



Human Rights and Crimes against Humanity

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Evidence for Hope

MAKING HUMAN RIGHTS WORK
IN THE 21ST CENTURY



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To the memory of Albert O. Hirschman and to my
lifelong mentors/friends, all of whom modeled different
ways to be a committed and rigorous scholar:

Raymond Duvall, Elizabeth Jelin,
Robert Keohane, John Ruggie, and David Weissbrodt

CHAPTER ONE

Introduction

ANGER, HOPE, AND THE BELIEF YOU
CAN MAKE A DIFFERENCE

DO HUMAN RIGHTS WORK? That is, have human rights law, institutions, and activism produced positive change in the world? And, if so, how do they work and under what conditions? How can we learn from past successes and failures to make human rights work better in the future?

These questions have provoked vigorous debates among scholars and practitioners. In particular, there is a recent increase of pessimism about the legitimacy and effectiveness of human rights law, institutions, and movements. This pessimism comes from governments and scholars, and, more importantly, from many within human rights movements.¹

Some of the pessimists are, understandably, activists at the front lines of the most difficult human rights challenges today. Heba Morayef, an Egyptian human rights advocate, told me at a conference that she “has lost hope.” In the last five years, she has moved from a “dream moment” during the Arab Spring uprising to sometimes being “too scared to tell people” what work she does. She has been working for many years on human rights in Egypt with Human Rights Watch and later as associate director of the Egyptian Initiative for Personal Rights in Cairo, a group at the forefront of advocacy for freedom of belief and expression, as well as freedom from gender-based discrimination.²

As a young woman, Morayef knew she wanted to work on some kind of political reform. She liked the human rights law class she took at the university because it “combined an activist agenda with something that was tangible.” After graduating, she saw “there was a small group of human rights organizations in Cairo that were unafraid and so I found myself there.” Morayef started her career as a human rights defender under the authoritarian government of Hosni Mubarak, mainly working to get prisoners out of jail or to stop torture. She said, “I wasn’t scared as a human rights defender under Mubarak, but you didn’t feel terribly effective in the big picture. . . . We didn’t expect any big changes, so all you could do was to work on the little corners, but these little corners were at the heart of the police state, of course. So it was subversive per se.”

Morayef’s sense of effectiveness began to change after the Arab Spring uprising in Egypt in 2011:

The only frustration I felt was that I couldn’t clone myself because there was so much to do. We were being invited to government meetings by parliamentarians, who were saying, “Give me a law on police reform or tell me what I need to do to stop journalists from being locked up.” . . . There wasn’t enough time to be doing everything, and we were a really small community. We were very fashionable. That’s silly, but what I mean is—young people were coming to us as volunteers, rich businessmen wanted to support our work, and there were lots of citizen initiatives popping up at the grassroots level in different cities around the country that had a rights discourse.³

Then came elections that brought to power the deeply conservative Muslim Brotherhood party under the leadership of Mohammed Morsi. But Morayef says that she still wasn’t pessimistic about the big picture because “We felt we could fight them and we were not without power.”

All of that changed after 2013 when a military coup against President Morsi brought the Egyptian Arab Spring to an end. The new president of the military-civilian regime cracked down, not only on Morsi’s Muslim Brotherhood, but also on the media, NGOs, and anyone who voiced criticism. On August 14, 2013, one month after Morsi had been removed from office, police violently attacked camps of his supporters who were protesting the coup in two squares in

Cairo. “That day,” Morayef said, “was really the loss of hope. Because, if you can kill 1,000 people in one day, there is not much you won’t do. Up to that moment, things weren’t looking good, but I didn’t feel so hopeless about Egypt’s future in my lifetime in the way I did after the massacre.” The massacre ushered in a chilling atmosphere for human rights work. “We are now called foreign agents and spies. I had a couple of talk show hosts mentioning me as a spy, and got lots of Twitter hate,” Morayef explained. After the coup in 2013, Morayef said, “it is the worst moment Egypt has seen in my lifetime, in terms of the number of people killed through the use of lethal force by the police, numbers of political prisoners, mass trials, mass death penalty sentences, and extrajudicial executions.”

By 2017, Morayef had moved to Tunisia to head Amnesty International there, directing its research work on North Africa. When asked if she expected to see change in her lifetime, Morayef replied, “The thing about change is that change can be good or bad. I have no sense that I will see change in the good sense, meaning fewer human rights violations, more political space, less fear. . . . I don’t believe that the darkness of this moment will last forever, but it will take a long time to rewind.”⁴

Across the world in Mexico, in a very different political situation, long-time human rights activist and scholar Sergio Aguayo appeared to echo some of Morayef’s words. Although Mexico has had a competitive electoral democracy since 2000, repression has worsened in recent years. When Aguayo first started working on human rights in Mexico in the early 1980s, he said, “there was hope. We were part of an adventure. . . . We were an alternative to revolutionary violence. We knew we perhaps were not going to be at the vanguard of change, but we nevertheless knew we were the protectors of the victims of political violence.” But now, he said, “Hope has gone away.” He pointed to the dramatic increase in disappearances and deaths at the hands of those in various levels of the government, organized crime groups, and companies. Mexico’s government had created human rights institutions, but these institutions failed to protect human rights. New “pretender” human rights NGOs had sprung up, who “corrupted the concept of NGOs and human rights.” Individuals in the human rights movement with contacts abroad were being attacked and discredited as antinational or corrupt. “And

you don't even know if it is the government, a local boss, or organized crime groups that are attacking you," said Aguayo.⁵

Egypt and Mexico are not the only countries where human rights activists on the front lines are under attack. Many governments—China, Russia, Ethiopia, Israel, and India, to name a few—have sought to crack down on human rights NGOs by blocking their access to foreign funds or by forcing them to register as foreign agents.⁶ From 1993 to 2012, thirty-nine countries enacted restrictive laws on the foreign funding of civil society organizations.⁷ These restrictions were part of a larger plan whereby governments discredit and delegitimize human rights organizations, attacking them as antinational because they receive foreign funds or portraying their ideas as foreign. In some cases, such as India, the very same governments that welcome foreign capital view foreign support for human rights and justice issues from a nationalistic lens.⁸ Efforts to weaken human rights activism suggest that governments perceive organizations that promote human rights to be effective. Why else devote considerable energy to regulating, silencing, and delegitimizing them? Still, evidence of their apparent effectiveness provides little comfort to targeted activists.

Meanwhile, in the United States, President Donald Trump campaigned on an open promise to "bring back a hell of a lot worse than waterboarding."⁹ Immediately after taking office, the Trump administration issued an executive order banning people from seven Muslim countries from entering the United States. Leaders of repressive states were among the first foreign dignitaries to visit President Trump, while at the same time Secretary of State Rex Tillerson argued for more separation of US values and its foreign policies, acts widely interpreted as signaling a desertion of US human rights policies.¹⁰ Given these political developments, it is no surprise that human rights activists in the United States feel discouraged and hopeless as well. I have never been so worried about how US politics could negatively influence human rights at home and around the world.

