Human Rights: From Practice to Policy

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Chapter 1
Introduction

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International human rights organizations are widely recognized for their advocacy work, but the contributions they have made to the development of international human rights norms and standards are not equally well understood and appreciated. As scholar-practitioners ourselves, we have sought to bridge this gap by opening a conversation between academics and practitioners about decisions and dynamics that have shaped the work of the human rights movement over the past several decades.

The idea for this conference emerged from informal discussions as we worked together to design a module introducing University of Michigan undergraduate students to the study of human rights. Through our conversations, we discovered that while we generally agreed on the core content of human rights norms and how they have been applied in practice, we had different understandings of the process and rate of human rights change and the level of consensus within the human rights movement. We believe that some of these differences can be accounted for by the time and place of our entry into human rights debates. Though we had arrived at a similar place intellectually, we had followed substantially different paths. For Susan Waltz, the journey began more than 35 years ago. She joined Amnesty International (AI) and began working on human rights in 1977, after a year of dissertation research in Tunisia had sensitized her to concerns about political repression and reprisals. Carrie Walling's introduction to human rights ideas came fifteen years later. She was first exposed to the idea of human rights in the university classroom. Human rights provided her a framework for understanding mass rape, ethnic cleansing, and genocide in Bosnia-Herzegovina and Rwanda in the 1990s. For Carrie, international human rights law and international humanitarian law were natural complements and she was unfamiliar with the debate from a previous decade against their intertwining. In graduate school, she was

able to pursue a formal course of human rights study at the University of Minnesota and focus on an emerging human rights norm as the subject of her doctoral dissertation. By contrast, Susan learned about the concept of human rights through her engagement with Amnesty International. At the time, the concept of human rights was barely acknowledged within the field of political science, and specialized university courses lay several years in the future. As we compared notes, we recognized that norms now taken for granted had not necessarily developed smoothly–and that norms once contested are now taken for granted. We also realized that some of the concerns that divided the human rights movement in the past were unproblematic for a new generation of practitioners and scholars.

As faculty in the field of public policy we are sensitive to the importance of linking theory and practice, and we have frequently regretted the lack of meaningful cooperation between human rights scholars and practitioners on questions of common concern. The impending fiftieth anniversary of Amnesty International prompted us to try to bridge this gap by capturing some of the untold history of the development of human rights standards. In addition to generating new data about the human rights movement, we believed that an exchange among scholars and practitioners could advance discussions about how to cooperatively address contemporary human rights problems and how best to measure the effectiveness of human rights advocacy.

In planning the October 2010 conference, one of our principal motivations was to enlarge the scope of scholarly discussion about the contribution made by practitioners to the construction of human rights norms. Over the past two decades scholars have increasingly acknowledged the role of non-governmental organizations as interest groups in the realm of international politics, and the influence human rights groups have exercised in promoting international human rights standards is now taken for granted. Yet in many cases, human rights groups also deserve credit for initiating and constructing those very same standards.

In the late 1990s, scholars began to explore the ways in which the international human rights movement helped develop international political norms and trace their impact on policy. Heuristic frameworks

of norm development, issue advocacy and social networking have received considerable attention among scholars. Consequently, and by contrast to an earlier era in the study of international relations, today we have a much more robust understanding of the contributions of these actors –and non-state actors in general—to international political processes. What we do not understand very well are the largely *internal* processes through which organizations like Amnesty International, Human Rights Watch (HRW), the International Commission of Jurists (ICJ), and the Lawyers Committee for Human Rights/Human Rights First have come to develop and disseminate new concepts and approaches to human rights problems. These processes have generally taken place out of public view, but they have served as crucibles for emergent international norms. Scholars have explored, for example, the processes by which torture became the subject of an international advocacy campaign, and then an international treaty. Less well known and understood are the internal processes by which human rights groups developed a concern about the practice of torture –and from that concern built definitions and understandings that have shaped our approach to this problem for some 35 years. With this conference we sought to draw attention to this lacuna, and begin to fill it.

