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Bypassing Democracy: Why Domestic Human Rights NGOs in Stable Democracies Appeal to Multilateral Forums

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Is approved by the final examining committee:

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<u>Laurel Weldon</u>	
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BYPASSING DEMOCRACY: WHY DOMESTIC HUMAN RIGHTS NGOs IN
STABLE DEMOCRACIES APPEAL TO MULTILATERAL FORUMS

A Dissertation
Submitted to the Faculty
of
Purdue University
by
Paul Janssen Danyi

In Partial Fulfillment of the
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of
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West Lafayette, Indiana

to my family

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ABSTRACT

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Answering why domestic advocacy groups in democratic states choose to utilize international institutions as part of their activism is an important component in understanding how democracies are pressured to comply with human rights obligations. The international relations literature on the subject of why domestic advocacy groups pressure states to comply by using international forums has centered around activists in repressive countries or the ways in which “gatekeepers” in international civil society either help or block domestic groups’ concerns. There has been little focus on why domestic advocacy groups in highly democratic states make efforts to independently engage with international forums. This study provides an answer through an investigation of domestic human rights NGOs in three democracies – the United States of America, Canada, and Germany – and their submissions to the first round of country reviews at the United Nations’ Universal Periodic Review (UPR) from 2006. The study examines the mechanisms through which 24 domestic human rights NGOs across these three countries came to use the Universal Periodic Review. The findings show that advocacy organizations in democracies opt to use international forums based partially on strategic explanations. NGOs also explain the use of international forums based on norms of how activism for human rights ought to be carried out. Overall, the decision to use

international forums can be readily made on the basis of marginal advantages as well as steered by group norms and identity easily. This is because engagement with the Universal Periodic Review is a low-cost form of activism. Low resource or highly local groups often decide to make use of international forums as low-cost opportunities and subsequently rationalize using international forums through either strategic or normative rationales or a combination of the two. Highly professionalized groups more frequently articulate means-ends paths through which reporting to the UPR can lead to increased compliance. Neither type of group relies solely on means-ends justifications or solely on norm-driven rationalizations. Each type of group can articulate comparative advantages of using the UPR, whether those advantages have borne fruit or not. Groups process the decision to use international forums under conditions of uncertainty and frequently when such new low-cost opportunities are made known to them they decide to participate first as part of an all-of-the-above approach to dealing with intractable human rights violations. There is no one path to reporting to the UPR, but rather pathways are chosen that are contingent on a group's past decisions and experiences, the networks of groups they have chosen to work within, and how activists perceive the political environment.

CHAPTER 1: INTRODUCTION

In 2009 representatives of a small nongovernmental organization (NGO) from Atlanta, Georgia found themselves walking the hallways of the United Nations (UN) in Geneva, Switzerland. The group had traveled over 4000 miles to bring up the issue of how local public transit policy in Atlanta was discriminating against the poor and racial minorities. Their trip had taken them far away from city, state, and federal governments – each of which purport to be “democratic” – to the UN, which has no formal ability to change federal or state policy in the US, let alone local policy in a city like Atlanta. This small group was neither alone nor unique among NGOs attending or submitting reports to the UN. Three years prior the member states of the UN altered its central human rights body, creating the Human Rights Council (HRC) and instituting a periodic human rights review of all UN member states to be conducted by the Council. Since the formation in 2006 of the UN’s Universal Periodic Review (UPR) process,¹ over 400 reports have been submitted representing the concerns of approximately 800 domestic civil society organizations from 21 stable democracies alone.²

Existing theories of transnational human rights activism and NGO decision making do not provide a sufficient answer to why civil society groups divert resources away from local, highly democratic institutions toward less democratic and distant

¹ UN General Assembly Resolution 60/251 created the process on March 15, 2006.
<<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRmain.aspx>>

² Author’s calculations from the first round of reviews using the Universal Periodic Review documentation.
<<http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>> Including Australia, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Republic of Korea, Spain, Sweden, Switzerland, UK, USA.

international institutions. While theories of transnational activism have long held that domestic NGOs and activists appeal to international institutions when they face a politically repressive government, or lack avenues of political participation, NGOs that face little repression and enjoy local democratic governments also appeal to international institutions. The decisions made by domestic human rights groups in stable democracies to expand activism beyond their local or national governments by submitting reports to the UN complicate theoretical assumptions about human rights activism and provide an important vantage point to extend our understanding of how international institutions influence domestic political actors around the world. Seeking to understand and explain these processes, this dissertation is guided by the following research question: In states with open and participatory government institutions, why do domestic civil society groups choose to make human rights appeals to international organizations? Specifically, why do domestic human rights NGOs choose to submit reports to the UN Human Rights Council's Universal Periodic Review when domestic institutions are free and open, and when report submission is not costless?³ Why choose to bypass democracy?

The answer to these questions can provide a better understanding of an emerging variety of transnational activism in which NGOs from democratic states take domestic human rights issues to international organizations. A continued spread of democracy around the world suggests that in the future many more human rights issues being contested within international institutions will emanate from states that afford people avenues of domestic political participation and forms of representation. Further, because

³ Several states and NGOs have noted to The Commonwealth that there may be additional staffing needs in order to make the decision to compile and submit reports to the UPR (Sen & Vincent 2009, 11). Further, interviews with NGOs from the US and Canada indicate that for many groups the decision to submit reports in the future hinges partly on time, staffing levels, and other organizational priorities at the scheduled time of the next round of the UPR review for their country.

this analysis focuses on the most democratic of states, it can offer insights into the contribution that activism via international organizations can make to improving the government's responsiveness in highly democratic states (Keohane, Macedo, and Moravcsik 2009). This work provides insights into how domestic human rights NGOs and social movement organizations (SMO) perceive the political environments they work within. Further, this work considers how NGOs' understanding of the political opportunities and impediments they face shapes the venues they select for their activism, and as a consequence, how NGO labor is divided across those venues. A large portion of the international human rights advocacy literature focuses on, or gives a prominent causal role to, larger international nongovernmental organizations (INGO) (Carpenter 2007b; Clark 2001; Keck and Sikkink 1998; Murdie and Davis 2012; Risse, Ropp, and Sikkink 1999; Ron, Ramos, and Rodgers 2005; Wong 2012), and where domestic activists are the focus, it is often their work at home in domestic politics that is of central concern (Simmons 2009). Others focus on the struggle of domestic organizations relative to the human rights movement itself and conceives of large international human rights organizations as the primary conduits of access to international institutions (Bob 2010a, 2010b; Martens 2004). This work extends investigations of local NGOs' direct participation within international organizations (Clark, Friedman, and Hochstetler 1998) and attempts to understand their role through the expressed motives and perceptions of the utility, or value added, in using the international human rights mechanisms within international institutions when the target state is highly democratic.

Explaining Domestic Activism in International Organizations

Theories of transnational activism, drawing partially on theories of social movements, have attributed the internationalization of domestic political struggles to blocked or otherwise repressive national governments.⁴ The large body of research inspired by Keck and Sikkink's (1998) work focused on a particular configuration⁵ of political opportunity structures in domestic and international politics; blockages at home combined with open international opportunities.⁶ Transnational activist networks (TAN) spanning national borders help domestic human rights activists facing repression to gain access to international organizations as well as to influence foreign governments. In what was termed the "boomerang pattern" of activism (Keck and Sikkink 1998) domestic activists and NGOs utilize international allies when they have "no recourse within domestic political or judicial arenas" (12) and international opportunities such as open international institutions, sympathetic media, and INGOs are available.

Work on the "democratic deficit" and globalization reverses this relationship and observes that the political, financial, and trade influence of international organizations creates a disjuncture between local democracy and the policy making within international organizations. This "deficit" in democracy shapes the roles that actors in social movements at the domestic and international level take on (Sikkink 2003; J. Smith 2002).

⁴ "Internationalization" here refers to appealing to international actors and institutions for the purpose of affecting a political struggle on issues that are domestic in nature in that their primary cause and solution are primarily found in national conditions and policy.

⁵ This is despite the language of Keck and Sikkink not precluding the boomerang pattern from emerging in democratic states. In fact their coverage of the historical precursors to TANs includes "wide variation in the domestic structures of the target state: the antislavery campaign and the woman suffrage movement demanded policy change in independent and democratic states..." (1998, 40). However, the examples of slavery and suffrage the restrictions on voting call into question how democratic the institutions of government were at the time.

⁶ By political opportunity structures I refer to the configuration of political institutions and the degree to which activists have access to influential allies in government and society.

Where international organizations are unresponsive or undemocratic, local anti-globalization activists and NGOs in democratic states – with the aid of INGOs – pressure their governments at home to either resist the influence of international institutions, or in powerful states to convince the government to force international institutions to change course or make reforms towards more inclusion of voices and concerns from civil society.

In both the boomerang pattern of activism and the anti-globalization movements in democracies the participant NGOs choose to mobilize at the level of politics where institutions are most open to them. NGOs as social movement organizations are cast as strategic actors motivated by principled beliefs who select the domestic or international arena on the basis of which level affords them the institutional venues with the freedom to mobilize, points of access to pressure officials, and a prospect of success if they mobilize. As a consequence this model of NGO decision making, or venue shopping, offers relatively ambiguous expectations when both domestic and international arenas afford activists ample opportunities to mobilize. Kathryn Sikkink (2003, 304) concludes that “here activists will continue to focus primarily on domestic political and legal change but will sometimes seek out international allies and international institutions to buttress their claims and work,” a conclusion buttressed by recent empirical investigations of women’s NGOs (Poloni-Staudinger and Orbals 2014). But if NGOs and activists are strategic actors it is also logically consistent to expect that activists faced with open access to domestic political institutions would attempt to mobilize as much as possible in venues close to home, given the greater ability of states to implement and monitor compliance at the domestic or local level. The expectation of robust compliance if

domestic policy shifts is especially true as wealthy Western democratic states have sufficient capacity and resources to ensure compliance.

Clifford Bob (2010a) suggests that domestic activists may press their issues beyond democratic borders themselves where a government has proven unresponsive and when an issue has failed to capture the attention of larger INGOs, often from the global North and better funded, who effectively act as “gatekeepers.” Because TANs fail to respond to some grievances (Carpenter 2007b) locals are incentivized to translate those grievances into rights issues, framing them in a language that existing networks and INGOs are more likely to respond to (Bob 2005, 2010b). Further, even when faced with a democratic government, disadvantaged groups can find monetary support and other resources by linking their work with experienced INGOs and TANs that might bolster their mobilization at home.

This approach focuses on understanding why domestic activists expend effort to move their grievances to international arenas with the aim to ultimately place the issue on the agenda of influential TANs. This leaves a question lingering when considering activists from many democratic states, especially economically wealthy states. Most of the issues that domestic NGOs from stable democracies bring to international institutions are already on the agenda of TANs: racism, gender discrimination, child welfare, and the treatment of migrants and immigrants, among others. In fact, each of these issues is covered by international human rights treaty law and today receives a good deal of attention from organizations like Human Rights Watch and Amnesty International, groups of central importance in influencing the agenda of the human rights movement. If their issues are already on the agenda of TANs and international institutions it is

theoretically unexpected that domestic NGOs would expend the extra effort to report to international institutions for human rights agenda-shaping purposes, and in most cases, while the local groups in this project are not wealthy, they are also not significantly motivated by the prospect of obtaining funds and resources from wealthier international NGOs.