I write this book for people like Heba Morayef and Sergio Aguayo, people on the front lines of human rights work who say that they have lost hope. I also write for human rights advocates and the general public in the United States who share my concerns about the

impact of US policy on human rights in this country and abroad. I write because I believe that the longer history of human rights has a more positive message that could help sustain them in the context of their current struggles.

Pessimism about human rights progress is widespread. Whether on the news, in the academy, or when one talks to a member of the general public, the standard view is that all types of human rights abuses in the world are getting worse. At the World Humanitarian Summit in May 2016, UN Secretary General Ban Ki-moon said, "We have reached a level of human suffering without parallel since the founding of the United Nations," seventy years ago.¹¹ He had in mind the global refugee crisis, but he was making a claim about human suffering in general. In light of the devastating news coming from Syria, South Sudan, Burundi, and other human rights hot spots around the world, it is not surprising that Ban Ki-moon was concerned.

Most people around the world would agree with Ban Ki-moon's conclusion about the state of human rights in the world. A 2015 survey of 18,000 people in seventeen countries asked, "All things considered, do you think the world is getting better or worse, or neither better nor worse?" In only two countries—China and Indonesia—did a majority of people think the world is either getting better or staying about the same. In the fifteen other countries, very low percentages of people thought the world was getting better—in the United States only six percent and in Germany only four percent.¹²

Some academics critique human rights law, institutions, and movements for this perceived lack of progress. A number of new books, blogs, and op-eds bear titles like *The Endtimes of Human Rights*, *The Twilight of Human Rights Law*, or "Welcome to the Post-Human Rights World."¹³ According to Eric Posner, author of *The Twilight of Human Rights Law*, "Countries solemnly intone their commitment to human rights, and they ratify endless international treaties and conventions designed to signal that commitment. At the same time, there has been no marked decrease in human rights violations."¹⁴ Elsewhere he writes, "The law doesn't do much; we should face that fact and move on."¹⁵ Posner is a realist legal scholar with little sympathy for human rights law; still, scholars who are more invested in human rights also express negative opinions.¹⁶

When the Human Rights section of the International Studies Association was planning for its annual meeting in 2016, the chair proposed an all-day session around the theme of "What is wrong with Human Rights?" The email invitation said, "Together we ask: 'what's wrong with rights?' and what can we learn from these encounters?"¹⁷ The International Studies Association is the major professional association for International Relations scholars and its Human Rights section draws those with a special dedication to this topic; if the most committed academics want us only to focus on "What is wrong with Human Rights," what do the real critics say?

It is entirely appropriate that human rights should be under constant review and debate. The concept of human rights has become one of the dominant moral and political discourses in the world today.¹⁸ It is one of the ways that we discuss our values and our beliefs. As an increasingly influential set of norms, laws, and institutions as well as a powerful global movement, human rights should be subject to inquiry and critique.¹⁹ Genuine human rights crises around the world, such as those in Syria or the attacks by ISIS on the Yazidi people in Iraq, demand our attention and concern. The purpose of this book is not to deflect criticism or to diminish concern with human rights crises, but to clarify some of the terms of the debate, the types of comparisons being used, and the kinds of evidence that would be more or less persuasive in supporting and evaluating claims.

I will address two main types of criticism and pessimism involving the *legitimacy* and the *effectiveness* of human rights law, institutions, and movements. By legitimacy, I mean a generalized perception that a movement or institution is desirable, appropriate, and authentic.²⁰ Those who critique human rights institutions believe they are less desirable, appropriate, or authentic than others they can imagine. Effectiveness, on the other hand, involves whether human rights work produces positive change in the world. Legitimacy and effectiveness are linked; for example, the effectiveness of an institution can affect whether it is seen as desirable.

Four main types of actors with quite different positions and rationales articulate these critiques. The first are the governments with poor human rights records that criticize human rights because

they don't want to bind their own hands or be held accountable for human rights violations. The second are members of the general public who fear that the world is on fire and that human rights isn't doing enough to help, an opinion that is at times also held by policymakers. The third includes various academics from different disciplines and viewpoints, ranging from realists to critical theorists. The fourth includes human rights activists, especially from the Global South, who worry about lack of progress and lack of consultation in the human rights world. They resent the high-handedness of some large human rights NGOs based in the Global North and the indifference and privilege of some staff in human rights institutions. Each of the four critiques is separate in theory, but sometimes they are blurred together in practice. For example, repressive governments may find it useful to deflect criticism of their own human rights practices by echoing academic criticisms saying that human rights concerns originated in the Global North and are imposed upon the Global South as a form of cultural or political imperialism. Venezuelan president Nicolás Maduro claimed at the UN in 2015 that Venezuela faced "imperialist attacks" and ongoing harassment through the "manipulation of human rights by the West."²¹ As we shall see in chapters 3 and 4, however, Venezuela has advocated historically for the international protection and promotion of human rights and democracy.

If I am more hopeful than others, it may be because I have seen dramatic improvements in some human rights in my lifetime, such as greater equality and opportunities for women and sexual minorities. When she was young, my mother, Arlene Sikkink, was told that if she wanted to work, there were three careers she could aspire to: nurse, secretary, or teacher. Because she liked science, she chose to be a nurse. My mother then brought up my two sisters and me to believe that we could be whatever we wanted to be. However, when I got to graduate school in political science at Columbia University in 1981, I discovered that there were no full-time women professors in my department. Given this context, I was not certain that I could become a professional political scientist, much less a tenured one.²² While women still have a way to go in my profession, I have seen impressive progress in my lifetime, and I believe that I owe a debt

to the feminist movement and its demands for women's rights and equality, for opening space for women in academia. My situation is not unique; as we shall see in chapter 6, women throughout the world have seen significant progress in levels of education, including university education, and increasing numbers of women around the world are taking academic jobs, although there is variation among countries.²³

Change is happening not only in the United States and Western Europe. When I lived in Uruguay in the late 1970s, friends I now know are gay or lesbian could not tell their closest friends or family members about their sexual identity. In 2013, the Uruguayan Congress legalized same-sex marriage, becoming the second country in Latin America and the thirteenth country in the world to recognize marriage equality.²⁴ Although Uruguay is in the vanguard, changes there do reflect broader global trends, where LGBT rights have shifted from a completely taboo topic to a matter of increasing acceptance and debate.

Sometimes we hear about human rights crises, but not about progress. We learn about the failure of the Arab Spring in Egypt or Syria, but not about a more successful outcome in Tunisia, which in 2016 started the public hearings in its Truth and Dignity Commission.²⁵ We learn about the breakdown of democracy in Burundi, but not about the struggle for democracy in Gambia, where people voted in late 2016 to oust a strongman who had been president for twenty-two years. Where we find human rights progress, as in these cases, we see that it has been the result of countless struggles over decades.