A second and equally compelling motivation for the conference was simply to preserve some of this history for the next generation of human rights activists and scholars who will take interest in it. We were mindful at the outset that many of the standards taken for granted today were conceived as researchers, lawyers, and human rights defenders looked for ways to make their advocacy efforts more successful. For the most part, however, the history is privately held and not well known or appreciated.

We organized the conference around three broad questions:
- how the *content* of human rights norms has evolved;
- how the *application* of human rights norms has expanded from states to include non-state actors;
- how fact-finding and advocacy methods have developed and changed, partly in response to emerging technologies.

Participant presentations and the ensuing discussions of these questions are reported in Chapters 2-4. Due to the conversational nature of the

sessions, however, discussions quite naturally veered into related but different directions. We have preserved the evolutionary character of these conversations so that readers can appreciate the dynamic and interactive character of the conference. Presentations and subsequent conversations did not proceed in a linear manner, and at several points throughout the dialogue participants directly commented on each other's reflections and even corroborated or elaborated on one another's points. The flow of conversation was facilitated by the fact that most of the practitioners knew each other well, had direct experience of work within the international human rights organizations, and were familiar with large parts of the history being shared. Many had previously been colleagues and about half of the practitioners had worked for at least two major human rights organizations. The formal presentations and subsequent discussions led naturally to an exchange about topics that had not been covered in the conference, including other milestones achieved by the human rights movement as well as topics that merit further exploration. That exchange is relayed in Chapter 5. The closing chapter identifies themes that emerged across conference panels and further examines the conceptual content of human rights, the defining characteristics of the human rights movement and the tools of human rights change.

As the conference presentations and discussions unfolded, we learned much about the concerns and dynamics that drove human rights NGOs (non-governmental organizations) to advocate for the creation of additional human rights norms and standards. Several themes developed across issue areas, and readers may find it useful to reflect on them as they review the insights offered in each subject-specific chapter.

The first and most explicit theme centered on human rights organizations' approach to the development of human rights norms and standards, including treaties in the area of human rights and international humanitarian law. It may surprise some to learn that human rights organizations did not start out with intentions to involve themselves in the work of building normative standards or legal instruments. In many cases, perhaps most cases, they were drawn into that enterprise as an extension of their advocacy work on a particular issue. The driving question for human rights organizations has been

how to make their advocacy *effective*. Sometimes that has involved lobbying for norm development, but not always. In many cases, efforts and initiatives to develop norms and standards followed years of active campaigning on an issue. That was true, for example, with the 1984 Convention Against Torture and the 2006 Convention for the Protection of all Persons from Enforced Disappearances. During our conference, the role of law frequently arose as a topic of discussion. Several practitioners suggested that the practical value of legal standards is over-rated by non-practitioners, but at the same time they acknowledged that human rights standards frequently serve as a useful advocacy tool in what scholars have called the politics of accountability. Readers will find several interesting dialogues related to the role and value of international law scattered throughout the report, including commentary on the practice of developing standards and setting up mechanisms within the UN as a means of responding to specific situations.

A second theme concerns the subject matter of human rights and the emergence of new issues on the human rights agenda. One aspect of this theme revolved around who determines what should be considered a human rights issue, and what is required to place an issue on the human rights agenda. As recounted by practitioners, the development of human rights norms has not been a linear or uncontested process. For example, there has been a range of views about the applicability of human rights norms to a variety of non-state actors, such as corporations and spouses who commit violence against their partners in domestic contexts. Likewise, there has been debate within the human rights community about the relevance of international humanitarian law, including the Geneva Conventions. In the 1960s Amnesty International rapidly eclipsed the International Federation of Human Rights as the largest human rights organization, and until Human Rights Watch emerged in the 1970s, new concerns were frequently identified and elaborated through processes largely internal to AI. In the absence of both legal tradition and academic scholarship, such questions as whether to include degrading treatment in a definition of torture, or how to conceptualize and define the practice of enforced disappearances were typically broached in conferences organized and populated by constituents of the human rights movement, including the International Commission of Jurists, Amnesty International and others.