The prevailing model of humanitarian, human rights NGOs, or advocacy organizations generally, is that of principle-driven strategic actors (Risse 2010). Groups observe state behaviors inconsistent with principled beliefs and their mobilization efforts and institutional targets of mobilization are shaped by their political environments, or political opportunity structures (POS). And while the concept of POS comes in many varieties incorporating a myriad of political, social, and sometimes cultural conditions, there are common attributes among these different conceptions. Those include: how open or closed the formal political system is, the stability of a group of political elites and degree of access to them by outside challenging groups, and the willingness of a state to impose repression on challengers (McAdam, McCarthy, and Zald 1996, 25). When combined with the questions of access to international institutions and allies, the resulting model offers explanations for why domestic NGOs as challengers expand their activism beyond national governments. Local groups assess the accessibility of domestic government relative to international opportunities and choose to mobilize their resources in the venues that afford them the open opportunities, including seeking resources from TANs and attempts to expand the activist agenda. Table 1.1 illustrates what prior work expects of domestic NGOs facing various political opportunities.

Table 1.1 Internationalization Patterns in the International Relations Literature ⁷
Domestic Political Opportunity Structures (POS)

		Open	Closed
<i>International POS</i>	Open		“Boomerang” Pattern of Activism and/or Resource Hunting from Domestic Activists and NGOs
	Closed	“Democratic Deficit” Primarily Domestic Activism Target International Institutions Domestically	Human Rights Agenda Struggles or Failed Mobilization

This dissertation offers a more nuanced understanding of the reasons particular groups adopt a strategy of internationalization. Moving beyond preconditions of structural opportunities that only inform about the likelihood that groups will mobilize in a particular manner, this work offers an analysis of the perceptions of opportunities and the rationalizations of positive cases of mobilizing within international institutions by NGOs in democracies. That is, this project looks at NGOs from open political systems who make use of open international institutions. Rather than focus on large-scale measures of political opportunity structure like “democracy” the project takes seriously how activists themselves perceive political opportunities at the domestic and international level, noting that perceptions vary across organization and across national contexts

⁷ Adapted and expanded from Sikkink’s (2003; 301-305) typology.

among democracies. This analysis then agrees it is wrong that “objective shifts in institutional rules, alliance structures, or some other dimension of the ‘political opportunity structure,’ virtually *compel* mobilization.” Rather, it is true that “such structural shifts can only increase the likelihood that this or that challenging group will fashion that shared set of cognitive/affective understandings crucial to the initiation of collective action” (McAdam 2010).⁸ This point is illustrated well by the fact that the USA has thousands of associations and advocacy groups working on issues that fall within the scope of human rights reviews, and with the expansion of opportunities at the international level with the UPR process and other treaty reviews bodies at the United Nations, still only a relatively small slice of those organizations determined they should take advantage of these opportunities. Below I present the central argument of how large scale shifts in opportunities do make mobilization in international institutions more likely as well as the subsequent ways and reasons that individual human rights NGOs understand such tactics as appropriate or effective. I then offer the examples of the United States, Canada, and Germany and their domestic NGOs to illustrate and support the argument. To illustrate the theoretical argument I draw on interviews with activists from 24 NGOs in the US, Canada, and Germany that participated in the UPR review process of their home country in the first round of reviews at the UPR, as well as secondary literature, NGO publications, and other accounts of activists.

⁸ Introduction to the Second Edition of Doug McAdam’s *Political Process and the Development of Black Insurgency 1930-1970*.

Modeling Appeals from Democracies

In answer to the question of “why bypass democracy?” this research finds several patterns of rationales and experiences among domestic NGOs appealing to international institutions. The explanation for how these NGOs come to petition the UPR follows a two-step process consisting of *preconditions* for petitioning international institutions and the *explanations* for the particular decision to utilize reporting as a means of contesting human rights violations. Preconditions for petitioning are partly a consequence of the activists’ perception of structural conditions in the political environments within which activists operate and partly the accumulated past experiences of activists working within NGOs or working for other NGOs a group works closely with. Both structural and historical experience preconditions alter the sorts of information groups have access to, the networks groups work within, the perception of what constitutes a violation of rights, and the perception of the prospects for successful advocacy via participation in political institutions – be those institutions local city, county, state/provincial, federal, or international. Preconditions therefore define a subset of NGOs that may potentially become involved in internationalizing their activism via international institutions, but do not fully explain why some groups use international institutions and others do not.

The interview conducted among NGOs in democratic states show that if preconditions are met, groups then explain their involvement in reporting to international institutions in a variety of ways. Activists and NGOs are not content to undertake a mode of contention without justifying reasons why that mode is either necessary, efficacious, or obligatory. Explanations come in three forms: the perceived strategic advantages over alternatives, a sense of obligation or norms of activism, and as a means of grappling with

the uncertainty between mobilization and favorable actions by target governments. Note that by explanations I do not mean to imply that the choices NGOs make are narrowly “rational” in a sense of maximizing the use of resources towards an agreed upon “end.” Groups and activists *do* make some decisions this way, in that they are conscious of not being wasteful and attempt to derive desired results from the use of their limited resources, however the utility of new opportunities and whether those opportunities will bear fruit is not always clear. Because of the uncertainty of success, groups often decide to pursue new avenues of activism and then apply post hoc explanations as to why the action is the correct path. Thus the explanations that I identify in this project will look familiar to theorists interested in rational decision making in some cases, and to those interested in norm driven behaviors as well. This project is agnostic as to the question of whether organizations are strictly “rational.” It takes the view that groups reasonably identify and process opportunities and strive to the best of their means to connect purposive actions to political ends but are constrained in how clearly those connections can be drawn when new opportunities arise. Emerging from this projects’ interviews with activists is a view in which groups often decide on the basis of the prospect of success, even if small, as well as feelings of obligation, and they understand such decisions with various layers of post hoc rationalizations and justifications for making use of a new and uncertain opportunity. While it may seem irrational to undertake an action while admitting readily that “it won’t make a difference,” I found that groups do not tend to view particular actions in these terms. When prompted if they “think” reporting will affect change, a common response is that they “hope” it will make a difference as part of a long and sustained constellation of tactics. Across groups and issues the degree of

clearly articulated causal chains between action and government response vary, as well as the degree of hope invoked, based on the progress made on the issue over time, the degree of resistance from governments, the degree of professionalization of the NGO, and to a lesser extent the structure of popular opinion concerning a particular issue as it alters the prospects for successful advocacy.

Preconditions for Domestic NGOs Using international institutions

I identify three preconditions that lead to domestic NGOs potentially incorporating human rights mechanisms in their activism. 1) *The adoption or selection of a human rights framework*, 2) *where the international human rights movement has adopted a group's issue area on its agenda*, and 3) *substantial expansion of points of entry within international institutions which lead to a lowering of the costs of involvement in reporting to an IO*. Below I elaborate on what brings about these preconditions and how the presence of these preconditions make a group's participation in human rights mechanisms within international institutions more likely.

Precondition 1: Adoption of a Human Rights Framework

Social movement frames such as “human rights” serve several functions as activists convert grievances into political mobilization. Frames serve to render the kaleidoscope of events and social conditions surrounding a movement into a coherent narrative. That is, frames are able to “[tie] together the various punctuated elements of the scene so that one set of meanings...” is conveyed rather than another (Snow 2013, 1). Coherent narratives of rights violations or abrogation of state duties under human rights law work to transform events that, in the absence of these frames, may be viewed simply

as unfortunate. By converting misfortune into injustice or a rights violation a frame of activism is capable of changing the meanings of those conditions. Ultimately these frames serve to “legitimate and inspire social movement campaigns and activities” (Snow 2013, 2). Human rights is only one of the myriad existing frames for political mobilization activists might select.

Some groups actively adopt human rights as the primary frame for activism and for understanding the treatment of their stakeholders by the government and/or society. Not all grievances and issues are readily fit within the human rights framework of activism. NGOs actively opt for the use of human rights to describe grievances. For example in the prominent case of the shooting of Michael Brown while unarmed by a police officer in St. Louis the frames chosen by two NGOs differed. The National Association for the Advancement of Colored People (NAACP) in much of their domestic activism referred to the shooting and subsequent lack of a prosecution as a “civil rights” issue (NAACP 2015). Other NGOs opted to frame the issue in terms of the violation of human rights and human rights obligations. The US Human Rights Network (USHRN) chose to frame the shooting by invoking human rights norms and obligations. USHRN stated that “In the United States, law enforcement systemically discriminates against the people already vulnerable to marginalization. Instead, law enforcement should go out of its way to protect marginalized populations. Such protection is required by UN treaties that the United States has ratified” (US Human Rights Network 2014b). The USHRN went on to state that “People have the human right to be free from cruel, inhuman and degrading treatment – a right that is violated as a result of persistent racial profiling and harassment by law enforcement” (US Human Rights Network 2014b).

In this example the choice of civil rights versus human rights is an active choice by the NGOs in question. The shooting of Michael Brown and subsequent lack of a trial for the officer involved can be fit within either framework and therefore which frame NGOs will use is a conscious choice rather than a selection that is the direct byproduct of the nature of the issue or grievance. Further, issues such as the treatment of indigenous peoples might be contested as a concern over “self-determination” or the treatment of people with disabilities might be contested as a concern over medical care. In both of these latter cases many NGOs have chosen to place these issues with a human rights framework instead.

Past experiences with activism often expose members to human rights frameworks as both a language and conception of rights through which to understand and articulate the insufficient protections of rights offered by states. While some groups’ paths to a human rights framework are rather unique, three common patterns are present: key members were involved with campaigns for human rights in foreign countries, international conferences served as focusing events to push domestic groups to utilize human rights in their activism, or groups consciously consider the impediments to solving their issue of concern and determine that human rights’ holistic approach to both economic and political rights affords the most potentially efficacious framework.

Campaign Experience

Many individuals within human rights organizations in the West cut their teeth in early human rights campaigns from post-WWII to 1989 such as those against apartheid in South Africa and in opposition to repressive regimes in South America, as well as the anti-colonial movement. These campaigns exposed a large number of activists to the

content of international human rights treaties and norms, as well as the methods of calling upon these rights to affect political change. Further, the success of the movement in extracting responses from powerful states and in improving human rights raised the expectations that human rights frameworks coupled with sustained mobilization had the potential to alter state behavior in the future. As the movement matured and activists – often lawyers – filtered into other advocacy endeavors on domestic issues, this reservoir of exposure to human rights among many activists meant that embedded in a myriad of organizations were members familiar with and ready to deploy the tools of human rights at home that they had previously used abroad. I find that for some groups just having one member familiar with the use of human rights is enough to trigger the adoption of a human rights framework for some or all of their advocacy.

International Conferences

With a sizeable number of activists familiar with international human rights via past experiences it makes focusing events potentially important in steering these activists to use their knowledge and experience with human rights in their domestic advocacy. Many events on the local, regional, or international level can potentially have the effect of encouraging domestic human rights activism in democratic states. Overwhelmingly the most important event in terms of bringing about the domestic application of human rights in democratic states in the recent past was the United Nations Conference on Human Rights in Vienna in 1993 and the Beijing Conference in 1995. One outcome of the 1993 conference, among many, was the agreement among NGOs from democratic states – primarily from the West – that the universal application of international human rights

norms for all meant they should become more active in implementing human rights at home.⁹

An increased focus on domesticating human rights principles also prompted the formation of domestic human rights networks in many democracies, as well as the formation of national human rights institutions (NHRI) as independent governmental intermediaries between a state's citizens and government. NHRIs are typically independent bureaucracies attached to the state that are charged with monitoring human rights abuses within a country. The formation of dedicated networks for the application of human rights at home makes the adoption of a human rights framework more likely due to the increased spread of information and training via networked connections.