Let me distinguish my arguments from other recent contributions to the debate over global pessimism and optimism. Some chalk up progress to the global spread of "the march of reason, triggered in the West by the Enlightenment."²⁶ Others make a related but contrary claim: since human rights came only from the United States and Western Europe, and these regions are on the decline, it is now the "endtimes" of human rights.²⁷ My approach focuses instead on the impact of a long series of human rights struggles, often led by oppressed people, inspired by human rights ideas, and targeting powerful institutions and practices, including colonialism and deep exclusion and repression. Governments in the United States

and Europe sometimes supported these struggles and sometimes blocked or hindered them, but governments were rarely the main protagonists. These human rights struggles did not occur only in what we now call the Global North, the powerful countries of Western Europe and North America. Latin American jurists, diplomats, and activists were ardent advocates for the international protection of human rights in the 1940s, when they urged the Great Powers to include human rights language in the UN Charter. Post-colonial states in Africa and elsewhere led the way to a stronger international human rights regime in the 1960s, when they mobilized against apartheid and racial discrimination and built the first strong international human rights institutions.²⁸ In short, all of human rights history is a "contentious" history.²⁹

Human rights struggles led to concrete laws and institutions that have altered the fabric of the world we live in. Today, human rights norms have become deeply institutionalized in international and domestic law and institutions, including institutions in the developing world, making possible their continuity despite the realignment of global power relations. Understanding the diverse origins and deep institutionalization of human rights lets us envision a different future for human rights law and practice from what pessimistic literature predicts.

I will also argue that some of those critiquing human rights are vague about their comparisons and careless in their use of history and evidence. To engage in a more productive debate, the nature of the critique, definitions of terms, and methods being used all need to be clarified. Employing primarily empirical comparisons with careful use of human rights data can generate persuasive evidence for the effectiveness of some human rights law and activism. When we examine the human rights situation carefully in this manner, we find that blanket statements—like Ban Ki-moon's that there is more suffering in the world today than at any point since the founding of the UN or Eric Posner's that there have been no improvements in human rights—are as inaccurate as they are unhelpful. The human rights situation in the world is characterized by some areas of retrogression and worsening, such as the situations in Syria, Egypt, Mexico, and the United States, but also by other areas of increasing awareness and improvements, such as current developments in gen-

der equality, the rights of sexual minorities, and the rights of people with disabilities. Although human rights change takes a long time and its progress ebbs and flows, we do not see wholesale abandonment of human rights ideas or loss of confidence in the institutions designed to advance and protect these rights.

Unless scholars and activists are able to distinguish areas of improvement from areas of worsening, we cannot take the next step to evaluate what works. We need to ask not only, "What is wrong with human rights?" but also, "What is right with human rights?" The former South African judge and former UN High Commissioner for Human Rights, Navi Pillay, said:

It is very interesting for academics to take a challenging view as long as they don't knock everything down. . . . Every new system that is started gets its fair share of criticism. I welcome criticism, but I would also welcome academics telling us then what to do, what is missing, rather than taking up the view that everything is useless, everything falls into a black hole, don't even try to change the world.³⁰

In order for academics to give these kinds of answers to people like Navi Pillay, we must make a much more careful and in-depth examination of what has been effective and ineffective in promoting human rights.

The Legitimacy of Human Rights Law, Institutions, and Movements

One of the main ways that governments and scholars attack the legitimacy of human rights law, institutions, and movements is to portray them as foreign or antinational. As we saw in the case of Heba Morayef, repressive governments portray human rights activists as motivated by foreign ideas, perhaps even as foreign agents. But repressive governments are not the only ones to call into question the legitimacy of human rights ideas and human rights activism. A somewhat different critique comes from within academia.³¹ Stephen Hopgood, for example, says that the human rights movement "risks rendering itself politically irrelevant outside Geneva, London, New York, and a few other middle-class enclaves globally. Here the usefulness of human rights as ethical ideas and practical politics reaches its end."³² Hopgood's prediction for the future of

human rights is based on a particular understanding of the history of human rights. He says, "It is only as a by-product of American power and money that human rights have been globalized."³³

These issues are debated seriously within human rights movements. In both the Global North and the Global South there are divided opinions on the origins and the legitimacy of human rights. Paulo Sérgio Pinheiro, a long-time Brazilian human rights advocate who has worked at the highest levels of the UN human rights institutions, claims, "Nobody spouts that nonsense anymore about human rights being imposed by the imperialism of the North."³⁴ Fellow Brazilian Raquel Rolnik, however, argues that human rights are locked into liberal thought and into "the model of private property in the capitalist system."³⁵

In order to address these debates about legitimacy, I will draw on a wide variety of sources, from historical archives and new historical research to survey data. I will argue that excellent recent historical research and other empirical sources like surveys show that human rights law has origins in the Global South as well as in the Global North and that many people around the world have high levels of trust in human rights organizations. Countries in the Global South, especially in Latin America and Africa, have created regional institutions to protect and promote human rights while also enforcing these rights through national court decisions. The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have produced some of the most far-reaching decisions on human rights issues, including indigenous rights. National courts in Brazil, South Africa, and India have made innovative decisions about enforcing difficult economic rights such as the right to water, food, health, and shelter. These more diverse origins as well as the broad institutionalization of human rights in the Global South imply that human rights has greater legitimacy than the critics suggest.

The Effectiveness of Human Rights Law, Institutions, and Movements

My more hopeful assessment is based not on wishful thinking, but on an effort to understand more comprehensively the strengths and weaknesses of human rights data. When we go carefully, issue by

issue, and consider the quality of the data and trends over time, as I do in chapter 5, we see that there are some human rights issues that have experienced worsening—such as the absolute number of refugees and migrants displaced by war, or economic inequality among individuals. But there are many other instances where the situation is improving, including a decline in genocide and political violence in the world, the declining number of battle deaths as well as the number of civilians killed in war, a declining use of the death penalty, and dramatic improvements in equality for women.

The empirical research I discuss is not unified or simple. In order to understand it, we will need to delve into some endemic problems with human rights documentation and data.³⁶ Basically, we need to understand the tangled debate over what kinds of yardsticks to use when measuring effectiveness as well as the tension between ideal and empirical reasoning. Reliable information about human rights violations has always been difficult to secure and will continue to be so in the future. I will also summarize recent work from a variety of scholars on this issue of human rights effectiveness over time. This research led me to have a “bias for hope” for human rights progress based not on simple optimism, but on reasoned evaluation of evidence.³⁷

But if human rights law, institutions, and movements have been effective, why do so many people believe that human rights violations in the world are getting worse rather than better? Why do many people today think that there is more torture, rape, and repression in the world than ever before? The short answer is that we think the world is worse off because we care more and know more about human rights than ever before. The human rights movement has succeeded in drawing attention to an increasingly wide range of rights violations around the world. Inadvertently, as the reports accumulate and are taken up by the media, they may also convince people that human rights movements are not making any progress at curbing such violations.

