Some contemporary activist groups and movements are reluctant to rely on the state as the deliverer of rights and justice, notwithstanding the legal reality that states are still the primary duty bearers. They may refuse to speak the language of institutional politics or to play by its rules. Government authorities, in turn, may be reluctant to invite transgressive and militant grassroots-based movements and groups to formal meetings, or they may inadvertently ignore those that have little or no formal structure. Bringing together protestors who are willing to negotiate with the government (even if only on their own terms) and those segments of the state that are willing to recognize and endorse civil society will be key for IHROs that aim to support new activists and rights holders in their activism.

Relating Protestors' Claims to Human Rights

Additionally, IHROs could try to better connect their human rights frameworks to activists' claims for social justice and democracy. The rights to information, participation, and equality, for instance, can be linked to democracy agendas. In a similar vein, human rights organizations could incorporate at least some of the social justice demands (Khalfan and Byrne 2015; Petrusek 2015). IHROs should take care, however, to not reproduce or perpetuate dominant discursive and strategic rights repertoires in the relations they seek with pro-democracy and social justice activists. While the legal human rights frame has its merits, it may be too limited and modest as a tool for the system-level changes that activists seek to fight inequality, poverty, and social injustice (Lettinga and van Troost 2015).

In such a realignment of agendas, IHROs will need to determine the extent to which they want to line up with the more transformative aims of contemporary protest movements. This requires that they engage more critically with activists' alternative grammars of justice and rights that go beyond the state, the law, and established rules and that they decide whether to shift their focus toward the deeper structures that perpetuate poverty, inequality, and social exclusion. For a grassroots-based organization such as Amnesty International, engaging with activists' social justice agendas has been on the organization's agenda ever since it started working *with* rights holders (rather than only *for* them) and on the full spectrum of human rights (Khalfan and Byrne 2015). But making a strategic decision about how far it wants to

go in fighting inequality and poverty and what this implies for its legal human rights frame may become even more pressing now that Amnesty is moving closer to the ground by seeking stronger alliances with activists and rights holders in the global South (Shetty 2015).

As the director of Amnesty International Finland ponders:

Do we want to move away from a, even if broadened, still narrow human rights focus and take a political stand against the more fundamental question of injustice? Choose a certain social policy as a goal? Can we do so without both ostracising Western power and those within the West whose money makes the organisation run? (Johansson 2014, 57)

Building Horizontal, Decentralized Network-Based Organizations

Yet all of this may still not be enough for IHROs to increase direct links with and accountability toward today’s generation of activists, particularly for membership-based and grassroots-based organizations such as Amnesty International. Ultimately, existing relations and connections between IHROs and activists must be reconfigured in ways that are less hierarchal and institutionalized and more inclusive, reciprocal, and open. I agree with Rodríguez-Garavito that this may be easier said than done. He writes:

For dominant human rights organisations like Human Rights Watch and Amnesty, this implies a difficult challenge: transitioning from the vertical and highly autonomous *modus operandi* that has allowed them to make key contributions, to a more horizontal model that would allow them to work with networks of diverse actors. For the time being, their efforts to globalise their operations by opening offices in new centres of power in the Global South have failed to translate into new forms of engagement, so as to interact with local, national and regional organizations on an equal footing in terms of initiative, decision-making and authorship. (Rodríguez-Garavito 2014, 507)

Frank Johansson, the aforementioned director of Amnesty International Finland, also doubts whether his organization’s internationalization strategy will result in this bottom-up decentralization: “Even though we talk about empowerment, we are actually not reinventing the organisation in a way that would give more power to local activists and rights holders; on the contrary, we are striving for more centralised top-down control” (Johansson 2014, 57).

It is too early to assess whether the newly enforced (and different) internationalization strategies of Human Rights Watch and Amnesty International have actually failed to engage more directly and

reciprocally with activists on the ground. Moreover, as stated earlier, IHROs are not monolithic blocks but internally diversified and heterogeneous in terms of actors, approaches, and methods. Some departments of these organizations may already be experimenting with participatory approaches and inclusive patterns of communication. Among the more junior staff, volunteers, and members of IHROs are skilled practitioners with much experience in community organizing and grassroots mobilizing, who sometimes participate in protest movements in their personal capacity. These individuals could play a key role in bridging the gap between the street and their organizations' headquarters, involving activists on the ground in the design and implementation of campaigns for wider social transformation and exchanging good practices, experiences, and information, particularly through new opportunities offered by the internet.