Intragroup Communications

Last, groups adopt a human rights framework via active discussions and negotiations among members, some more or less formal. More formal discussions at the intergroup level take the shape of negotiations and planning across coalitions of organizations all planning to advocate on one issue within the same chosen framework. Groups carefully consider the tradeoffs and applicability of adopting a human rights framework. Less formal discussions consist of impromptu talks where a human rights framework is suggested and quickly agreed to with minimal contention among group members. Individuals in these discussions bring to the table their personal histories and education as they advocate for one or another framework. Experiences of activists shape the frameworks within which they understand rights violations and often the positions

⁹ Perception of participant NGOs present at the 1993 conference as recalled at the *Vienna +20 Conference*, Berlin, Germany in 2013.

they advocate for in discussions. Lawyers trained in the last 30 years working for domestic NGOs are more likely to have a structured exposure to international / human rights law (Scoville 2015; Tobenkin 2009) and the relation of treaty law to its domestic application and are familiar with a set of cases of successful challenges via human rights. Those facing discrimination or maltreatment in the past and/or present often bring personal experience and understandings and may see their experiences reflected in individuals from less democratic states and their use of human rights. In other cases family, friends, and belonging to a different generation all can lead members to a preference for human rights and to suggest it as a means of fruitful advocacy.

Precondition 2: Issue Area Adoption by the International Human Rights Movement

When the issue an NGO group works on has been widely adopted by the broader human rights movement it creates strong incentives to adopt the same human rights framework. Groups long working within certain issue areas find that the issue has galvanized a portion of the international human rights movement, and because the larger movement has taken up their particular cause, information about how to reframe their issue into the language of human rights circulates readily among groups dedicated to the same issue. During struggles for the creation of new treaty law, or formal declarations on the rights of a certain target population by international institutions, many domestic NGOs are made aware of the applicability of human rights to their cause and consider adopting such an approach. This means of adopting human right frameworks is particularly evident where new international mechanisms or declarations have been won

in the recent past. Therefore, this is more prevalent among disability activists, indigenous rights movements, and those working for the rights of children.¹⁰

Consequences of Adopting a Human Rights Framework

No matter the means through which a group comes to utilize a human rights frame in their work, the adoption of one has consequences for subsequent decisions NGOs make in their organizational decisions. The master frames (Snow et al. 1986; Snow and Benford 1992) of political activism that NGOs select partially dictate the networked connections that NGOs conduct their work within, and these connections provide resources that facilitate reporting to international institutions. Adopting human rights principles as a means of understanding grievances and articulating government obligations corresponds with information and resource sharing with larger national organizations working within a human rights framework. Connections to national coalitions and national organizations make local groups more likely to be aware of opportunities to petition international institutions and/or to have access to funds needed to generate a unique report for international institutions and travel to present a report, both of which can be substantial costs depending on the size of the group. Coalitions formed under a human rights framework also allow for local NGOs to act in concert to present a single topical report in order to share the work of composing a report to an IO. Working at least partially within a human rights framework is unsurprisingly a necessary and sufficient condition for reporting to the UPR, given that the institutional rules greatly advantage reports that utilize not only human rights language, but that refer to specific

¹⁰ Convention on the Rights of the Child (1990), Convention on the Right of Persons with Disabilities (2007), Declaration on the Rights of Indigenous Peoples (2007).

legal human rights commitments that states have made. In its guide to NGO submissions Office of the High Commissioner for Human Rights notes that NGOs submitting to the UPR should especially consider that the “basis for review” of a country under the UPR is exclusively human rights law, norms, and humanitarian law (OHCHR 2015, 3). And, while connections to, or membership in, a network of human rights organizations is the most common condition under which local human right NGOs report to the Council, there are groups that report without the involvement of a coalition of NGOs.

Precondition 3: Expansion of International Opportunities

For most NGOs, particularly smaller grassroots groups, the ease of access to processes and procedures of human rights review within international institutions impacts their likelihood to mobilize their efforts at the international level. The removal of barriers such as requiring “consultative status” means that smaller groups – and sometimes individuals – with fewer resources are able to directly engage human rights review mechanisms in international institutions. Expanded opportunities also come in the number of reviews a state undergoes as a consequence of ratifying treaties. Because human rights treaty ratification subjects states to a reporting procedure, as states ratify a larger number of treaties, the points of access to international institutions are multiplied by number and by issue area covered under the treaties.¹¹ This multiplication of opportunities occurs because under each treaty review body NGOs are able to submit

¹¹ All of the core human rights treaties subject ratifying states to a reporting process: the Convention on the Elimination of Racial Discrimination (CERD), Convention on Economic, Social and Cultural Rights (CESCR), International Convention on Civil and Political Rights (ICCPR) reviewed by the Human Rights Committee (HRC), the Convention on the Elimination of Discrimination against Women (CEDAW), Convention against Torture (CAT), Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD), and the Convention on Migrant Workers (CMW).

shadow reports that challenge their state's official accounting of human rights conditions (UN Secretary-General 2005, 37) and thus represent additional entry points to the UN.

The Universal Periodic Review represents an even greater expansion of entry points into international institutions than the preexisting treaty review bodies at the UN. Because the basis for review at the UPR consists of treaties ratified by states under review, as well as the Universal Declaration of Human Rights (UDHR), the scope of rights that can be invoked under the UPR review are more expansive than the more specific treaty review bodies. Thus, while groups are often not shy about invoking the full scope of human rights principles in their work (Albisa 2007, 59), the addition of a formal basis of review lends increased legitimacy to claims and increases the likelihood that when under review their state might face criticism from other countries on an issue or grievance their state has no formal legal treaty commitment to address.

Explaining Human Rights Reporting

If the preconditions above are met, submitting NGOs subsequently show several patterns of reasons for using international institutions in their activism. Those reasons broadly fall into two categories of decision making: those that are strategic in nature or those that are based on logics of appropriateness. Groups across the US, Canada, and Germany generally invoke some forms of each model of decision making in explaining their relationship to report submission, or more generally internationalizing domestic issues. Also, almost no group manifests only normative rationales for reporting to international institutions. Where normative concerns are present, such as feeling compelled to bring to light the plight of victims, they are coupled to a type of strategic

rationale as well. Table 1.2 provides a summary of these processes and rationales relative to the transnational activism literature and political opportunities.

Table 1.2 Extended Internationalization Patterns in the IR Literature

		<i>Domestic Political Opportunity Structures (POS)</i>	
		Open	Closed
<i>International POS</i>	Open	Frame and Network Effects Challenges to Democracy Trap Uncertainty of Persistent Issues Obligation & Activism Norms	“Boomerang” Pattern of Activism and/or Resource Hunting from Domestic Activists and NGOs
	Closed	“Democratic Deficit” Primarily Domestic Protests Target International Institutions Domestically	Human Rights Agenda Struggles or Failed Mobilization

Strategic Rationales

Strategic rationales include all the political advantages that groups identify as unique to the UPR when compared to alternative modes or venues of activism. Essentially, this includes all of the “why might this work” reasons why groups make use of international forums. As noted above, simply because activists are able to identify advantages to using international forums, one cannot infer that they originally decided to use them because of these advantages. In some cases it is true that activists carefully consider the strategic benefits prior to using the UPR. But more commonly the calculation of “what will work” is ambiguous at best and the numerators and denominators of these political calculations must to be learned through trial and error.

Thus, activists latch on to new lost-cost opportunities to advocate for compliance and overlay plausible pathways through which these new opportunities could lead to a positive response from domestic governments. Strategic explanations include all of the tools of advocacy that reporting to international forums add to activists' tool belts.

Perceptions of domestic political opportunity structures constitute the other part of an NGO's strategic rationale. There is considerable differences among activists and advocacy groups in how "democratic" or responsive they believe their home governments to be. Labeling a government as "democratic" at the national level through measures of institutions and procedures does not capture the totality of how well that government performs in complying with human rights. Further, some activists relate to their government through past experiences advocating for change. For some the past behavior of a government is enough to label it as non-democratic, or at least hopelessly unresponsive. Seeing domestic political opportunity structures as closed makes international venues an attractive alternative to some activists. Thus, activists' perception domestic political opportunities emerges as an important explanatory variable that varies widely across reporting groups and across country cases.

Perceptions of Political Opportunities

This project suggests that NGOs in highly democratic states at times face, or understand themselves or their constituencies to face, domestic political institutions roughly analogous to those faced by people in transitional democracies or non-democracies. If a key goal of activism is a change in policy that addresses human rights violations, then on the question of policy change a persistently unresponsive, though stable, democratic government appears much the same as a non-democracy does to

activists. Democratic governments can at times be just as unresponsive to persistent violations of the rights of groups and individuals as non-democracies. In cases, NGOs in democracies operate under fear that governments will target their funding as a retaliation for their criticism, a common tactic of less democratic states. Where democratic states fund civil society groups there is particular fear that when parties that are hostile to human rights funding will be cut or blocked entirely. This mimics attempts in some states to restrict foreign funding of human rights organizations. With the rise of NGOs as a substantial political force in pushing states to comply with human rights norms some governments reacted by targeting the funding of these groups as a means of stifling their work without running afoul of free speech laws. Among less democratic states this strategy has been prominent in Russia (Human Rights Watch 2013; Orttung 2013), but is also present in more democratic states (Greenwood 2011; Lis 2013).

It is not uncommon for democratic states to elect leaders and political parties that are hostile to the application of human rights law and norms in domestic policy. Under politically conservative national governments local NGOs find fewer allies in government and/or an increase in lip service to the domestic importance of human rights with little substantive attention to remedies in policy, blocking policies aimed at improving human rights compliance, or policies likely to worsen compliance. When faced with hostile democratic governments groups can sometimes find recourse in the courts and might be able to persuade opposition political parties to block harmful policies. Groups move to a blocking strategy and the review processes at the UN offers another venue through which to embarrass a governing administration acting to roll back or ignore compliance with human rights commitments.

Activists also perceive governments to act in antidemocratic ways, and this reduces the expectation of a response to mobilization within local institutions. In the eyes of local activists, subnational governments – including cities and municipalities – are often dominated by business and elite interests and pay little attention to the rights issues that the local NGOs work on, essentially functioning as “elitist democracies” (Hunter 1953; Mills 1956). Under these cases of poor democratic performance, local NGOs have little expectation that the elected government would substantively address the rights issues they work on. For human rights activists working at the local level the behavior of local government appears to confirm suspicions that rather than small government being good government, small government is easily co-opted government with few incentives to respond to neither publics’ needs nor disempowered political minorities (Mesquita et al. 2005). For a number of activist groups and activists national level government has done little to redress local grievances, and thus international institutions represent a new lever of influence to be used.