Ethics and Human Rights

Later in the book I will call upon other authors to be more transparent about their ethical stance, so I first need to be clear about my own. It is difficult for social scientists to talk about ethics; we fear

that if we take an explicit ethical stance on an issue, it calls into question our objectivity and thus undermines the credibility of our research.³⁸ When I went to graduate school in 1981, human rights policy and activism were not considered serious topics for scholarly social science research. They were topics for lawyers and for activists, but not for political scientists, who were supposed to talk about how the world really is, not how it should be. When I started researching human rights in the early 1990s, I thought the choice of topic alone was such a normative signal that I needed to spend the rest of my time demonstrating that I was being rigorous in my theory and method.³⁹

I have been influenced by the ideas of the late economist and philosopher Albert Hirschman and I will refer to his arguments throughout this book. Hirschman called for a different kind of social science:

... a moral-social science where moral considerations are not repressed or kept apart, but are systematically commingled with analytic argument... where the transition from preaching to proving and back again is performed frequently and with ease; and where moral considerations need no longer be smuggled in surreptitiously, nor expressed unconsciously, but are displayed openly and disarmingly.⁴⁰

I believe that human rights, as defined in current human rights law, provides a morally defensible starting place for talking about progressive change in the world. There is nothing original about this position. Philosophers like Amartya Sen, Martha Nussbaum, Mathias Risse, John Tasioulas, and Charles Beitz have used the fulfillment of rights as a basis for normative theorizing.⁴¹ Like the practical philosophers of human rights, I start with existing human rights principles embodied in international human rights law, especially the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).⁴²

International human rights law now represents an “overlapping international political consensus.”⁴³ To say there is an overlapping consensus does not mean there is no conflict. There are still lots of disagreements about human rights in the world, but there is also considerable consensus and support. Starting with existing international norms drafted through exhaustive debate and consultation

among many states has the virtue of being less ethnocentric than having the analyst substitute her own normative criteria. Examined closely, the process of drafting and implementing human rights law also provides a model for deliberative, nonviolent, and noncoercive processes of global governance and change that could be useful for other issue areas. But exactly because it is deliberative and noncoercive, human rights change has been and will be slow.

My concern with the effectiveness of human rights in the second half of this book may make me appear to be a consequentialist—that is, someone who judges the morality of an action solely by its consequences. I am not a consequentialist; I believe in the intrinsic value of human rights norms, regardless of the consequences. But I also want to ask about effects or consequences of human rights. The topic of consequences is too important to be left solely to the consequentialists. Discerning and evaluating consequences is an inherently comparative and empirical enterprise, and thus empirically grounded scholars can make an important contribution.⁴⁴

I will also argue that human rights law does not mention, and certainly does not require, the use of military means to promote human rights. Social science suggests that military intervention is as likely to worsen human rights as to protect them.⁴⁵ The UN Charter (not human rights law per se) permits the Security Council to use military means to address issues of international peace and security. I do not oppose Security Council action to protect human rights, but my ethical commitments are to a deliberative, nonviolent, and noncoercive approach to human rights that characterizes much of the history of human rights law and institutions. When states are called upon or pressured to comply with human rights treaties they have helped draft and have consented to through legal ratification, it does not constitute coercion; rather, it holds states accountable to their own commitments.

Overview of the Book

This book is more like an à la carte menu from which to choose than it is a full course meal that you have to eat your way through from first course to last. As such, I encourage readers to delve into the chapters that most interest them and to feel free to jump around if

they so desire. After the introduction (chapters 1 and 2), the second part of the book (chapters 3 and 4) addresses questions about the legitimacy of human rights and the processes of human rights change based on historical research. Part III (chapters 5 and 6) addresses questions about the effectiveness of human rights, and deals more with data and social science. So, if you are interested mainly in the issue of the effectiveness of human rights law, institutions, and movements, you could skip to chapter 5, where I address the effectiveness issue most directly. If your interest was piqued by the subtitle promising suggestions for making human rights work in the twenty-first century, you may wish to move directly to chapters 6 and 7, which provide evidence-based policy recommendations for human rights grounded in social science literature, as well as summarize the main conclusions of the book.

In chapter 2, immediately following this introduction, I outline a number of my disagreements with academic human rights critics and pessimists about both effectiveness and legitimacy. This is the most abstract chapter in the book and may bore a more policy-oriented audience; such readers should feel free to skip the chapter and move ahead. In chapter 2, I tackle one of the biggest sources of disagreements around human rights effectiveness—methods of measurement. How can we better explain change, if we cannot first agree on whether change has occurred? Both scholars and practitioners tend to use two different types of comparisons to conceptualize effectiveness: comparison to the ideal and empirical comparisons.⁴⁶ Depending on the choice of metric, one can arrive at very different conclusions about legitimacy, effectiveness, or the progress of human rights. If I compare the International Criminal Court (ICC), for example, to my ideal of justice, I reach a different evaluation than if I compare the world today, with an ICC, to the world before 1998, when such a court did not exist. Both evaluations are valid and can lead to useful conclusions, but scholars need to be more explicit about their chosen metrics to help us interpret their claims. Because of the problems with comparisons to the ideal, I prefer systematic comparative empirical research as a basis for my evaluation of progress.

Histories of human rights have much to tell us about what led to change and why. In chapter 3, I provide a detailed discussion of the

early history of the international protection of human rights in the 1940s, which reveals how human rights ideas and law came from far more diverse sources than the powerful countries in the Global North. Though I focus especially on protagonism from Latin America, I also point to early protagonists from other regions, such as diplomats from India. I argue that these more diverse origins mean that human rights are more legitimate than critics claim.

Chapter 4 takes up the long, painful, and contingent struggle for human rights during the Cold War. It reminds us that human rights change is never easy or fast. This history can perhaps provide some solace for activists like Heba Morayef, to whom change seems elusive. The story of human rights during the Cold War also reveals flaws in both domestic and international policy. During the Cold War, both the revolutionary left and the anticommunist right devalued liberal democracy and human rights.⁴⁷ The US government, rather than leading human rights efforts, supported coups against elected leftists and embraced anticommunist authoritarian regimes.

In chapter 5, I turn to the issue of effectiveness, beginning the chapter with a battery of charts and tables exploring trends on different human rights issues over time. Later in the chapter I try to explain why people feel pessimistic about human rights, in spite of the ample evidence of progress, by exploring a series of cognitive heuristics and biases that may contribute to negativism. Some characteristics of the human rights movement itself have exacerbated the sense of negativity. Information politics, for example, is the main tactic of the human rights movement—the gathering and distribution of politically usable information. Activists grab attention with dramatic denunciation of severe abuses. In order to sustain attention, funding, and support, they need to heighten awareness of terrible things happening in the world. Activists sometimes fear that if they stress progress or success, they will breed complacency or indifference to ongoing abuses. But this tendency toward negativity may also create the impression that the human rights movement has not been effective.