Adapting and changing IHROs' policies and practices in ways that create more space and autonomy for activists' own understandings of rights and justice, horizontal and democratic modes of organizing, and countercultural action repertoires is neither without risks nor unproblematic. Activists may push IHROs to be more vocal, more radical and anti-establishment, and faster, which may jeopardize these organizations' missions. Staff involved in high-level advocacy and major donor fundraising efforts, in particular, may fear being associated with activists' more radical agendas and action repertoires, because such association may discredit their organization in the eyes of the political elites they seek to influence or the constituencies on whom they depend for funding. And while involving activists in the design and implementation of campaigns may enhance IHROs' representativeness and legitimacy in the long run, it might simultaneously undermine their effectiveness in the short run as a result of time-consuming debates and temporary conflicts that can accompany such bottom-up engagement.

Creating a space for a multiplicity of grievances, identities, and aspirations while simultaneously retaining their own specific human rights agenda and ensuring some degree of coherence around emancipatory agendas will certainly be a challenge for IHROs. But ignoring the discontent and the strength of a new generation of activists who organize largely outside institutional and formal structures would mean missing out on an opportunity for progressive social change.

Conclusion

The activisms of contemporary protest movements and the advocacy of IHROs differ from each other in their vocabularies of change, their

modes of organizing, and their action repertoires. In order to be effective in the long run, the spontaneous and direct actions of contemporary activists with progressive, inclusive, and emancipatory agendas need to be complemented with endeavors that have more longevity and durability. This, in turn, probably requires flexible repertoires of action that combine, on the one hand, confrontation with formal governance systems and, on the other, engagement with those systems. IHROs, in order to be able to forge successful linkages with activists on the ground, need to seek more reciprocal and horizontal relations with these activists and create more space for different strategies and vocabularies aimed at progressive social change. If IHROs manage to innovate and transform their policies and practices in this way, they can work together with activists toward more inclusive, rights-respecting, and effective forms of governance.

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10. India's Equivocal Engagement with Transnational Advocacy*

Harsh Mander

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There is no doubt that civil society advocates for policy reform, rights, and justice in India derive strength and impact from nongovernmental partners and credible and powerful voices in other parts of the planet. Efforts to influence public policy, law, and programs in favor of socioeconomic rights, environmental justice and sustainability, gender and caste equity, disability rights, minority and sexuality rights, postconflict justice, and a range of similar concerns include many examples in which local successes can be attributed in part to the influence of what has been described as transnational advocacy networks.¹

There are indeed innumerable instances of the vibrant interplay of such cross-border networks in advancing equity and environmental goals in India. Witness, for instance, the anti-dams movement in India. In the initial decades after independence, the drive to build public massive infrastructure through state investment was welcomed as necessary for nation-building, despite the colossal human costs of displacement and environmental costs of deforestation. But starting in the 1970s and peaking in the 1980s, the movement against large development projects, especially large dams, gathered strength through powerful, sometimes epic local battles led by a range of grassroots and charismatic movements. As noted by Sanjeev Khagram in his book *Dams and Development*, local communities organized against these projects with the support of foreign activists in addition to local ones (Khagram 2004).

Although both the Indian government and local activists had been wary of foreign influence, the foreign (public and private) financing

1 Transnational advocacy networks are characterized as “networks of activists distinguishable largely by the centrality of principled ideas or values in motivating their formation” that build “new links among actors in civil societies, states, and international organizations” and thereby serve to “multiply channels of access to the international system” in Margaret Keck and Kathryn Sikkink’s *Activists beyond Borders* (1998, 1).

of and profits from these activities gave activists in Washington, London, and Tokyo a say in India's development choices as well. Their influence—in terms of lobbying, information sharing and strategy, and mobilizing the Northern media and parliaments—forced the World Bank, by the late 1980s, to rethink its financing for these projects and take the rehabilitation aspect more seriously (Khagram 2004). The final report of the World Commission on Dams, which was published in 2000, was prepared by an independent panel of experts who explored the costs and benefits of various dam projects throughout the world. The report noted that although there were many beneficial aspects of dams, including irrigation, power generation, and flood control, the social and environmental costs were often ignored during the design and implementation phases. Cost escalation, time overruns, and benefits well below those anticipated (in irrigation and achieved yields, for instance) significantly altered the expected cost-benefit ratios. Moreover, the projects were not compelled by political will, law, or planning processes to assume responsibility for mitigating their associated social and environmental costs. Finally, the report expressed concern that less harmful alternatives to big dams were not being adequately considered (D. Singh 2000).