Effectively, these conditions constrict the points of entry into the domestic political system. This leads local NGOs to choose to supplement, but not abandon, pressure via local political institutions (Sikkink 2003). Under unresponsive governments international organizations provide political opportunities much like those in the traditional “boomerang” pattern (Keck and Sikkink 1998) that activists in repressive states utilize. For Keck and Sikkink, repressed local activists broadcast information about poor human rights conditions to international actors in order to convince them to exert diplomatic pressure on their state to change policy. In democratic states the internationalizing activism is triggered by a combination of a government’s persistent

failures to address human rights violations and the perception of a lack of democracy and the existence of accessible international organizations. Within this context local NGOs aim to place their issue on the agenda at the UPR where member states consider human rights reports and offer recommendations to the states under review, hopefully making their issue part of both multilateral and bilateral relations among states, as well as on the agenda of national-level bureaucrats involved in the review process.

Local NGOs in highly democratic states also sometimes find themselves in a *democracy trap*. That is, when states are highly democratic they are perceived both internationally and domestically as true believers in human rights norms and consequently as high performers on human rights issues. This general perception can act as an impediment to raising concern for action on specific violations (Neier 2012). For local NGOs feeling they face this trap the function of reporting to international institutions is to “tell the world” that their country does not deserve the good reputation it has. NGOs report two primary reasons for doing this, one strategically motivated, the other motivated by a sense of obligation. Strategically, where a state has a reputation as being compliant with human rights, the violations it does commit can be readily characterized, and perceived by domestic and international audiences, as aberrant rather than the outcome of systematic failures that require policy change. Highly democratic states can use their generally compliant reputation or democratic institutions to deflect criticisms of their human rights violations. Reputation engenders an expectation of credibility that human rights violations come about due to ignorance of the issue rather than as an outcome of conscious policy. Use of the shield of democracy often appears as an invoking of general principles, performance, and institutions but not the specific

deficiency at hand. For example, when Canada was recently criticized for its refusal to conduct a review of indigenous women's rights the government's response was to draw on its "democracy shield" to respond to criticism and attempt to give the impression that existing institutions would eventually address the issue while still dodging the specific criticism. They stated, "Canada is proud of its human-rights record, and our peaceful and diverse society," Golberg told the one-hour session. While no society is entirely free of discrimination, she noted, Canada has 'a strong legal and policy framework for the promotion and protection of human rights, and an independent court system' (The Canadian Press 2013)." Speaking about the United States in 2008, the former president of Amnesty International USA, Larry Cox, noted the persistent challenge of how the government insulates itself from human rights claims. He noted, "...the United States promulgated the myth that while human rights are important in other countries... they are irrelevant to this country, which because of its constitution and democratic institutions has no domestic need for them" (Cox 2008, 137). Cox goes on to note that most governments make these attempts to deflect from human rights critiques, however, in states where invocations of constitutions and democracy are more plausible arguments domestic and international audiences are more likely to be persuaded by them. Essentially, pointing at democratic institutions suggests to audiences that the procedure of policy making matters more than the actual policy outputs. The success of invoking procedure rather than actual compliance is that potential allies for activists in international and domestic society often view human rights violations in democracies as either an issue of resource allocation, or a problem of enforcement capacity (Chayes and Chayes 1993, 1995) but they expect that democracies will eventually "get it right." Local

organizations, believing their state is undeserving of such an image, attempt to counter the good reputation their democratic state possesses in order to remove this reputational shield, establish greater legitimacy for current claims in the eyes of domestic and international audiences, and to make democratic states more vulnerable to future claims.

International organizations provide a unique opportunity to counter a democracy's good reputation, allowing NGOs to counteract the democracy trap, because they facilitate a global audience of peer states and often the proceedings, recommendations, and results are covered by domestic and international media. States interact in these forums, criticizing one another and inquiring about human right conditions, and democratic states are among those most critical of other states' human rights records (McMahon and Ascherio 2012). Bringing information about the violations within democracies consequently can provide a stark contrast between the criticisms they level at other states and their own violation of human rights at home, potentially eroding the reputational shield of democracy. Further, other highly democratic states with better records of compliance with a given human rights obligation are able to credibly show that compliance is both possible and not overly costly. By removing the democracy shield activists hope to make publics at home and abroad more responsive to the criticisms of their state's performance, and the critiques they expect to bring in the future. Sensitizing publics and policy makers to the fact that democratic institutions at home do not *ipso facto* preclude systematic human rights violations can eventually lead to the erosion of the idea that human rights are applicable primarily in foreign countries or for particular peoples only. This view is often laden with nationalist or exceptionalist assumptions about Western democracy and changing this view is a precursor to changing minds about

human rights violations. Reporting the UPR represents among the best venues to pursue the removal of the democracy shield since woven into the premise of the UPR is that all states need to review their compliance records at home regardless of regime type and degree of democracy.

Tools at Home

Reports to the UN are a tangible strategic tool for NGOs to leverage in their domestic activism. Reporting an issue and having it considered by states at the United Nations lends credibility to a claim that a human rights violation is indeed occurring. Many activists advocating on behalf of marginalized groups are aware that their cause appears to be on the political fringes within domestic society, and recasting their cause in terms of human rights language is a means of making claims about the same injustices using a more politically mainstream orientation. Increased credibility for human rights claims is a useful tool in two main ways for local NGOs changing public opinion and morale among activists. By mobilizing facts to show that a government's behavior is out of sync with shared international normative standards, reporting to international organizations can help to convince the public at home that the problem is deserving of attention. Because highly democratic states are more responsive to public opinion, tactics that can shift opinion have the potential to be particularly efficacious for domestic NGOs within them. The opinions of groups' members are also important to NGOs. Victories such as having a long-ignored issue considered at the United Nations can boost the morale of existing activists and are a useful public relations tool in recruiting new members. Thus, when NGOs document their governments' failings and report them to the international institutions they are intentionally speaking both to international audiences –

often representatives of other states – and to a domestic audience of voters, activists, and potential volunteers.

UPR reporting can also open doors in domestic politics not previously open to activists before. Present predominantly in the US cases, the UPR brings activists into contact with high level officials who are often sympathetic and potential allies inside of national government. That international fora can link activists to policy makers is not a new observation (Keck and Sikkink 1998). However, because domestic NGOs engaging the UPR are involved themselves these connections are direct with their home government rather than through transnational networks or via gatekeeper organizations (Bob 2005, 2010b). Building connections at UPR reviews or speaking with policy makers during consultation sessions most governments hold prior to a review at the UPR can build influential bridges into government that can alter policy. Further, the government officials involved in foreign affairs frequently are at least not hostile to human rights principles and need to be concerned with their government’s reputation abroad. This makes international forums today a fertile ground for finding officials sympathetic to the concerns of human rights activists.¹²

Obligatory & Normative Rationales

Local groups are also motivated to “tell the world” about human rights violations because they view it as a *moral obligation* to do so. Reporting about human rights violations is an end unto itself in the eyes of many local NGOs. Even when reporting is

¹² Though not a perfect corollary, this argument partly echoes Doug McAdam’s finding that African American activists found important political allies in US State Department officials during the Cold War (McAdam 1982). On a smaller scale similar links bolster the opportunities activists have to access officials today.

expected to make little difference in terms of altering government policy or even public opinion, activists still express that it is important to tell the stories of violations to the world. Domestic NGOs operate with a set of internalized norms about how human rights activism should be carried out that includes an obligation to give voice to victims by reporting to international institutions, something that has been a key method demonstrated by larger international human rights groups such as Amnesty International and Human Rights Watch. For domestic NGOs at the UPR, it is lobbying their own government through international human rights mechanisms that is an end in itself, rather than using the forum as a means to network and connect with other likeminded NGOs (Clark, Friedman, and Hochstetler 1998). For local NGOs the goals they set for their activism are stratified: speaking for victims and the underprivileged at a high profile forum like an IO is a waypoint of success on a much longer path toward the end goal of state compliance. If the latter is not achieved until far in the future, it remains an important goal to ensure that the stories of the disadvantaged, repressed, or suffering are told to the world audience.

Grappling with the Uncertainty of Activism

Finally, there is the overarching question of whether domestic NGOs believe engaging international institutions will contribute to better human rights compliance by their governments. Will reporting make a difference, and will that difference be worth diverting some portion of their efforts away from domestic institutions? The expectations NGOs have for reporting to international institutions is conditioned by the particular issues they work on and by the degree of experience with international institutions the

NGO has. When a domestic NGO is working on issues where significant progress has been made internationally its staffers express a more optimistic view that reporting on specific shortcomings in their government's policies will contribute to increased compliance behavior. For example, groups working on issues such as the rights of the disabled, a movement that recently won an international treaty establishing state obligations towards the disabled, express a greater expectation that their reporting will bring about compliance. Higher expectations are particularly evident where an NGO's government has ratified an international human rights treaty covering that issue area and when the government is generally compliant already. This suggests that in democracies treaty ratification raises the expectations for successful mobilization in ways similar to transitional democracies (Simmons 2009), and reporting to international institutions is a reflection of that mobilization. Domestic NGOs involved in successfully pressing their government to shape an international treaty, or in a successful ratification struggle at home, have the political winds at their backs and believe reporting will contribute substantially to compliance.

Overwhelmingly, however, domestic NGOs are pessimists when it comes to the direct political impact of reporting to international institutions. Reporting to international institutions is unlikely to produce any immediate verbal or written response from a government and is even less likely to induce change policy. Domestic NGOs feel reporting to international institutions remains an important method of pressuring their government because "you never know what is going to work" and therefore pressing your issue in as many known and available forums is an important strategic choice for many NGOs. Uncertainty about where in the policy making process NGOs will find influence

or success leads them to make use of as many political opportunities as possible, and international institutions are one among many opportunities. Groups often adopt an “all of the above” strategy in their activism. However, this does not preclude that organizations rank opportunities and place their scarce resources into the political tactics and institutions they believe are most likely to produce progress on their issues. NGOs make decisions to prioritize particular political opportunities over others while remaining conscious that where low cost avenues exist they should take advantage of them because they might develop into the political opportunity that produces a change in policy. Reporting to human rights mechanisms, particularly the UPR, does not necessarily require a herculean effort from domestic NGOs. The payoff of influencing national policy makers, or having their issue resonate and be taken up by another country’s government, makes the investment in time and resources perceived to be worth the effort.

Research Plan

In order to address questions about the general behavior of NGOs in stable democracies internationalizing their activism via international institutions, this study focuses on reporting behavior at the UPR as a clearly identifiable instance of this form of internationalization. Reporting to the UPR does partially involve domestic consultations with local governments at the early stages of reporting, but because the reports generated by NGOs are always meant to be considered at an international body, by foreign states, and by international civil society members, indicates that on balance the domestic

portions of internationalization are understood by NGOs to be necessary steps towards the end goal of reaching new audiences and fora abroad.¹³

Focusing on the UPR provides an advantage in the design of the study relative to other forums of review. Because all UN member states are subject to review under the UPR without regard to their formal treaty commitments means that the basis for review of all states is roughly equal. This is important because the basis for review under international mechanisms conditions the degree of access to international institutions that domestic NGOs have. Comparing report submissions from US, Canadian and German groups across human rights treaty review bodies, for example, would introduce variation in the international opportunities that groups have from these three countries given these states' divergent ratification records. By contrast, the UPR affords comparable opportunities for review at the international level for all three countries as the basis for review includes ratifications as well as the Universal Declaration of Human Rights (UDHR). The UPR thus essentially holds constant the international opportunities that local NGOs from the three countries have access to within the review body.