In chapter 6, I provide policy recommendations for making human rights work in the future, grounded in a review of social science research. Not only has this research started to reveal that

human rights activism and law have often been effective, but it has also identified some of the conditions under which human rights can function most effectively. An ability to identify failure and pinpoint its causes is essential to improving future human rights policy. But it is equally important to have the ability to identify what policies and practices have contributed to improvement, as well as how those experiences can be expanded. I suggest six policy tools that have been and should be used to address human rights violations: 1) diminish war and seek nonviolent solutions to conflict; 2) promote democracy and enhance the quality of existing democracies; 3) guard against dehumanizing and exclusionary ideologies and practices, whether about race, religion, gender, class, or any other status; 4) encourage states to ratify existing human rights treaties, and to work to enforce human rights law and norms through non-violent means; 5) end impunity by supporting domestic and international accountability that can deter future crimes; and 6) support, expand, and protect domestic and transnational mobilization on behalf of human rights. Some states, international organizations, and human rights organizations are already working to advance some of these policy options, such as ending impunity and enforcing human rights law. Other parts of this policy agenda are receiving less attention, such as the need to diminish war and to guard against dehumanizing and exclusionary ideologies.

Finally, in chapter 7, I conclude by summarizing the main arguments and policy implications of the book.

Conclusions

This book maps out a pragmatic and hopeful response to the pessimism and critiques concerning the legitimacy and effectiveness of human rights, grounded in historical and social science research and guided by a philosophy that Hirschman called “possibilism.”⁴⁸ The stakes in this human rights debate are high. Where it has occurred, human rights progress has been the result of activism and struggle, and such progress is not at all inevitable, but rather contingent on continued commitment and effort. This is what Albert Hirschman meant by possibilism, an idea that grew out of his work in development economics in the 1960s. He proposed possibilism

as an alternative to the tendency of governing elites to proclaim that all previous efforts had been complete failures. He called upon policymakers to highlight instead "those measures which might have been conducive to development and progress."⁴⁹ Hirschman wanted to draw attention to what was possible rather than what was probable, and to stress the importance of "widening the limits of what could be perceived as possible."⁵⁰ This is exactly what the human rights movement has done, repeatedly. By widening the limits of the possible, the human rights movement has sometimes changed what is probable. I have been inspired by Hirschman and, in this book, I aim to tell not a triumphalist history but a possibilist one.

Hirschman argued that processes of change are gradual, disorderly, and a result of a unique constellation of disparate events, including the activism of individuals he called "reformongers" and whom others have called "norm entrepreneurs." In the history of human rights, norm entrepreneurs both within the state and outside of it have moved ahead human rights agendas. Without the belief and the untiring activity of such reformongers, change won't occur. If people around the world come to believe that their efforts on behalf of human rights are suspect or even counterproductive and retreat to inactivity, human rights progress could indeed stall or move backward. Hope sustains human rights work. But while hope is necessary, it is certainly not sufficient. Reasoned, well-informed, patient hope is the goal. My purpose is not to cheerlead for the human rights movement, but rather to provide it with the best advice about what works and what doesn't and to explain how and why change takes so long. This book is about what has happened in the past and what is possible in the future, with continued commitment, struggle, and fortuitous circumstances.

Hirschman would be the first to warn us against overconfidence in the "solvability" of all problems and in the ability of certain paradigms to provide an easy or simple solution.⁵¹ Hirschman was particularly attentive to the counterintuitive and to unintended consequences, both positive and negative. But he would also warn us against what he called "fracasomania," or a "failure complex."⁵² He found that perceived failure was often the result of idealism, especially of the radical left, which pointed to the difference between "real" and apparent change. Modern human rights writers seem at

times to have a failure complex when comparing results to their (often implicit) ideals of "real" change. For these reasons, I try to embrace Hirschman's idea of *A Bias for Hope*, where hope is not wishful thinking, but instead is founded on data and research.

I aim to show how broader historical work and more careful and explicit conceptual and methodological assumptions can lead to a new assessment about the positive impact of human rights law and activism, what I call evidence for hope. My husband Douglas Johnson, a longtime human rights organizer and the current head of the Carr Center for Human Rights Policy at the Harvard Kennedy School, likes to quote Saul Alinsky about the dynamics for creating social change. Alinsky said that you need to have anger, hope, and the belief that you can make a difference. Some see anger as the primordial emotion of justice. But although anger stimulates action, it also burns out quickly and can lead to apathy. Anger is not sufficient to maintain motivation over time; you also need to have hope and to believe that you can make a difference. In order to know that you can make a difference, you need to have and celebrate small victories that will sustain the work for larger ones.⁵³ It is this delicate balance of anger, hope, and belief that you can make a difference that is at play here. I would suggest that it is the gap between our ideals and our current practice that gives us the anger we need to fight for change, but it is our knowledge of how far we have come that gives us hope. Finally, it is not just knowing that we *can* make a difference but also knowing more specifically *how* we have made a difference that gives us the energy to keep working. By focusing exclusively on the gap between our ideals and our practice, organizers and scholars may have tipped the balance toward pessimism and despair. The challenge we face now is to use our research to sustain hope and action without complacency or indifference.

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I also want to recognize the collegiality of some scholars I refer to as the “critics” in this book. Some of critics I know well—James Ron, Jack Snyder, Leslie Vinjamuri, and Samuel Moyn. They have always been open to debate and have invited me to engage with them in diverse formats. I appreciate the genuine intellectual disagreements and stimulating exchanges we have had.

My husband, Douglas Johnson, has been both my inspiration and my best support for everything I have ever written. We have discussed virtually every argument in this book. I thank my parents for their lifetime of love and support, for their commitment to human rights, and for my mother’s reading aloud my last book to my father as he grew blind. They motivated me to write another book that they might want to read aloud.