Innumerable other examples abound. Take, for instance, the spirited and vigorous international sisterhood of the women's movement, which draws explicitly from landmark international conferences such as the World Conference on Women, which was held in Beijing in 1995: even the government of India, in its review of the effects of the Beijing platform in India twenty years later, credits the women's movement with influencing many national-level legal advances for gender justice, such as the enactment of the Criminal Law Amendment Act of 2013, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013, the Protection of Women from Domestic Violence Act of 2005, the Prohibition of Child Marriage Act of 2006, the Protection of Children from Sexual Offences Act of 2012, the Hindu Succession (Amendment) Act of 2005, and the Personal Laws (Amendment) Act of 2010 (Government of India 2014). Indian feminists use transnational symbolic instruments—such as the One Billion Rising movement on Valentine's Day each year—to mobilize girls and women, and increasingly men and boys, against gender injustice. This is not to say that local and national action is not decisive in forcing the state to act for women's rights. Indeed, the world was riveted by the massive street protests in Delhi and other parts of the country to protest the gang rape of a paramedical student in December 2013,

which precipitated important legal reforms, such as the Criminal Law (Amendment) Act of 2013.²

Moreover, the movements in India for disability rights, food sovereignty, labor rights, biodiversity conservation, the rights of indigenous peoples, and LGBT rights, to name just a few, have drawn great strength from support and movements in other parts of the world. A recent example of successful transnational advocacy relates to ensuring the continuance of the “peace clause” in the rules of the World Trade Organization, which permits countries to maintain large food stocks to feed their poor as well as contribute to food price stabilization (Mehra 2014).

Yet at the same time, Indian civil society (and the political establishment) is also frequently antagonistic and suspicious about international engagement in domestic human rights and justice battles. Whereas foreign capital is welcome, foreign support for justice issues in India is often viewed from a nationalistic lens, even in much of civil society and public opinion. The government in particular, as well as hypernationalist (and usually right-wing) nongovernmental groups, often deploys the paranoid metaphor of interference by the “foreign hand.” But this opposition to transnational engagement in national issues of justice and environmental sustainability within civil society is clouded in some hypocrisy, because foreign resources and support are often accepted but not publicly, as to do so would be seen as reducing the legitimacy of national advocacy and opposition. Therefore, many struggling civil society groups accept in-kind support from international nongovernmental organizations (NGOs), such as travel and research support or support for fellows, as long as it does not formally enter the accounting books of the concerned organization. In addition, many organizations that officially abjure foreign assistance participate in transnational networking events such as the World Social Forum, with their travel and hotel charges paid by international funders.

The nature of this somewhat paranoid (and ambiguous) chauvinism that underlies the discourse on international support for dissenting domestic groups is well illustrated by two recent incidents. The first concerns a report by India’s Intelligence Bureau entitled *Concerted*

2 In response to public outrage over the 2012 gang rape of a young woman in Delhi, the government constituted the Justice JS Verma Committee, which conducted broad consultations on the issue of sexual violence and made recommendations welcomed by women’s rights activists. Its recommendations led to the passage of the Criminal Law (Amendment) Act of 2013. For the first time in India’s legal framework, stalking, voyeurism, and acid attacks were included in the ambit of sexual crimes, and penalties were increased for rape and repeat offenses (Joshi 2013).

Efforts by Select Foreign-Funded NGOs to Take Down Indian Development Projects that was quite transparently leaked to the Indian media. This report purports to address the role of internationally supported civic dissent in stalling or halting development projects, including nuclear power plants, coal-fired power plants, farm biotechnology initiatives, hydroelectric plants, and mines. It blames this slowdown on agitations led by NGOs and notes that “the negative impact on GDP growth is assessed to be 2-3 per cent per annum.” It does not explain how it reaches this precise economic estimate. According to the report, while caste discrimination, human rights, and big dams were previously used by international organizations to discredit India at global forums, there has been a recent shift in focus on extractive industries, genetically modified organisms and foods, climate change, and anti-nuclear issues in order to encourage “growth-retarding campaigns” (Intelligence Bureau, Government of India 2014).