NGOs From Three Democracies: Cases

The United States, Canada, and Germany are chosen as the national venues from which to select domestic NGOs. Each country is a highly democratic state providing comparatively open access to the political process to activists. Each state offers different domestic institutional rules that might affect whether or not domestic NGOs choose to

¹³ With near unanimity the NGOs in this study report that access to speak to local governments, representatives, bureaucrats, party leaders, elites, is not difficult. Rather, getting the discussions and lobbying efforts that NGOs undertake translated into political action is the barrier to progress in their campaigns and efforts.

internationalize their issues. The US offers few legal human rights treaty obligations through ratification, while both Germany and Canada have ratified a wide range of human rights treaties that activists can make use of in domestic advocacy. Germany's Basic Law provides a constitutional basis for human rights norms and law to be interpreted by domestic courts regardless of ratification. By contrast Canada's Charter of Rights and Freedoms is a young document that has in the last three decades opened new domestic opportunities for legal activism by NGOs. Both Canada's and Germany's constitutions provide at least some protections of socio-economic rights upon which human rights advocates can make claims. The US's constitution offers essentially no provision protecting social and economic rights and activists in the US often turn to human rights norms to supplement this insufficiency. Each country also has a different history with international human rights. For the US human rights represent one of its major postwar projects to enshrine American legal and moral values into international institutions. Both the US and Canada saw human rights movements emerge out of movements against legal discrimination against minorities that had simmered through the early 20th Century and gained strength through the 1960s. Germany's human rights movement – though also influenced by the movements of the 1960s – was a response in part to the crimes of fascism and an important tool in consolidating democracy in Germany nearly two decades after WWII. These differing backgrounds and institutional environments provide variation within which to explore whether there are common patterns among why domestic NGOs from each country choose to report to international institutions. Patterns identified across each country case can lend credibility to the wider theoretical applicability to conclusions drawn across all three countries. Where NGOs

show different pathways to international reporting on a country-by-country basis, this allows for a greater diversity in the pathways identified. Thus, the comparability of Canada, Germany, and the US is in broad terms as highly democratic countries allows for reasonable comparison among the NGOs each produce that report to the UPR, while the more subtle variations within each democracy have the prospect of producing interesting variation in the paths their UPR reporting NGOs follow to international institutions.

Defining which NGOs constitute the universe of cases for this study involves defining first what constitutes a “domestic” NGO for the purposes of their human rights advocacy. The reason this definition is necessary is that many “international” human rights NGOs are based in the US, Canada, and Germany and these groups tend to define their constituencies as populations beyond their borders and have long utilized international institutions as venues for their advocacy. There is ample explanation in the international relations literature for why these INGOs based in democratic states report to international institutions as part of their work. Additionally, to include them as “domestic” purely on the basis of the location of their headquarters would mask important and interesting differences between INGOs’ and local NGOs’ roles in human rights activism within highly democratic states. So as to exclude INGOs from consideration I define a local, or domestic, NGO as one that has its base of operations in a highly democratic state and is primarily concerned with issues that are caused by and are primarily solvable within the borders of their home state. This excludes instances such as Amnesty USA working on issues of poverty in the US because they are not primarily concerned with domestic issues, but rather split their efforts heavily towards international issues of issues in foreign countries. I do, however, include groups working

on two issues that have strong international elements: treatment of immigrants and the trafficking of women within a country. In each case the groups working on these issues deal primarily with how their home government is complying with international obligations towards the treatment of immigrant people, legal or unauthorized, and with domestic enforcement of laws aimed to prevent the abuse of trafficked women within domestic borders.

I have located cases of domestic NGOs reporting to the UPR via United Nations online documentation for the UPR's first round of reviews from 2008-2011.¹⁴ Each country page per session review within the UPR contains a United Nations summary of stakeholder information and links to an archive of the original civil society submissions to the UN.¹⁵ The UN pages summarize and name the submitting organization for each report or indicate it is a Joint Submission and the theme of that joint submission. Beyond identifying the submitting group the raw reports themselves often indicate if it was produced in conjunction with several other NGOs. In order to locate domestic NGOs I have identified from all first round submissions to the UPR for the US, Canada, and Germany both the submitting group and the coalition NGOs involved in reporting by reading the raw reports hosted by the UN. A list of the organizations identified can be found in Appendix I and in Appendix II in expanded form including those listed by the UN and groups listed only within Joint Submissions or coalition reports. This list does

¹⁴ UPR Documentation by country is available at <http://www.ohchr.org/en/hrbodies/upr/pages/Documentation.aspx> and is current to 2014.

¹⁵ For example the United States' stakeholder information for its first, and only, review is accessible at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRUSStakeholdersInfoS9.aspx>. Germany's first review information is available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRDEStakeholdersInfoS4.aspx> and their second review at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRDEStakeholdersInfoS16.aspx>. Canada's are available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRCAStakeholdersInfoS4.aspx> and their second review at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRCAStakeholdersInfoS16.aspx>. All accessed last and verified as of June, 2014.

not include, nor did sampling criteria include, individuals signing on to reports such as professors or individual lawyers. Further, this list omits universities and law schools and the legal clinics attached to them. These types of organizations do play a role in the human rights movement and are involved with reporting to the UPR. They frequently play a facilitating role in training, consulting, and coordinating with local NGOs. In the end the views of these types of organizations do emerge in the study because some of the individual activists in the study engage in dense interactions or have formal training from these institutions and share similar perspectives. Once trimmed to include only groups working primarily on domestic issues and to exclude INGOs I opted to contact all groups participating in a UPR report. In total the NGOs interviewed are stratified in number roughly in proportion to how many NGOs from a given country reported to the UN. The distribution of domestically-oriented NGOs and national response rate was: Germany 5 of 20 identified UPR-reporting NGOs, Canada 6 of 38 identified UPR-reporting NGOs, and United States 16 of 110 identified UPR-reporting NGOs, all during the first round of reviews at the UPR. Among these organizations interviewed are at least one small, at times single-activist, NGO from each country, as well as one large national NGO or network organization. The range of issues worked on by the NGOs interviewed include civil and political rights, often of disadvantaged groups, and social and economic rights including – but not limited to – trafficking and violence against women, the death penalty, economic exploitation of minority groups, immigration status, the rights of disabled peoples, prisoner rights, economic development, water rights, and the rights of the child.

Non-submitting groups, overwhelmingly during the first round of reviews at the UPR, simply were not aware of the opportunities at the UPR. This translates, in terms of the conclusions of this study, to the preconditions for report submission not being met. Because the primary reason NGOs fall into the category of non-submitters is their lack of awareness of the UPR, any interview questions comparable to those posed to submitting groups asked of non-submitters would have to be in the form of hypothetical scenarios such as “if you knew of the UPR” and therefore would not reflect the same sorts of sense-making and decision making processes that submitting groups engage in. Further, while there are certainly groups that were aware of the UPR and chose not to submit reports, their answers as to why they failed to make use of international institutions would not invalidate the stories and reasons given by submitting groups.

As a consequence of this research design I have selected cases on a specific value of the dependent variable, report submission – or internationalization. Despite being discouraged by some (King, Keohane, and Verba 1994) this type of selection bias can be useful in exploring the “potential causal pathways and variables leading to the dependent variable of interest” (George and Bennett 2005, 23). Because the focus on highly democratic states helps to control partially for prior explanations rooted in domestic and international POS, and the lack of international agenda and material motives amongst groups from democracies rules out other prior explanations for internationalization, this work attempts then to explain theoretically ““deviant” or “outlier” cases” (George and Bennett 2005, 75) by identifying these new pathways leading to unexpected behaviors – or values on the dependent variable. Selecting on the dependent variable can suggest new variables or hypotheses by focusing on what King, Keohane, and Verba refer to as

“political cluster[s]” (1994, 149) and attempting to discover what is special about those cases. Identifying these clusters of similar cases within a large population of cases is “an important method for gathering information where there are relatively few data” (Dion 2003, 95) and among the universe of civil society groups in all stable democratic states the cases of groups reporting to international institutions is relatively rare. Thus, this project focuses on the cluster of cases represented by domestic human rights NGOs from highly democratic states who did choose to report to the UPR during the first round of reviews.

A focus on only instances of internationalization and not failures makes these cases, as George and Bennett term them, “heuristic case studies” (2005, 75) with comparatively limited prospects for generalize predicitions to other contexts or cases. Additionally, each NGO or network of NGOs reporting to the UPR are deviant in two ways. In terms of patterns of activism in their home countries they are relatively rare and thus deviate from the norms of where and how to contest issues of concern to civil society. Also, argued above, the behavior of these NGOs is largely theoretically deviant from the established literature on political opportunity structures and venue shopping. Investigating deviant cases justifies the relevance of the study, but does consequently limit how far the conclusions drawn from the research can travel as generalizations. Generalizing in the form of average treatment effects, as statistical research does, is not the primary goal of this project, but rather the focus is the identification of patterns of rationales political actors express as the reasons for their behaviors.¹⁶ Despite this limited

¹⁶ This study agrees with contentions from those employing comparative historical methods who claim that the primary goals is identifying the causes and reasons for political outcomes in particular cases, and “generalizing about averages from a sample to a larger population is at best a secondary goal” (Mahoney and Larkin Terrie 2008, 743)

goal, this study does claim some degree of ability to generalize to other contexts as it generates its conclusions from heuristic cases from three national contexts and is thus able to address differences in mechanisms and causal process relative to those national contexts. I am able to identify where particular patterns of mechanisms and processes are more or less prevalent among NGOs and while not employing a strict cross-national comparative method, can still speak to how the conclusions about why domestic NGOs utilize international institutions in their advocacy map to three different countries and generate reasonable expectations that, insofar as another country is similar, the mechanisms and processes are likely to be present there as well. Further empirical investigations and different methodologies will be required to strictly test the mechanisms suggested by this research.

Behind this methodological approach is an assumption that activists and NGOs are largely capable of accurately articulating the processes, reasons, and rationales for their political behavior. At the center of identifying patterns in pathways through which groups come to report to multilateral forums is affording activists the opportunity to at times clearly articulate the complexity of past choices, means-ends thinking, and feelings of obligation leading them down the road to the UPR. In other cases it means considering that groups facing much more uncertainty between venue choice and political progress, and sometimes having a less clearly drawn line between means and end, may not offer explanations that reflect cold or narrowly “rational” political calculations. This project takes this variation as theoretically important as an explanation for how different groups relate to their political environments and how they come to select one venue over

another, or at times how they take things as they come and overlay rationalizations for paths they are already on after the fact.