NOTES

*Chapter 1. Introduction: Anger, Hope, and
the Belief You Can Make a Difference*

1. In my thinking about this pessimism and critique, I am very much indebted to the survey of the literature organized by César Rodríguez-Garavito and his Human Rights Lab at the University of los Andes in Bogotá, Colombia, although I have organized my own categories and responses in a somewhat different way. César Rodríguez-Garavito and Sean Luna, of the Human Rights Lab at the University of los Andes, “A Human Rights Crisis? Unpacking the Debate on the Future of the Human Rights Field,” in *The Future of Human Rights: Critique, Response, and Likely Scenarios* (unpublished manuscript). This article was originally a paper prepared for discussion at the Open Society Foundations & Human Rights Lab’s workshop. For the paper see César Rodríguez-Garavito and Sean Luna, of the Human Rights Lab at the University of los Andes, “A Human Rights Crisis? Unpacking the Debate on the Future of the Human Rights Field,” paper prepared for discussion at the Open Society Foundations & Human Rights Lab’s workshop on the Future of Human Rights, Rio de Janeiro, March 8, 2016, <https://static1.squarespace.com/static/557f5fe4e4b0a17c309a0dcd/t/58a8908c29687f223ffbe21e/148744207549>.
2. Heba Morayef, interview with author, March 9, 2016, Rio de Janeiro, Brazil. All subsequent information on Morayef comes from this interview.
3. Heba Morayef, interview with author, March 9, 2016, Rio de Janeiro, Brazil.
4. Heba Morayef, interview with author, March 9, 2016, Rio de Janeiro, Brazil.
5. Sergio Aguayo, interview with author, May 26, 2016, Cambridge, MA. All statements by Aguayo in this paragraph come from this interview.
6. Kendra Dupuy, James Ron, and Aseem Prakash, “Foreign Aid to Local NGOs: Good Intentions, Bad Policy,” *openDemocracy*, November 15, 2012, <http://www.opendemocracy.net/kendra-dupuy-james-ron-aseem-prakash/foreign-aid-to-local-ngos-good-intentions-bad-policy>.
7. Kendra Dupuy, James Ron, and Aseem Prakash, “What Drives the Crackdown on NGOs, and How Can It Be Stopped?,” *openDemocracy*, April 22, 2016, <https://www.opendemocracy.net/openglobalrights/kendra-dupuy-james-ron-aseem-prakash/what-drives-crackdown-on-ngos-and-how-can-it-b>.
8. Harsh Mander, “India’s Equivocal Engagement with Transnational Advocacy” (paper presented at Transnational Advocacy Networks: Reflecting on 15 years of Evolving Theory and Practice, Brown University, Providence, RI, April 30, 2015).
9. Jenna Johnson, “Trump Says ‘Torture Works,’ Backs Waterboarding and ‘Much Worse,’” *Washington Post*, February 17, 2016, <https://www.washingtonpost.com>

/politics/trump-says-torture-works-backs-waterboarding-and-much-worse/2016/02/17/4c9277be-d59c-11e5-b195-2e29a4e13425_story.html.

10. See "Full Executive Order Text: Trump's Actions Limiting Refugees into the U.S." *New York Times*, January 27, 2017, <https://www.nytimes.com/2017/01/27/us/politics/refugee-muslim-executive-order-trump.html>. In the first months of his presidency, Trump met with Egyptian President Abdel Fattah el-Sisi and Turkish President Recep Tayyip Erdogan. Tillerson's speech, "Remarks to US Department of State Employees," on May 3, 2017, can be found at the US Department of State Website: <https://www.state.gov/secretary/remarks/2017/05/270620.htm>. For reactions, see an op-ed by John McCain, "Why We Must Support Human Rights," *New York Times*, May 8, 2017, <https://www.nytimes.com/2017/05/08/opinion/john-mccain-rex-tillerson-human-rights.html>.
11. Ban Ki-moon, "Opening Remarks at Press Conference with President Erdogan of Turkey at the World Humanitarian Summit" (speech, Istanbul, Turkey, May 24, 2016), http://www.un.org/apps/news/infocus/speeches/print_full.asp?statID=3053.
12. Will Dahlgreen, "Chinese people are most likely to feel the world is getting better," YouGov UK, January 5, 2016, <https://yougov.co.uk/news/2016/01/05/chinese-people-are-most-optimistic-world/>.
13. Stephen Hopgood, *The Endtimes of Human Rights* (Ithaca, NY: Cornell University Press, 2013); Eric A. Posner, *The Twilight of Human Rights Law* (New York: Oxford University Press, 2014); Sebastian Strangio, "Welcome to the Post-Human Rights World: Geopolitical Alignments and the Rise of Populist Nationalism Have Unleashed a Global Backlash against Human Rights," argument, *Foreign Policy*, March 7, 2017, <http://foreignpolicy.com/2017/03/07/welcome-to-the-post-human-rights-world/>.
14. Posner, *The Twilight of Human Rights Law*.
15. Eric A. Posner, "Have Human Rights Treaties Failed?: Human Rights Law Is Too Ambitious and Ambiguous," opinion, *New York Times*, December 28, 2014, <http://www.nytimes.com/roomfordebate/2014/12/28/have-human-rights-treaties-failed>.
16. See Jens David Ohlin, *The Assault on International Law* (New York: Oxford University Press, 2015).
17. Email sent to section members from the Section Chair of the ISA Human Rights Section, July 3, 2015.
18. Michael Ignatieff has called human rights the "lingua franca of global moral thought." Michael Ignatieff, *Human Rights as Politics and Idolatry*, University Center for Human Values Series (Princeton, NJ: Princeton University Press, 2001), 53.
19. For a comprehensive summary of the critical literature and some responses, see Rodríguez-Garavito and Luna, "A Human Rights Crisis?" The authors reviewed more than 250 academic articles, books, and blog posts from diverse disciplines, including political science, anthropology, sociology, and law.
20. The definition used by Mark Suchman from organizational theory focuses on an organization being desirable or appropriate. Mark Suchman, "Managing Legitimacy: Strategic and Institutional Approaches," *The Academy of Management Review* 20, no. 3 (1995): 574. I add the part about authenticity, which is drawn from discus-

sions of legitimacy and authenticity in language studies, because I believe authenticity is one key part of legitimacy in the human rights field. See Claire Kramsch, "Authenticity and Legitimacy in Multilingual Second Language Acquisition" (unpublished paper), <http://cms.arizona.edu/index.php/multilingual/article/viewFile/9/20>. I want to thank Sushma Raman for drawing my attention to authenticity as an aspect of legitimacy.