“These foreign donors lead local NGOs to provide field reports which are used to build a record against India and serve as tools for the strategic foreign policy interests of the Western government,” adds the report. “The strategy serves its purpose when the funded Indian NGOs provide reports, which are used to internationalise and publicise the alleged violations in international fora. All the above is used to build a record against a country or an individual in order to keep the entity under pressure and under a state of under-development” (ibid.).

According to articles published in the *Indian Express* and *Outlook*, of the twenty-two NGOs specifically mentioned in the Intelligence Bureau’s report, only eleven were registered under the Foreign Contributions Regulation Act, and none had filed their tax returns for 2013–2014 as of June 2014 (“NGOs’ Stance on Several Projects Hits Economy” 2014; Yadav 2014). These groups include Oxfam, Greenpeace, the Gene Campaign, Navdanya Trust, ActionAid, and four groups leading agitations against the Kudankulam nuclear power project. Other causes for suspicion of Greenpeace included the fact that its activists were funded to attend international conferences on issues such as Greenpeace’s proposal to ban coal-fired power plants; that Greenpeace hosted international experts on the same issue in India; that the organization funded technical studies and used them to create adverse public opinion against these projects through media discussions; and that the organization recently upgraded its communications systems and installed a sophisticated data encryption program. Besides Greenpeace, the Dutch NGO Cordaid has been accused of trying to disrupt India’s energy security by inciting resistance to extractive activities (Ranjan 2014). These and other organizations allegedly targeted specific corporations, including

government-owned Coal India Limited, as well as Hindalco, Aditya Birla Group, Vedanta, and Essar, suggesting a corporate rivalry angle in addition to one of international rivalries. An article in *Firstpost* adds:

The report names many eminent Indians who have either wittingly or unwittingly supported these NGOs, with or without financial consideration. While some of these prominent personalities were engaged in a variety of projects in India, others were invited abroad to attend conferences where they were briefed on how and why some kinds of mining and power projects—coal-fired and nuclear—and the construction of dams must be opposed. (S. Singh 2014)

It specifically mentions widely respected “saffron socialist” Swami Agnivesh, for instance, who was invited to Geneva by Cordaid as one of the lead speakers in a side event on how extractive industries interfere with the enjoyment of human rights. The article adds, “A ‘Geneva coalition’ . . . has opposed oil drilling by Jubilant Energy in three districts of Manipur, dam-building in Arunachal Pradesh and mining projects in Meghalaya” (ibid.).

In this way, any disagreement with the market-led economic policies of the state, or concerns about their environmental or labor right consequences, is considered “antinational.” The Intelligence Bureau’s report in effect regards opposition to the market paradigm of economic growth on the grounds of environmental sustainability and labor rights as violating what it calls India’s economic sovereignty. It is interesting that India’s Nobel Peace Prize winner Kailash Satyarthi, a children’s rights activist, was nominated for the award not by the Indian government—which never thought him fit even for national recognition—but by the European Union. His internationally voiced opposition to child labor was regarded privately as both “defaming” India and diluting India’s economic competitiveness in the global market.

In another dramatic example of national opposition to transnational support for Indian justice and environmental sustainability causes, on January 11, 2015, Priya Pillai of Greenpeace India was prevented from boarding an aircraft to London, apparently on the instructions of the Indian government. Media reports suggested that the government had issued a look-out circular against her. Pillai was due to address a British parliamentary committee on the effects of a coal block allocation in the Mahan forest reserve. The allocation was to Mahan Coal, a joint venture of Hindalco and Essar (a subsidiary of a British company). Pillai, as a representative of Greenpeace India, had been working with Mahan Sangharsh Samiti, a group representing members of the community in Mahan whose rights, livelihoods, and forests would be

affected by the mining. Pillai challenged the government order in the Delhi High Court.