Activists and organizations interviewed in this project, despite the research being exempt from the privacy regulations related to institutional review board review, were offered anonymity as interviews proceeded. The reasoning for this evolved as early interviews began to show that some groups, even in highly democratic states, viewed themselves as working within a more politically hostile environment than expected. While unlikely to face personal retribution, activists were aware that their groups and issues might face a backlash from government for their activism. Because the gap between formal institutions of democracy and the perceived political environment of activists quickly emerged as an important distinction, interviewees were told that this project would include no individual identifiers on the basis of either quotes or of exacting descriptions of group reports or the precise issues they work on. Ensuring anonymity for these groups requires significant obfuscation of their issues. This is because there is not an overwhelming large amount of reports to the UPR and deducing the group speaking in an interview would not be highly burdensome for anyone bent on doing so if the NGOs' reports were linked to quotes. As a consequence I have frequently obscured the issues an interviewee's group reported on at the UPR. Defaulting to anonymity in the interviewing and reporting of their content was done so that activists would feel as free as possible to speak about how they view their democracy's institutions, different ruling governments, political parties, and representatives. This path may appear overly cautious, but in the context of early interviews and the emerging views of NGOs, it was an important assurance to offer because of the theoretical centrality of the "perception of domestic

political opportunity structures” to explaining why some groups choose to report to the UPR. Groups were informed that their NGO’s name may appear in an appendix as having been a part of this project. I have chosen not to include such a list, but rather to list all participating groups reporting to the first round of the UPR for the case countries; this is included in the appendices. In each chapter some groups important to the human rights movement are offered as examples, but are often not the exact groups interviewed and those examples are drawn from publicly available data sources including secondary literature, websites and reports of organizations, and videos or recordings of open conferences and meetings.

Outline of the Study

In the proceeding chapters the dissertation takes on the question of “why bypass democracy” as a question of NGOs internationalizing domestic policy struggles in stable democratic states. In doing so I offer a study of three highly democratic countries and the domestic NGOs at the UPR from them. The cases covered compare and contrast the USA, Canada, and Germany and a sample of their domestic NGOs reporting to the UPR. The focus here is primarily on organizations working on issues that are domestic in nature, meaning the issues are primarily a consequence of domestic policy or domestic actors and are largely solvable by through the actions of a single government.

In the following chapters I argue that NGOs from democratic states report to international institutions because first, NGOs represent groups and individuals that have grievances that are persistently ignored by governments and their democratic processes; where representatives, elections, and judicial mechanisms have proven insufficiently responsive. Second, the selection of international institutions as a forum for contending

policy is heavily contingent on past choices to deploy a human rights framework and that this choice is not always a strategic one, but is often a result of activists themselves attempting to understand the scope of rights and state obligations and the experiences of an NGO's staff. The selection of a human rights frame subsequently influences the networks of organizations that domestic NGOs coordinate closely with and these connections provide tangible information and monetary resources, as well as reinforcing norms of activism, or which venues of activism are appropriate, based on a group's identity as a "human rights group." Third, I argue that grievances and an unresponsive government are not enough to explain why domestic NGOs utilize international institutions. Only a small portion of NGOs in democracies choose to internationalize their struggles, leaving the vast majority to contest their grievances solely within domestic institutions. Grievances and an unresponsive government, or even one perceived as hostile to human rights, elicit differential responses from domestic NGOs and it is the interaction of frames and network effects that partially condition which NGOs will turn to international institutions. Finally, I argue that human rights NGOs work to permanently expand the political opportunities they have at home by using international institutions to alter domestic and international opinions of their government's reputation on human rights. I argue that for highly democratic states the presence of democracy acts as a shield against criticism and NGOs attempt to not only shame democracies for specific instances of violations, but to deconstruct the reputation as a "good" and compliant government with the expectation this will bring more sustained criticism from allies at home and abroad.

In Chapter 2 I argue that there has been a general expansion of opportunities for international activism. More specifically the chapter identifies how across time there has been a growth in institutionalized review bodies that afford domestic constituents from member states and exponential growth in venues for complaint submission. The UPR's and modern UN treaty review bodies' low barriers to report submission and participation represent a tremendous reduction in the costs of advocating domestic issues in international multilateral forums. The chapter provides context for how the falling barriers to participation in human rights reviews constitutes an opening of political opportunity structure at the international level for even the smallest of NGOs in democratic states. Chapter 2 takes into account how international reviews are stifled by states under the threat of review. The chapter concludes with an overview of the UPR and how NGOs interact with these new expanded opportunities at the UN.

In Chapter 3 I present data on the patterns of IO reporting across stable democracies for the first round of country reviews. The chapter presents the range and prevalence of categories of human rights issues appearing in UPR reports. The chapter subsequently discusses data on the prevalence of NGO reporting from democracies. The data shows considerable variation in the number of domestic NGOs from democracies making use of the UPR. I then present an analysis of national-level attributes of states and their societies that might potentially explain this variation. This quantitative analysis demonstrates that the depth or quality of democracy at home does not systematically predict the frequency with which domestic NGOs from a state report to international institutions. It shows that at the national level the variation in domestic political opportunity structures cannot sufficiently explain patterns of NGO reporting to the first

round of the UPR across a sample of democratic states. Additionally, this chapter takes up explanations for human rights reporting based upon grievances and investigates whether measures of human rights conditions in a country can predict the frequency of groups reporting to the UPR. It concludes that grievances are not irrelevant but are not compelling predictors of domestic NGO reporting to the UPR.

In Chapter 4 I present the case of the United States' NGOs at the UPR. I briefly cover some of the historical efforts by activists in the US use international institutions to advance their cause for human rights. I then describe the institutional and social environment within which US NGOs work within, stressing the skepticism towards international institutions among segments of the population as well as politicians, as well as the relatively weak ratification record of the US as a potential hurdle for domestic activists. Next the chapter describes the coalitions of NGOs that were involved in reporting to the UPR through descriptions of the activists involved. I conclude that in the US case the human rights frame and the resulting coalitions facilitated much smaller, highly local, organizations to become involved in reporting to the UPR. Coalitions both dramatically lowered the costs of participating in a report and offered monetary resources which facilitated representation by small groups in-person at the UPR. Because many groups involved in the US report were highly local, the problem of elite-dominated local governments was more evident than in Germany and Canada. Finally, for US organizations the rationale of countering a perceived "good" reputation was particularly important. At least among the domestic population beliefs in American exceptionalism make the environment for criticizing the US record, especially when invoking comparison to international standards that other states follow, particularly difficult.

In Chapter 5 I present the case of Canadian NGOs and the UPR. I briefly cover some of the historical efforts by activists in Canada use international institutions to advance their cause for human rights. I then describe the institutional and social environment within which Canadian NGOs work within, stressing that while public opinion is more amenable to human rights arguments the governing party is perceived as not only unresponsive to human rights issues, but as hostile to human rights NGOs. Next the chapter describes the NGOs that were involved in reporting to the UPR through the descriptions of the activists involved. I then argue that Canadian NGO rationales closely match those in the US, but that coalitions facilitated fewer small local NGOs in reporting to the UPR and thus the types of groups present in using the UPR when compared to the USA is less diverse in terms of size and professionalization.

In Chapter 6 I present the German case. I first present the origins of a strong coalition of human rights organizations in Germany following the World Conference on Human Rights in Vienna in 1993 and some background predecessor groups. I then explore the rationales for appealing to international institutions among networked NGOs using a human rights framework. Comparatively Germany has fewer NGOs report to the UPR covering a less diverse set of issues than those in the US and Canada. I go on to argue that German NGOs using the UPR express less uncertainty about how their efforts will alter policy and compliance when compared to those in the US and Canada. I argue that the reason for this is that NGOs in Germany has more experience with successful mobilization for human rights compliance and thus have clearer expectations of how their tactics can be translated into policy. Further, when considering the engagement of NGOs from Germany with the UPR, the efforts are less characterized by outsider social

movement organizations challenging entrenched policy and more similar to interest groups simultaneously aiding in compliance while pressing for policy change from within. Thus, the predominant predictor of NGO participation in Germany is the combination of the expanded international political opportunity structures via the UPR and NGO membership in human rights networks and the use of a human rights framework in their activism. The German case is also characterized by network modes of participation in report submission in which smaller NGOs may be involved with information gathering for UPR reports but there is no strategy of presenting a “grassroots” movement to both the international community and the German government and subsequently smaller NGOs play a more limited role in UPR reports and review proceedings.

Chapter 7 returns to the broader theoretical puzzle of why NGOs from highly democratic states choose to bypass democracy. This chapter discusses the differences among the three national cases and argues that there are patterns of mechanisms that emerge from the evidence in Germany, Canada, and the US. The chapter argues that to understand the decisions of NGOs in democratic states one must consider the domestic and international opportunity structures, the perceptions of those opportunity structures held by NGOs, and path dependent effects such as the selection of a human rights frame for both organizational and activist orientations towards state behavior and how this conditions the networks groups work within. Reporting to international institutions by domestic NGOs in democracies requires low-cost opportunities at the international level and either unresponsive, rather than repressive or undemocratic, governments at home. Groups express hesitancy to utilize international institutions if the costs of participation

were to be high or network support for their participation at international institutions were to cease. Perceptions of political opportunities at home also steer NGOs around domestic politics and towards venues like the UPR. Either understanding a democratic state as “not really democracy” or facing elected officials that are hostile to human rights concerns pushes activists and NGOs to utilize international venues because there is little expectation that “close government” is actually going to respond to their concerns. The uncertainty over what forms of activism for human rights in democracies pushes some NGOs to seek out all possible venues that are low cost enough to utilize. The chapter argues that venue shopping among NGOs is susceptible to the effects of cost, perception, and uncertainty rather than a single influence such as grievances or cost of using a venue alone. Chapter 7 concludes with recommendations and potential extensions of this work to address questions it raises and gaps the argument offers to future researchers.

CHAPTER 2. THE UNIVERSAL PERIODIC REVIEW

The UPR is an expansion of international political opportunity structures, and the effort domestic NGOs have to exert to report to the UPR is unprecedentedly small. Internationalizing local issues has never been easier for activists given the rise of low-cost communication, the proliferation of international non-governmental organizations and formation of transnational activist networks, and the expansion of human rights review mechanisms both regionally and internationally. This project focuses on the latter: the expansion of access to human rights review bodies. The UPR and modern human rights review bodies represent a new opening for activism to NGOs in democracies. International venues for activism have evolved exponentially towards open and participatory institutions over the last century. As I will show, reviews of states have morphed from the 19th century's closed peer reviews among a narrow set of powerful state diplomats to open, accessible, and comparatively transparent bodies in which political limitations are not absent – but where domestic actors can at least be heard and go on record criticizing their government. The UPR today, along with the UN treaty review bodies, are a historically unique shift in the ways in which weak domestic actors are able to gain access to international institutions.

The Universal Periodic Review is not the only human rights review body within the myriad of contemporary international institutions and follows a century of increasing international purview over the domestic affairs of states. This chapter outlines the precursors to the UPR, paying particular attention to the evolution of the degree of access

and use by nongovernmental actors. The chapter then considers the United Nations review mechanisms and the conditions that led to a reform and evolution of peer review processes towards the Universal Periodic Review. After describing the UPR review stages, formal and informal, the chapter concludes with some preliminary observations of the UPR by scholars and NGO participants. In general the evolution of international human rights mechanisms is toward a marked increase in the number of venues, the formalization of review processes, the growth of points of access for not only international civil society but also local NGOs, and a concomitant reduction in the barriers and costs NGOs face in making use of the mechanisms within international organizations. These developments have served to make international organizations attractive political opportunities for activists across all states regardless of domestic institutions of government.