21. "Venezuela Must Uphold Rights of 'Even Those Who Disagree with State Policies' – UN Human Rights Chief," *UN News Centre*, November 12, 2015, <http://www.un.org/apps/news/story.asp?NewsID=52537#.WFbJJIUnJU>.
22. In 1993/94, when I was granted tenure at the University of Minnesota, only 19% of full-time political science faculty were women. By 2014, a large survey of American Political Science Association members shows women accounted for 39% of full-time faculty. Lisa Brandes, et al., "The Status of Women in Political Science: Female Participation in the Professoriate and the Study of Women and Politics in the Discipline," *PS: Political Science & Politics*, June 1, 2001, <http://www.apsanet.org/portals/54/Files/Status%20of%20Women/200106WmnReport.pdf>. Also, *Pipeline to Tenure: Institutional Practices for Hiring, Mentoring, and Advancing Women in Academia: Report prepared by the APSA Committee for the Status of Women in the Profession (CSWP)*, accessed December 8, 2016, <http://web.apsanet.org/cswp/wp-content/uploads/sites/4/2016/01/FINAL-Pipeline-Report-May2016.pdf>.
23. The variation among countries does not necessarily follow the division between the developed and less developed world. In Japan, for example, women make up just 12.7% of the academics at the country's top-rated universities, while in Turkey, 47.5% of staff at the top five universities are female. Jack Grove, "Global Gender Index, 2013," *Times Higher Education (THE)*, May 2, 2013, <https://www.timeshighereducation.com/features/global-gender-index-2013/2003517.article>.
24. Eric Cameron, "Marriage Equality Takes Effect in Uruguay," *Human Rights Campaign*, August 5, 2013, <http://www.hrc.org/blog/marriage-equality-takes-effect-in-uruguay/>.
25. "Revolutionary Truth: Tunisian Victims Make History on First Night of Public Hearings for TDC," *International Center for Transitional Justice (ICTJ)*, November 17, 2016, <https://www.ictj.org/news/tunisia-truth-dignity-public-hearings-live>.
26. Kishore Mahbubani and Lawrence H. Summers, "The Fusion of Civilizations: The Case for Global Optimism," *Foreign Affairs* 95, no. 3 (2016): 127.
27. Hopgood, *The Endtimes of Human Rights*.
28. See Steven L. B. Jensen, *The Making of International Human Rights: The 1960s, Decolonization, and the Reconstruction of Global Values*, Human Rights in History (Cambridge: Cambridge University Press, 2016); Roland Burke, *Decolonization and the Evolution of International Human Rights* (Philadelphia: University of Pennsylvania Press, 2010).
29. I take the term "contentious history" from the title of a book by Christopher Roberts, *The Contentious History of the International Bill of Human Rights* (Cambridge: Cambridge University Press, 2015).
30. Navi Pillay, interview by author, May 5, 2016, Cambridge, MA.

31. Hopgood, *The Endtimes of Human Rights*; Posner, *The Twilight of Human Rights Law*; Mark Osiel, "The Demise of International Criminal Law," *Humanity Journal*, June 10, 2014, <http://humanityjournal.org/blog/the-demise-of-international-criminal-law/>.
32. Stephen Hopgood, "The Endtimes of Human Rights," in *Debating The Endtimes of Human Rights: Activism and Institutions in a Neo-Westphalian World*, Strategic Studies Project, ed. Doutje Lettinga and Lars Van Troost (Amnesty International Netherlands, 2014), https://www.amnesty.nl/sites/default/files/public/debating_the_endtimes_of_human_rights.pdf.
33. Hopgood, *The Endtimes of Human Rights*, xii.
34. Maria Brant, "Besides Human Rights, I Don't See a Solution for Serving the Victims," *Sur International Journal on Human Rights, English Ed.* 11, no. 20 (December 2014): 90–95.
35. Raquel Rolnik, "UN Special Procedures System Is 'Designed to Be Ineffective,'" *Sur International Journal on Human Rights, English Ed.* 11, no. 20 (December 2014): 80–88.
36. I draw on a co-authored article with Ann Marie Clark. Ann Marie Clark and Kathryn Sikkink, "Information Effects and Human Rights Data: Is the Good News about Increased Human Rights Information Bad News for Human Rights Measures?" *Human Rights Quarterly* 35, no. 3 (2013): 539–568.
37. Albert O. Hirschman, *A Bias for Hope: Essays on Development and Latin America* (New Haven: Yale University Press, 1971).
38. Albert Hirschman explains that one reason why it is hard for social scientists to talk about ethics is that modern social science arose "in the process of *emancipating* itself from traditional moral teachings." Albert O. Hirschman, "Morality and the Social Sciences: A Durable Tension," in *Essays in Trespassing: Economics to Politics and beyond* (Cambridge: Cambridge University Press, 1981), 294–306.
39. I am grateful to Richard Price because, under his prodding, I first tried to outline an explicit approach to the ethics of human rights that combines attention to normative issues and to empirical research findings.
40. Hirschman, "Morality and the Social Sciences," 305–6.
41. Amartya Sen, "Rights and Agency," in *Consequentialism and Its Critics*, ed. Samuel Scheffler, Oxford Readings in Philosophy (Oxford: Oxford University Press, 1988), 187–223; Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000); John Tasioulas, "Human Rights, Legitimacy, and International Law," *American Journal of Jurisprudence* 58 (2013): 1–25; Charles R. Beitz, *The Idea of Human Rights* (Oxford: Oxford University Press, 2009); Mathias Risse, *On Global Justice* (Princeton, NJ: Princeton University Press, 2012).
42. I thank Erin Kelly for this categorization of "practical" or "functional" philosophers of human rights. Erin Kelly, "Practical Philosophical Theories of Human Rights" (memo, Radcliffe Exploratory Seminar on Human Rights Studies Today, Harvard University, Cambridge, September 2015).

43. Jack Donnelly, *Universal Human Rights in Theory and Practice*, 2nd ed. (Ithaca, NY: Cornell University Press, 2003), 40.
44. Richard M. Price, ed., *Moral Limit and Possibility in World Politics*, Cambridge Studies in International Relations 107 (Cambridge: Cambridge University Press, 2008). Similar points have been made by Joseph S. Nye, *Nuclear Ethics* (New York: Free Press, 1986); J. L. Holzgrefe and Robert O. Keohane, *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (Cambridge: Cambridge University Press, 2003), 50–51.
45. See, e.g., Dursun Peksen, "Does Foreign Military Intervention Help Human Rights?," *Political Research Quarterly* 65, no. 3 (2012): 558–571; James David Meernik, Steven C. Poe, and Erum Shaikh, "The Use of Military Force to Promote Human Rights," in *Conflict Prevention and Peacebuilding in Post-War Societies: Sustaining the Peace*, ed. T. David Mason and James David Meernik, Contemporary Security Studies (London: Routledge, 2006), 160–76.
46. Here I use categories developed in some of my earlier work, especially, Kathryn Sikkink, "The Role of Consequences, Comparison, and Counterfactuals in Constructivist Ethical Thought," in *Moral Limit and Possibility in World Politics*, ed. Richard M. Price, Cambridge Studies in International Relations 107 (Cambridge: Cambridge University Press, 2008), 83–111.
47. This devaluing of democracy is significant because one of the most important explanations for the rise and fall of democracy in Latin America is whether political groups believe in it. The fact that fewer and fewer groups expressed belief in and support for democracy contributed to the downfall of democratic regimes. Scott Mainwaring, *Democracies and Dictatorships in Latin America: Emergence, Survival, and Fall* (Cambridge: Cambridge University Press, 2013).
48. Hirschman, *A Bias for Hope*; Albert O. Hirschman, *Journeys toward Progress: Studies of Economic Policy-Making in Latin America* (New York: Greenwood Press, 1968); Philipp H. Lepenies, "Possibilism: An Approach to Problem-Solving Derived from the Life and Work of Albert O. Hirschman," *Development and Change* 39, no. 3 (2008): 437–459.
49. Lepenies, "Possibilism," 448.
50. Jeremy Adelman, *Worldly Philosopher: The Odyssey of Albert O. Hirschman* (Princeton, NJ: Princeton University Press, 2013), 453; Hirschman, *A Bias for Hope*; Hirschman, *Journeys toward Progress*.
51. Albert O. Hirschman, "The Search for Paradigms as a Hindrance to Understanding," *World Politics: A Quarterly Journal of International Relations* 22, no. 3 (1970): 329–343. Also, see Hirschman's introduction to the book by David P. Ellerman, *Helping People Help Themselves: From the World Bank to an Alternative Philosophy of Development Assistance*, Evolving Values for a Capitalist World (Ann Arbor: University of Michigan Press, 2005), xvii–xviii.
52. Hirschman, *Journeys toward Progress*.
53. Some of this appears in Saul D. Alinsky's most famous book, *Rules for Radicals: A Practical Primer for Realistic Radicals* (New York: Random House, 1971), but John-

son recalls this particular formulation from a training course he did with Alinsky in Chicago in the late 1960s.