The government of India defended its order on the grounds that her activities would create a “negative image” of India abroad and would “whittle down foreign direct investments.” The court, however, did not accept that espousing dissenting views abroad constituted “antinational activities” and suggested limitations on the executive’s power to declare actions as such (Mathur 2015). Pillai won her case on March 12, 2015, when she was declared free to travel overseas. What is noteworthy in this case was not just state opposition on chauvinistic grounds but also extensive and often violently worded attacks on Pillai in the social media as being unpatriotic.

Taking India’s issues to foreign forums in the way Pillai was doing—using foreign funds—was seen as washing India’s dirty laundry in public (meaning the global stage). In a similar example, fighting caste discrimination within India was an old vintage of social and political respectability. But the moment some anti-caste activists took the issue to global forums such as the World Conference against Racism in Durban,³ where they equated practices of caste untouchability with racism, this was considered both illegitimate and unpatriotic.

In this way, the relationship between India’s civic advocates and transnational advocacy networks is both equivocal and somewhat schizophrenic. Indian civic advocates derive from time to time ideological and financial support from transnational networks, yet they rarely challenge the subtext of the dominant state narrative of transnational advocacy support being somehow less legitimate and less patriotic. The popular civic and state interrogation of the legitimacy of international funding rarely extends to the nature and sources of funding raised within India. In effect, money raised from Indian companies that are charged with major tax defaults, labor oppression, displacement of vulnerable peoples, and environmental damage are not often regarded as illicit or unethical in the way that funds raised even from small donors overseas are.

3 In 1965, India had proposed including caste in the category of descent-based discrimination in the International Convention on the Elimination of All Forms of Racial Discrimination. However, by the time of the 2001 conference in Durban, the government decided not to allow caste to be included in the discussions, arguing that it was an internal issue for India and would distract from the core issue of race. Nonetheless, the following year, the Committee on the Elimination of Racial Discrimination, which monitors countries’ implementation of the international convention, clarified that it interpreted descent-based discrimination to include caste.

Partly perhaps as a result of the equivocal attitude of both the government and civil society regarding “foreign influence” on India’s justice issues, efforts to advance socioeconomic rights such as the rights to food, education, and health have depended significantly more on India’s courts and Constitution, and on local struggles, than on references to international covenants or alliances with transnational advocates. I will illustrate this with the case of the right to food movement, which culminated in a landmark national food security law, with which I was closely associated in many different capacities during its journey of more than a decade.

Advancing the Right to Food in India: Domestic Influences and Transnational Learning

India’s Constitution does not explicitly recognize the right to food. But after a group of Indian activists filed a petition before the Supreme Court in 2001 on behalf of the People’s Union for Civil Liberties seeking the recognition and enforcement of this right, the Supreme Court began issuing, over the span of more than a decade, a series of landmark orders in support of the right to food. In light of massive starvation-related deaths and child malnutrition on the one hand, and government warehouses overflowing with stocks of more than fifty million tons of food grains on the other, the petitioners demanded that states be held legally accountable to ensure food for all. India’s Supreme Court, in petitions such as this one, which are connected with socioeconomic rights, has held that the fundamental right to life under article 21 of the Constitution is not just a negative right protecting citizens from encroachment on their life and liberty without due process by the state but also a positive right that makes life possible. The court has also held that this right is more than the right to bare survival—it is the right to a life *with dignity*. And indisputably high on the requirements for a life with dignity is food.

In this way, it was not international covenants or alliances with transnational advocates that paved the way for the recognition and enforcement of the right to food but national and local civic and judicial activism, combined with expansive interpretations of India’s Constitution. In this groundbreaking case connected with the right to food, the Supreme Court—through a mandamus that continues at the time of writing—has issued more than 120 interim orders (Patnaik 2012). These orders have converted food and social protection schemes into entitlements, have expanded and universalized these entitlements, and have established a system of commissioners within the Supreme Court

to help enforce the court's orders and address grievances related to their violation (Mander 2012). I have worked as one of these commissioners, pressuring central and state governments to advance various aspects of the right to food, such as school meals, infant and young child feeding, subsidized rations, and pensions for the elderly, single women, and people with disabilities, in addition to responding to allegations of starvation-related deaths.