By contrast, in recent times new conceptual work has commonly been advanced at the margins of the human rights movement, in academic settings and think tanks or within smaller domestic human rights groups, to be taken up by international human rights organizations after it has already gained purchase among kindred groups. Such, for example, has been the trajectory of human rights work on economic and cultural rights, corporate accountability and women's rights.

A second aspect related to discussions about the subject matter of human rights concerns the elasticity of the term *human rights* and the boundaries of membership in the human rights movement. Practitioners acknowledged that an increasing tendency to frame new social problems as human rights issues is flattering to the human rights movement, but they also noted the attendant challenges. An uncritical expansion of the human rights framework risks diluting the power of the human rights concept and eroding the cohesion of existing norms. In the contemporary era, who decides what constitutes a human rights violation and whether the human rights framework is most effective for alleviating an identified harm? Historically, the human rights movement mobilized to address concrete, often discrete, human wrongs. Early human rights advocates were deliberate and purposeful actors, but they did not anticipate that they were creating what would become a powerful social movement with global reach. They initially sought like-minded allies among labor unions, churches, family groups, and local social justice organizations. Today the network has expanded to include organizations traditionally considered beyond the bounds of the human rights domain, including environmental groups and development organizations. Conference participants engaged in a lively discussion about phases in the human rights movement's development, comparing the current expansion to earlier periods of growth and consolidation. New partnerships are certainly an asset as the human rights movement seeks in order to address the full spectrum of human rights concerns across the world. At the same time they will likely alter in some way the culture and the defining work of the larger human rights organizations.

In addition to these primary themes, we want to call readers' attention to four additional findings, in hopes that they will receive further exploration by scholars and other students of the human rights movement. The first of these relates to the importance of

organizational dynamics in shaping decisions about the subject and nature of advocacy work. In some cases, human rights organizations made path dependent choices about focus and strategies based on research efforts and organizational mandate. This is arguably clearest in regards to Amnesty International, where for some 40 years a prisoner-focused mandate guided the organization's priorities and its orientation to human rights problems. AI's concern with the rights of prisoners incarcerated for the non-violent expression of their opinions and beliefs led the organization to pioneer work on a number of issues, including torture, the death penalty, disappearances, and political killings. That same focus, however, drew the organization away from abuses that did not directly affect prison populations, such as socio-economic deprivation and war crimes. There are some important differences in the way that organizations arrived at decisions about the focus of their work and the positions they adopted. Notably, Amnesty's democratic political culture played an important role in developing that organization's positions and priorities. Amnesty's internal political procedures and dynamics have changed somewhat over time, but it remains the case that both the national structures (and the members who are those structures' chief stakeholders) *and* professional staff at the International Secretariat have significant input into decisions about the organization's direction. Participants in this conference frequently referred to Amnesty's "ICM" (International Council Meetings) and "IEC,"* both elected bodies comprised primarily of volunteer members. Changes to Amnesty's focus and positions, thus, were subject to internal processes that involved discussions and consultations that at times were protracted and controversial. Human Rights Watch, and most other human rights organizations, were not organized in this way and thus had somewhat more liberty in defining their mission and methods. Unconstrained by a prisoner mandate, thus, they were able to build on AI's path breaking work on issues noted above, and at the same time were able to take the human rights paradigm in some new directions. Human Rights Watch, for example,

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* International Council Meeting, a parliamentary body comprised of delegates from national structures, meeting annually or bi-annually, and International Executive Committee, the organization's nine-member governing board.

pioneered work on violations of international humanitarian law and the use of landmines as a human rights problem.