Precursors to the UPR

Prior to the 20th century domestic actors – associations, individuals, and enterprises – had comparatively few opportunities to influence domestic policy and politics via international mechanisms despite the rise of international activism in the late 18th and early 19th centuries.¹⁷ Opportunities to pressure states at the international level were often fleeting given the lack of routine intergovernmental negotiations. Without formal institutions and regular meetings “[most treaties and agreements], however, were temporary measures to ensure the security and interests of the parties involved...” (Iriye 2002, 10). When states did gather to negotiate, NGOs mobilized their influence to

¹⁷ Some authors note attempts to petition international congresses of states as early as the 17th century (Charnovitz 1997; Simpson 2004, 352), however, these opportunities were exceptions rather than the norm of activism beyond the domestic sphere.

pressure powerful states to take action on international problems. During the late 18th and early 19th centuries “even when they were not invited, NGOs traveled to international conferences to pursue their interests” (Charnovitz 1997, 191). Whenever great powers – or substantial numbers of states – meet to negotiate international affairs, activists over two centuries have flooded these spaces with petitions for redress of their grievances whether on behalf of others or as victims themselves. Historically, gatherings of states often coincided with “times of sudden changes” (Blumi 2013, 156) and advocates saw these moments of change as enhancing their chances to succeed in pressing their interests. Contemporary gatherings of states are institutionalized and occur more regularly in bodies such as the United Nations, European Union, African Union, or the myriad of other regional organizations, and today provide relatively consistent predictable opportunities for advocates to mobilize towards. The political dynamic of the increase in both international venues for activism and regular review of states’ domestic conditions is one in which activists have struggled to press for the creation of new institutions, to insert their voices within institutions where possible,¹⁸ and expand institutional review and capacity after their creation (Quataert 2009). Further, NGOs and INGOs using their expertise and influence have mustered significant influence over rulemaking, agenda setting, and dialogue within international organizations (Clark 1995).

As early as the 1815 Vienna Conference, organized to negotiate national borders following the Napoleonic Wars (Chapman 2006), domestic NGOs petitioned the British to work towards the abolition of the slave trade (Charnovitz 1997; Miers 2003, 14). As

¹⁸ Keck and Sikkink identified that activist networks are particularly effective where they are able to influence the “institutional procedures” of organizations so as to provide “[increased] opportunity for advocacy organizations to develop regular contact with other key players on an issue, and they sometimes offer the opportunity to move from outside to inside pressure strategies” (1998, 25–26).

the 19th century progressed, the Concert of Europe performed primarily a regulatory function for European states and elites as a mechanism of collective security, but on the domestic front served to actively stifle reforms or revolution by local actors (Seary 1996). Where domestic reform was an issue any oversight by the Concert originated with a view to prevent internal instability of states, particularly threats to the domestic ruling order (Soutou 2000, 331). While religious and minority rights were of concern under the Concert, it was the potential perturbing effects of religious strife that motivated this concern, and state leadership was the primary conduit of information, leaving little to no opportunity for local actors to appeal or influence the actions of the organization. This lobbying at the Congress of Vienna did coincide with the inclusion of statements on minority rights and a free press, but the prerogative to review or discuss a member states behavior and how such reviews could be triggered remained under the control of member states only. There were no regular or automatic reviews of a state's domestic behaviors other than a series of follow-up meetings through the early 19th century and the overwhelming orientation of the institution was international affairs and security (Seary 1996, 18) and as the Concert of Europe evolved over a century it became even less concerned with domestic strife and focused on preventing upheavals from sparking international conflict (Soutou 2000) or upset the aristocratic social order in Europe (Halperin 2004, 6). The Concert added a system for receiving petitions concerning minority and religious rights at the Congress of Berlin in 1878 but whether petitions led to a discussion or review was under the control of the delegates present at the meetings, giving potential violating states a chance to block items from the agenda and thus limiting reviews (Simpson 2004, 352). Overall the 19th century offered few institutional

opportunities to trigger peer review of state behavior on domestic issues. With the failure of the Concert to prevent widespread war, the consequences of WWI led to a reform of the major European security organization and an expansion of membership. There was also a reform and expansion of the spaces that actors could access within institutions aimed at humanitarian efforts and what would eventually become human rights (Cabanes 2014; Metzger 2007).

The advent of the League of Nations provided a new mandate for the world's predominant international organization, and that expanded mandate afforded new opportunities for domestic and international civil society to influence the League and its member states. The opening of these opportunities naturally led to an increase in the number of NGOs making use of them. One indicator of the impact of the League as a new location for activism was the increase in international NGOs with headquarters in Geneva from three at the birth of the League to 30 within seven years (Seary 1996, 20). As a consequence of WWI, security was the primary concern of the League, but bound up in the pursuit of security and stable borders were issues of the rights of religious groups, human trafficking, women, and national minorities, as well as the implicit civil rights accompanying principles of national self-determination espoused by powerful states and most famously by US President Woodrow Wilson (Manela 2007). Minority rights, as part of the agenda of the League of Nations, represented a substantial new opportunity for those who viewed themselves as repressed and the budding international organization gave a new physical location for minority and national groups to lobby. The League of Nations Secretariat contained formal bodies such as the Minorities Section charged with hearing complaints about the treatment of minority groups and, while often

ignored by the Executive Council, still prompted complaints from minority groups in a wide range of states (Veatch 1983).

Even as the League was forming via negotiation at the Paris Peace Conference in 1919, NGOs from around the world, predominantly those struggling against colonial rule – but also other minority groups – utilized the League’s focus on self-determination to press their case in a new international forum. Self-determination was interpreted by some African American leaders as a means to press for equality and civil rights in the US (Manela 2007, 34). National self-determination further provided native peoples around the world with a normative basis to make claims of maltreatment and for recognition as nations at the League (Deskaheh 1923; Léger 1994; Manela 2007). In many established Western democracies the League of Nations idea sparked not only widespread mobilization aimed at securing commitment to the new international organization as a means of mitigating future wars (Birn 1974; Page 1977; Winkler 1952), but also mobilization to use the League as a means of domestic democratic reform.

Women’s rights groups seeking expanded suffrage drew on language of self-determination, and with the help of international NGOs, targeted the League of Nations as a forum to illustrate the gap between their governments’ proclaimed support for democracy and how women were denied the ballot as state policy (e.g. Feinberg 2006, 81; Keck and Sikkink 1998, 58).¹⁹ Use of the League went beyond pointing out hypocrisy, as women’s groups viewed the international organization as a new means of political representation for their interests. As Caine and Sluga put it:

¹⁹ Women’s groups had been organizing themselves internationally for decades prior to the League of Nations on issues such as inheritance, property rights, labor rights, and the right to vote among others (Plattner 1995; Rupp 1997).

Women's organisations also turned to the League of Nations for representation in the international arena on the basis that since women were commonly denied the intrinsic right to forms of citizenship such as suffrage and nationality, they had no 'fatherland'. Where men had governments to represent them on particular issues, bourgeois women's groups looked to the League to provide them with representation and a forum for discussion of a range of social issues (2000, 165).

For women's groups the League was an important way to be heard by their governments even where those governments claimed to be democratic.

Women further used the League of Nations – as well as the International Labor Organization – to advance principles of gender equality in public life (Miller 1994). Groups organized in France argued that the League should work to secure equal access to education, equal pay, among other labor concerns (Agosin 2001, 38–39). American and international feminist groups worked to reform discriminatory systems of determining nationality for married women (Bredbenner 1990) and were able to secure support from some League member states (Joachim 2007). Because marriage to a foreign national often carried with it the loss of a woman's nationality by birth, and incompatible national laws for when a woman would receive the nationality via her husband, women faced the discriminatory loss of their nationality and claim to citizenship as well as the risk they might never gain a new nationality and remain stateless in perpetuity (Leppänen 2009). The League's focus on national self-determination, problems of statelessness, and its central position to press states to coordinate national laws presented domestic and international women's groups a chance to both place their problem on the global agenda (Rupp 1997, 210) and to move their respective states towards a coordinated policy on nationality or consistent policies on women's civil rights.

One of the primary limitations of the League of Nations' review of states' domestic policies was the politicized nature of the agenda and this meant that states could

easily block petitions originating from within their borders from being discussed in the League Council (Ginneken 2006, 20–21). Because institutional rules in the Council called for unanimity, it was relatively easy for states to keep issues at bay, and on issues of minority protections oversight in response to petitions was severely limited by budgetary constraints and the resulting lack of capacity for investigations and enforcement (Frentz 1999). Opportunities for minorities and minority states to petition the League were further restricted by the “geographic restrictions” (Frentz 1999, 127) leaving repressed minorities outside of qualifying territories without access to the already constrained mechanisms within the Minorities Section of the League Secretariat.

Progress in building global mechanisms to monitor and alter states’ domestic behaviors was punctuated by the failure of the League of Nations’ security apparatus to prevent the outbreak of WWII and, as prior humanitarian crises led to an expansion of international institutions to deal with humanitarian issues (Cabanés 2014), so too did the tragedies of WWII (Oberleitner 2013; Quataert 2009, chap. 1). The experience and resolution of the war brought about an increased willingness among states, and importantly powerful states – pushed forward by public revulsion at the war and desire for rights protections – to expand the monitoring of domestic human rights. Pressure from outside the negotiations over an international bill of rights, what would become the Universal Declaration of Human Rights, came from international social movements, church groups and activists in a variety of countries, the Pope, as well as elite networks and heads of state (Morsink 1999; Waltz 2001, 2002). Indeed, “at the Inter-American Conference on War and Peace... [in] 1945, twenty-one American countries said they wanted to see a bill of human rights as part of the very Charter of the United Nations”

(Morsink 1999, 2). The negotiation of universal rights and their inclusion in an “international bill of rights” within the Universal Declaration of Human Rights was followed by the codification of those rights into formal treaties that led to the establishment of routine reviews of compliance by signatory states and the process of these reviews quickly became a target of activists. Further, the UN’s set of human rights institutions, specifically bodies related to treaty rights, evolved mechanisms for reviewing states under what are called “special procedures” on either thematic human rights topics or concerning country-specific violations or crises (Alston and Crawford 2000, 20; Rodley 2003).

Commitment as Basis For Review

By acceding or ratifying one of the core human rights treaties under the United Nations, states agree to subject themselves to a committee review of their compliance usually within one year, and to subsequent reviews approximately every four years thereafter (Alston and Crawford 2000; Anne F. Bayefsky 2001, 14).²⁰ By committing to these reviews states voluntarily agree to regular peer reviews of compliance in terms of statutory laws and actual implementation of policy leading to treaty compliance. Growth in treaty review bodies over the last 50 years has expanded the chances that NGOs have to review their home state, as well as the increased the breadth of issues that are covered. Figure 2.1 shows the over time growth in review bodies at the UN related to core human

²⁰ The review bodies vary slightly across thematic issue with CERD requiring the initial report within one year and thereafter every two years, ICCPR within one year and then upon request, ICESR within two years and then every five years, CEDAW within one year and then every four years, CAT within one year and then every four years, CRC within two years and then every five years. However, in practice these deadlines have been widely disregarded by states (Bayefsky 2001, 17), including the United States (Tars 2009, 476) and other democratic states. For a recent overview of the periodicity of treaty body reporting see (Pillay 2012, 20).

rights treaties. Growth begins at the twin-covenants on economic/ social rights and political/ civil rights in the mid-1960s, remains largely stable until the latter decade of the Cold War, and expand rapidly at that point until today. Each growth point represents not only a commitment by states to periodically report on their progress, but also multiple new points of engagement by domestic civil society actors, including: consultations in generating the government's own state report, UN information gathering, NGO report submission, review dialogues, testimony to the review body, and lobbying during reviews. The multiplication of review bodies by the end of the first decade of the 21st century has enmeshed participating states in a near constant process of reviews of their records on a wide range of issues and this gives civil society in a given state dozens of new chances to engage international bodies in order to influence their home governments.