Eight years after this case was filed before the Supreme Court, the ruling alliance led by the Congress Party promised to enact a law on national food security. The prime minister constituted a national advisory committee chaired by the party's president, Sonia Gandhi, which resolved to draft a bill. I was a member of this committee and convened the group that drafted the proposed law. It was a widely collaborative process, with ongoing consultations with the national right to food campaign. This original draft was substantially trimmed both by the Union Cabinet and a parliamentary committee before it was eventually passed in 2013, against the backdrop of enormous corporate and middle-class hostility. Although the right to food campaign and left-leaning political parties were somewhat dissatisfied with the final law—arguing that it did not go far enough (and I agree)—it still guarantees five kilograms per head of virtually free rice or wheat each month to nearly 800 million people, in addition to establishing universal maternity benefits, school meals, and infant, young child, and pregnant-mother feeding rations. India elected a more right-wing government in May 2014, and nearly a year later, at the time of writing, the law was still to be actually rolled out.

For the purposes of this chapter, what is noteworthy is that these partial successes in advancing the right to food in India have drawn little direct strength from either transnational advocates or international covenants. However, there is a great deal of interest in other low-income countries in India's experience and accomplishments in legislating food security. For this reason, I have written both a detailed case study of the Indian experience in legislating a national food security law that guarantees state food provisioning as social protection (which was peer reviewed by an international panel of experts organized by Cambridge University)⁴ and a shorter, more pithy version that will be published by the Food and Agriculture Organization. This latter paper was the basis for a series of global dialogues supported by the UK Department for International Development with food rights advocates from many countries. In this way, although India's partial advances

4 Unpublished document of the Centre for Equity Studies, Delhi, India.

in the right to food have drawn mainly from national advocates and court rulings, the country's experience is being used by transnational advocates to advance the right to food through state food provisioning in other food-insecure countries as well.

National and Transnational Influences to Ensure Legal Justice for Survivors of Targeted Communal Violence

I will consider one more case study, which had very different outcomes and offers very different lessons. It relates to the interesting clash of transnational nongovernmental advocates who sit at different ends of the ideological divide. For instance, after the hate massacre in Gujarat in 2002—largely targeting Muslims—which many believe to have been state sponsored (Mander 2009), the Forum of Inquilabi Leftists, an association of Indian left-wing activists in the United States, launched a campaign entitled “Stop Funding Hate” (Mody 2002), claiming that much of what was dressed as charity donations from the United States to organizations sympathetic to India's Hindu supremacist organization, Rashtriya Swayamsevak Sangh (RSS), was actually used to propagate hatred against Muslim and Christian minorities in India (FOIL 2002). This campaign led to companies such as Hewlett Packard and Intel pulling their funding for organizations said to be close to the RSS, most notably the India Development and Relief Fund. But it also led to considerable contestation by the India Development and Relief Fund and its supporters, as well as sympathizers both in India and abroad. These groups did not contest that the India Development and Relief Fund was close to the RSS and supported its work but rather argued that the RSS was not a sectarian organization.

Even much more bitterly—and influentially—contested by the muscular right-wing Hindu nationalists in India was a powerful transnational coalition that resulted in the denial of a visa in 2005 to the then chief minister of Gujarat, Narendra Modi, for his alleged role in the 2002 massacre (Mann 2014). Countries of the European Union also ran an eleven-year diplomatic boycott of Modi for the same reason. But through all of this, there was alternative transnational mobilization in support of Modi, mainly by overseas supporters of Hindu nationalism but also by governments such as Israel and China.

However, as Modi built for himself a formidable reputation as a decisive and effective big-business and international-market-friendly leader and also seemed to be increasingly inching toward India's highest political office, the voices of alternate transnational networks

gathered strength. They contributed to a rapid and somewhat breathtaking reinvention of Modi that sought to erase his alleged culpability in the 2002 massacre and paint him as the messiah for India's market-led growth revival. The size of India's market helped foster this new willful international amnesia of a brutal targeted massacre for which neither Modi nor his state government offered any expression of public remorse. Right-wing economists praised his model of governance, which decisively and openly supported big business while paring down investments in education and health (Mishra 2014).