Chapter 2. Response to the Critics: How to Evaluate the Legitimacy and Effectiveness of Human Rights

1. Douthie Lettinga, telephone interview by author, January 25, 2016.
2. Stephen Hopgood, "The Endtimes of Human Rights."
3. Samuel Moyn, "Human Rights and the Age of Inequality," in *Can Human Rights Bring Social Justice?: Twelve Essays*, ed. Douthie Lettinga and Lars van Troost (Amnesty International Netherlands, 2015), 13–18, https://www.amnesty.nl/content/uploads/2015/10/can_human_rights_bring_social_justice.pdf.
4. Douthie Lettinga and Lars van Troost, "Introduction," in *Can Human Rights Bring Social Justice?: Twelve Essays*, ed. Douthie Lettinga and Lars van Troost (Amnesty International Netherlands, 2015), 9, https://www.amnesty.nl/sites/default/files/public/can_human_rights_bring_social_justice.pdf.
5. Douthie Lettinga, "How Revolutionary Are Global Human Rights?," *Open Global Rights*, May 13, 2015, <https://www.opendemocracy.net/openglobalrights/douthie-lettinga/how-revolutionary-are-global-human-rights>.
6. David Kennedy, "International Human Rights Movement: Part of the Problem?" *Harvard Human Rights Journal* 15 (2002): 24.
7. Patrick Corrigan, "G8 Must Put Rights at Heart of Decisions," *Amnesty International UK*, June 17, 2013, <https://www.amnesty.org.uk/blogs/belfast-and-beyond/g8-must-put-rights-heart-decisions>.
8. Rodríguez-Garavito and Luna, "A Human Rights Crisis?"
9. Martha Finnemore, "Legitimacy, Hypocrisy, and the Social Structure of Unipolarity: Why Being a Unipole Isn't All It's Cracked Up to Be," *World Politics* 61, no. 1 (2009): 58–85 at 61; Ian Hurd, "Legitimacy and Authority in International Politics," *International Organization* 53, no. 2 (1999): 379–98 at 381.
10. Linz proposes and uses this definition to think about the legitimacy of governments, but it is useful also when thinking about other institutions, including international institutions. Juan J. Linz, *The Breakdown of Democratic Regimes: Crisis, Breakdown, & Reequilibration* (Baltimore: Johns Hopkins University Press, 1978).
11. Linz, *The Breakdown of Democratic Regimes*.
12. Mark Suchman, "Managing Legitimacy," 574.
13. Paulo Sérgio Pinheiro in interview with Maria Brant, as quoted in "Besides Human Rights, I Don't See a Solution for Serving the Victims," *Sur International Journal on Human Rights, English Ed.* 11, no. 20 (December 2014): 90–95.
14. Stephen Hopgood, *The Endtimes of Human Rights*; David Kennedy, "Boundaries in the Field of Human Rights: The International Human Rights Movement: Part of the Problem?," *Harvard Human Rights Journal* 15 (2002): 99–317.
15. See, for example, Tony Evans, *US Hegemony and the Project of Universal Human Rights*, Southampton Studies in International Policy (Houndmills: Macmillan Press, 1996).

16. Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, MA: Belknap Press, 2010).

17. Moyn, *The Last Utopia*. The book is inconsistent in its argument at times; it recognizes that the human rights concept emerges earlier, but that the 1970s "put the concept into general circulation," (p. 125) or, "was a global human rights revolution," but more often uses the term "emergence" to refer to human rights in the 1970s (p. 116, p. 121, 217, etc.). A leading US-based human rights advocate, Aryeh Neier, has made a similar argument in his book, *The International Human Rights Movement: A History* (Princeton, NJ: Princeton University Press, 2012). Neier chooses to locate the genesis of the movement in the 1970s, the same time as the organizations he very courageously helped establish (the Helsinki Committee and Human Rights Watch).

18. Moyn, *The Last Utopia*, 181, 183, 200, 143.

19. Roland Burke, *Decolonization and the Evolution of International Human Rights*; Steven L. B. Jensen, *The Making of International Human Rights*.

20. David Kennedy, "The International Human Rights Regime: Still Part of the Problem?" in *Examining Critical Perspectives on Human Rights*, ed. Robert Dickinson et al. (Cambridge: Cambridge University Press, 2012), 19–34 at 20–21.

21. Alfred William Brian Simpson, *Human Rights and the End of Empire: Britain and the Genesis of the European Convention* (Oxford: Oxford University Press, 2004).

22. See, for example, Kathryn Sikkink, *Mixed Signals: U.S. Human Rights Policy and Latin America* (Ithaca, NY: Cornell University Press, 2004).

23. Johnson, "Trump Says 'Torture Works,' Backs Waterboarding and 'Much Worse.'"

24. Kathryn Sikkink, "From Pariah State to Global Protagonist: Argentina and the Struggle for International Human Rights," *Latin American Politics and Society* 50, no. 1 (April 1, 2008): 1–29.

25. Brooke Coe, "Regional Identities and Dynamic Normative Orders in the Global South: A Comparative Study" (Ph.D. diss., University of Minnesota, 2015), <http://search.proquest.com/docview/1731233146/>.

26. Here I draw on some of my earlier work, especially Sikkink, "The Role of Consequences, Comparison and Counterfactuals in Constructivist Ethical Thought."

27. On this issue, see, for example, Matthew J. Gibney, *The Ethics and Politics of Asylum: Liberal Democracy and the Response to Refugees* (Cambridge: Cambridge University Press, 2004).

28. Mathias Risse, "World Society and Pluralist Internationalism" (unpublished manuscript, August 1, 2015).

29. Amartya Sen, *The Idea of Justice* (Cambridge, MA: Belknap Press of Harvard University Press, 2009).

30. I am indebted to César Rodríguez-Garavito for drawing to my attention the similarities of my approach in this book to Sen's two concepts of justice.

31. Beth A. Simmons, "Twilight or Dark Glasses? A Reply to Eric Posner," *openDemocracy*, December 23, 2014, <https://www.opendemocracy.net/openglobalrights/beth-simmons/twilight-or-dark-glasses-reply-to-eric-posner>.