A second finding relates to the impact of contextual factors on the agendas of human rights organizations. From their earliest days, human rights organizations monitored political situations around the world and they responded to political events and trends as a matter of course. Less obvious, perhaps, is the fact that such events prompted widespread discussions within the human rights community and among their allies. Through such discussions, human rights advocates constructed shared understandings and developed a common lens through which to view world events. In addition to the Cold War politics that permeated United Nations dealings across four decades, specific events such as the 1973 Chilean coup and the death of Steve Biko in 1977 served as important touchstones for the human rights movement. More recent events have included the Rwandan genocide, the 1995 hanging of Ken Saro-Wiwa in Nigeria, and the abuse of detainees by the United States in the war on terror. In the early days, partners in conversation with the human rights movement around these events tended to be diplomatic contacts from friendly countries and other non-governmental organizations, especially church organizations and labor unions. That dynamic continues but in recent years it has been expanded to include interactions with an epistemic community comprised of scholars and public intellectuals as well as a growing number of community-based organizations.

Thirdly, the discussions at this conference raised interesting questions about the meaning and methods of "success" as perceived by human rights practitioners. Practitioners spoke openly about the inherent difficulties of observing success and about their disappointments with measures taken to address serious human rights situations. In general, they were more comfortable talking about efforts than effects. Success for some was reflected in impact; for others it could only be measured in terms of effort or process. "Naming and shaming" remains a primary strategy in the toolkit of human rights practitioners, but this technique has perhaps been emphasized in the scholarly literature to the neglect of an equally potent approach, *persuasion*. Whether in the UN context or in dialogue with national governments, human rights groups have used moral suasion as a key component of their lobbying efforts to gain

support for initiatives and to build alliances. Shaming may be an effective strategy for addressing (and isolating) human rights offenders, but persuasion is a preferable tactic for winning allies. The strategy may differ with context but the desired outcome is unchanging–the fuller realization of human rights. As one participant observed, these two strategies combined account for virtually all of the advocacy work undertaken by human rights organizations.

Finally, readers will find comments on the methodology of human rights research threaded throughout this report. Individual testimony has long held a place of privilege in human rights reporting. Amnesty International's initial campaign was launched on behalf of "prisoners of conscience" around the world, and the organization's original research methodology was developed around the production of case files that would be used in advocacy work. That methodology reflected a victim-centered approach, with researchers documenting specific violations of human rights and continuing threats. Human rights research continues to rely on victim and survivor testimony at its core but it has continuously incorporated new tools of corroboration, from documentary evidence to forensic science. Over the years, these practices have led to greater interaction with victim's families, growing awareness of the needs of survivors and increased attention to the memory of victims. Victim-centered research has also sensitized human rights organizations to a wider array of abuse than the narrow issues on which they focused attention in the early years of the human rights movement. Yet increasing demands on the human rights movement– including moves toward professionalization and the development of new research technologies like satellite imagery–has the potential to create distance between defenders and survivors. In our conversations, practitioners emphasized the tight link between advocacy and human rights research, which has led to different emphases, concepts, and focal points over time. For example, concerns about political balance and impartiality have led human rights organizations to exercise care in ensuring that abuses on all sides of a conflict or geo-political struggles are covered in their reports. In view of the strategic and victim-centered nature of human rights investigations, practitioners also expressed reservations about recent scholarly use of their annual reports to build quantitative measures of human rights performance or to assess the advocacy strategies of the human rights organizations themselves. They

expressed concern that scholars using their work in this way may not understand that human rights organizations do not strive for uniform, worldwide coverage and much of their advocacy work takes place through quiet, behind-the-scenes initiatives that do not begin (or end) with published reports or press releases.

We hope that readers will both enjoy and grapple seriously with the rich collection of perspectives and experiences contained in this report. We are pleased to have the opportunity to present them to a broader audience. The report is intended to prompt further conversations among and between practitioners and scholars and to stimulate future research–by the participants themselves and by others who wish to "share the story" and advance the principles of human rights.