The international solidarity of foreign governments proved shallow and fragile under Gujarat's and India's enormous economic appeal as investment destinations. The United Kingdom and European Union lined up outside Modi's office in a bid to restore his international credibility, even though there had been no acknowledgment or apology, let alone accountability, for the human rights violations by his government. The first to break ranks among European governments was the British high commissioner, who traveled to Gandhinagar, the state capital of Gujarat, to meet Modi in October 2012 ("Engaging with Gujarat, Not Endorsing Modi: UK High Commissioner" 2012). Three months later, the German ambassador to India hosted a lunch of European Union ambassadors in which they broke bread with Modi (Colvin and Bhattacharjya 2013). The United States followed with much energy after Modi was elected India's new prime minister, with considerable warmth displayed by President Obama during a celebratory visit by Modi to the United States (during which—with unfortunate and probably unintended irony—Obama personally accompanied Modi on a visit to Martin Luther King Jr.'s memorial). This was followed just a few months later with a first-ever invitation to a US president as the chief guest on India's Republic Day. The bottom line at the time of writing is that transnational advocacy for neoliberal global capitalism has trounced transnational advocacy for post-massacre human rights. (I still believe that the longer sweep of history will be on the side of justice over profits.)

Conclusion

The story that emerges from this short review of the impact of transnational advocacy networks on justice and environmental sustainability issues in India is a somewhat messy and diverse one. There are no linear generalizations that can be made. Those who have battled for India's freedom, as well as for labor rights and human rights, have drawn throughout the twentieth century transnational sustenance from

senior advocates for these causes in other countries. But revolutions in overseas travel and in communications have enormously strengthened these networks, and we can observe the salutary impacts across many sectors. However, the official stigmatization of dissent as antinational and damaging to India's growth potential is mounting, without adequate resistance and response by India's civil society. Civil society advocates themselves have also rarely challenged the official storyline of transnational support and funding of Indian social and environmental causes being somehow suspect, making the acceptance of such support both equivocal and sometimes covert.

The case studies outlined above also suggest a few other preliminary lessons. Because of progressive judicial rulings—especially those that expand the scope of the fundamental right to life from a civil and political right to a right that is necessary for human beings to enjoy a life with dignity—and vibrant democratic movements of social dissent, there is also less felt need for transnational advocacy support in advancing issues of social and economic rights within India. But there is still some transnational mutual learning among countries of the global South in these spheres. The example of the vibrant transnational support for serious human rights concerns in Gujarat after the targeted massacre of 2002, however, shows the vulnerability of these solidarities when subjected to the searing-hot winds of global capital.

These conclusions also raise the question of whether civil society in India is relatively insular compared with its counterparts in other parts of the planet. The stigmatization of foreign support for human rights issues in India—the ubiquitous paranoia about the “foreign hand”—and confidence in the strength of domestic courts, civic activism, and a progressive Constitution greatly prioritize national over transnational advocacy. But civil society advocates do recognize a larger comradeship of justice and environmental sustainability advocates and draw on them from time to time for mutual learning and solidarities, though perhaps not with the vigor and candidness displayed by civic activists in many other countries.

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Transnational Advocacy Networks

Twenty Years of Evolving Theory and Practice

Twenty years of activism and reflective analysis have transformed transnational advocacy practices, organizations, and networks. Activists, particularly those based in the global South, have accumulated a wealth of experience in a range of transnational networks operating in diverse issue areas. They have responded creatively to an increasingly challenging global environment, seeking to secure social justice, human flourishing, and community in ways that are socially and ecologically sustainable.

Changing theoretical insights and research have reflected this accumulating experience and contributed to the evolution of the “ecosystem” of transnational advocacy. Well-grounded understandings of the strengths and weaknesses of past and potential transnational advocacy strategies and structures are essential to making these networks more resilient.

This volume brings together a set of ten essays by reflective activists who draw on their experience to provide new insights into what has been happening in the world of transnational advocacy, and by engaged academics who are committed to using the tools of their disciplines to contribute to the same agenda. While there are no assurances of future success to be found in these chapters, the authors push back strongly against those who underestimate the creativity and adaptability embedded in the ecosystem of transnational advocacy.

Perhaps the most important lesson to be derived from the chapters in this book is that activists cannot afford to concentrate simply on the successes or failures of their own organizations, approaches, and strategies. They must keep their focus on broader interconnections and the health of the ecosystem as a whole.

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