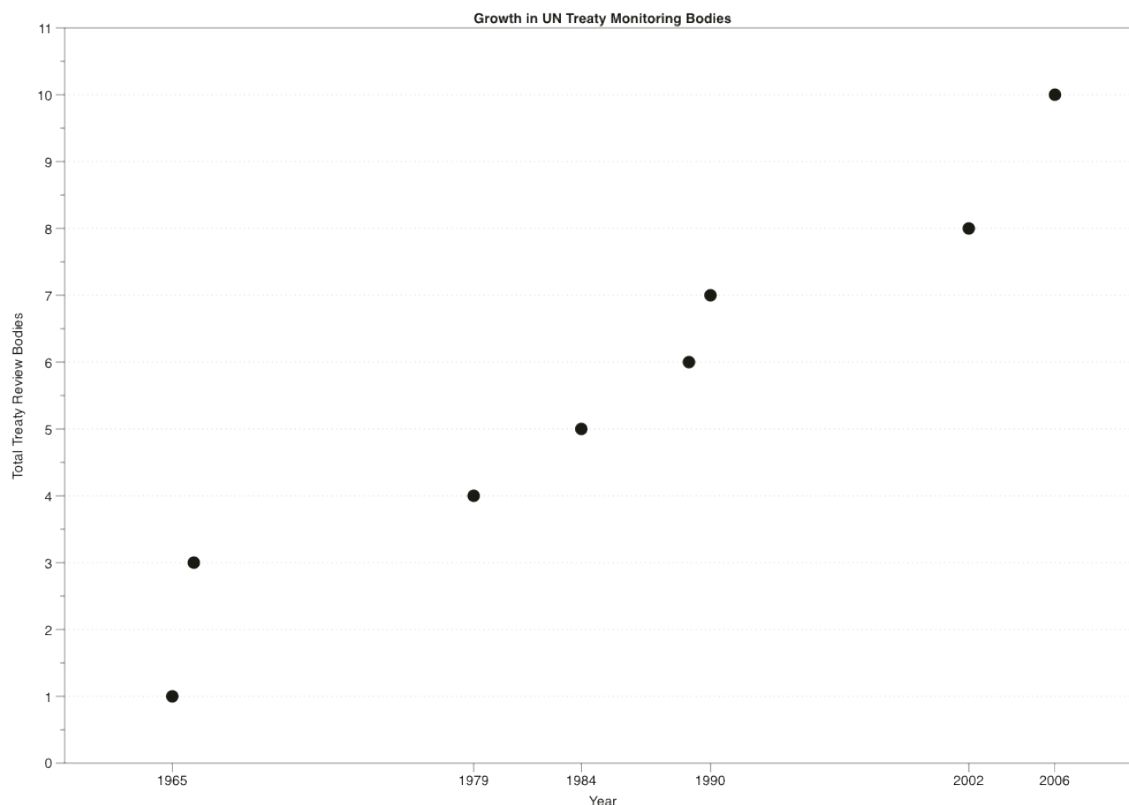


Figure 2.1 United Nations Human Rights Treaty Review Body Growth²¹

The opportunities for advocacy at treaty review bodies are limited due to the fact that states ‘opt in’ to these reviews, thus constraining access for activists within states that have not signed and ratified a particular treaty obligation. Given that ratification of treaties is contingent on domestic political processes, veto points, legal traditions, and public opinion (Simmons 2009, chap. 3), states may resist ratification on treaties addressing precisely the issue areas in which their performance is poor and activists are the most likely to desire recourse via international reviews. For example, as of 2014 the United States has ratified only three of the core human rights treaties.²² Thus, the treaty

²¹ <http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>

²² For a list kept current of US signatures and ratifications see the University of Minnesota Library’s list at <http://www1.umn.edu/humanrts/research/ratification-USA.html>, accessed last May 30th, 2014. The core treaties the US has ratified are the ICCPR, CERD, and CAT. By contrast, the ratification record of

review bodies are potentially subject to the general problem that states agree to commit to international agreements only where compliance may be cheap or they are already relatively compliant (Downs, Rocke, and Barsoom 1996). States of all regimes types are also persistently late in submitting national reports to treaty bodies (Anne F. Bayefsky 2001, 17). However, there is ample evidence that states often make commitments without a complete understanding of the future political implications of their obligations, nor of the opportunities commitment to human rights treaties can open up for activists and NGOs (Clark 2001; Risse, Ropp, and Sikkink 1999, 2013).²³

Regardless of the reasons a state opts in to one of the core United Nations human rights treaties, that commitment opens tangible opportunities for activists to communicate information about compliance during the regular peer reviews prescribed by treaty bodies. Among the most common mechanisms used by NGOs is the use of ‘shadow reporting,’ submitting parallel reviews of state compliance to the UN or other international organizations. Shadow reporting has evolved to become a UN-sanctioned part of treaty reviews and members of civil society, international and domestic, are encouraged to submit reports on a state’s compliance progress, or regress. Because part of the basis for review at treaty bodies is a ‘state report’ covering the government’s review of its compliance and “State reports are self-serving documents which rarely knowingly disclose violations of treaty rights...” (Bayefsky 2001, 44), NGO shadow reports are an important corrective to states’ limited disclosure (Leckie 2000). In fact, review bodies are largely dependent on NGO reports for information on states’ human

Germany includes ICESR, ICCPR, CERD, CEDAW, CRC, CAT and optional protocols to these treaties in many cases. See <http://www1.umn.edu/humanrts/research/ratification-germany.html>.

²³ Theories that grant greater attention to dynamic communicative processes of negotiated norms and rights ‘claims making’ suggest that states historically can and have underestimated the efficacy of international norms and human rights treaty obligations.

rights records (Bayefsky 2001). To submit shadow reports NGOs generally need not have any special status with the UN such as “consultative status,” a vetting and recognition process via the Economic and Social Council of the UN.²⁴ This low barrier to access is useful as some experts at the UN have suggested that “85 percent of our information came from NGOs. We did not have the resources or the staff to collect information ourselves, so we were dependent” (Quataert 2009, 130). Further, even though access to information in democratic societies is comparatively easier than in closed or repressive states, the information provided by activists at the local level, including those whose rights are violated themselves, is actively sought by treaties bodies and experts at the UN. This is noted by activists in the US in the context of multiple IO review bodies (Sooahoo, Albisa, and Davis 2009, Vol. 2. 114) and review bodies have expressed appreciation and that access to local information and victims has shed light on issues they were previously unaware of at the US’s most recent ICCPR review (US Human Rights Network, 2014a). In democratic states information concerning human rights violations at the state or provincial level are less frequently known to review bodies due to a disproportionate focus on violations as a consequence of national-level policies or violations that have garnered media coverage in the target state.

Lower barriers to entry and the general growth in NGO participation at the UN (Elisabeth J Friedman, Hochstetler, and Clark 2005) has led to an increase in domestic NGO participation in shadow reporting as well as providing verbal testimony to experts in the Human Rights Commission, Human Rights Council, and the treaty review bodies. At the outset of treaty reviews at the UN it was primarily large international human rights

²⁴ For a general description of consultative status, see (ECOSOC 2011). As of September of 2013 approximately 3,900 NGOs enjoyed this status (ECOSOC 2014), an expansion from roughly 1,700 only little over a decade ago (Willetts 2000).

organizations, such as Amnesty International and later Human Rights Watch, that utilized shadow reporting. As networking between international NGOs and domestic groups increased in density through the 1970s and a period of explosive growth in the 1990s (Reimann 2006), national and local NGOs from countries around the world began to make use of shadow reporting as well (Martens 2004). The trend of international NGOs first using review bodies and domestic groups following in the last two decades generally holds true for democratic countries in the West (Tars 2009) despite the fact that most of the well-funded, and influential, INGOs have their bases in the West (Price 2003; Slim 2002). Use of reporting mechanisms by domestic groups in the West shows little evidence of being crowded out by larger INGOs, nor – despite often coordinating (Martens 2004) – are domestic NGOs entirely reliant on INGOs to aid them in using shadow reporting.

A major pitfall of regular treaty body reviews is that states possess means with which to limit the opportunities for shadow reporting even if they are parties to a core human rights treaty.²⁵ As previously noted, states can avoid or delay submitting reports at the agreed-upon yearly intervals within treaty bodies, thus reducing how frequently shadow reporting can be used to contest noncompliance.²⁶ The potential that states avoid

²⁵ Beyond NGO participation in treaty review bodies, states can also limit individuals' access to treaty review bodies, and their associated committees of experts, by opting out of either declarations or optional protocols attached to seven of the core human rights treaties: ICCPR, CERD, CAT, CEDAW, CRPD, CED, ICESCR. For details see <http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx>.

²⁶ States may also lack the administrative capacity to comply with the large collective number of reporting requirements under international human rights mechanisms – international and regional – and the multiple venues and staggered timing can lead to the potential of being late to report for reasons other than to prevent a review for political reasons. On the problem of overlapping reporting requirements see (Hafner-Burton 2013, 100 & 120). Hafner-Burton argues that overlapping reporting within human rights regimes produce inefficiencies and redundancies that lead to even the best-performing states to produce overdue or insufficient reports.

reporting for political reasons is not lost on the treaty bodies, as they note via a report on the effectiveness of the treaty system itself, stating:

... a lack of political will translates essentially into a calculation by the State concerned that the consequences, both domestic and international, of a failure to report are less important than the costs, administrative and political, of complying with reporting obligations. In that case, the only viable approach on the part of the treaty bodies and/or the political organs is to seek to raise the "costs" of non-compliance. A failure to devise appropriate responses of this nature has ramifications which extend well beyond the consequences for any individual State party. Large-scale non-reporting makes a mockery of the reporting system as a whole. It leads to a situation in which many States are effectively rewarded for violating their obligations while others are penalized for complying (in the sense of subjecting themselves to scrutiny by the treaty bodies), and it will lead to a situation in which a diminishing number of States will report very regularly and others will almost never do so (ECOSOC 1997, para. 44).

Non-reporting, or overdue reports from states, has been a persistent problem at the UN. The same expert report in 1997 assessed the trends in overdue reports and found that in 1996 there were over 500 either periodic follow-up reports yet to be submitted to the treaty bodies (1997, para. 37). Recent accounting shows the problem of late or no reporting by state parties persists. Even taking into consideration the introduction of new reporting requirements, such as under the CRPD, and an increase in ratifications (Bayefsky 2001, 4), late reports remain at a similar level after 2010 with over 600 late reports. Approximately half are initial reports that have never been submitted and half are periodic reports. Among treaty bodies that have delays, which includes all of the core treaties, roughly a quarter of reports are late or have never been submitted (Pillay 2012, 23).²⁷ Late, delayed, or non-existent submissions to treaty bodies, in most cases, prevent a state's record from being examined and thus blocks the opportunity for activists to

²⁷ Author's calculations from data contained in original report. Other scholarly calculations of late reporting have noted that "Up to 80 percent of states which are party to the human rights treaties have overdue reports. Eighty-one states, or an average of 60 percent of States Parties to all the treaties, have five or more overdue reports" (Mertus 2010, 94).

engage in shadow reporting or testifying before review bodies.²⁸ Further, deviations from a state's scheduled reporting cycle imposes additional costs on NGOs work as they must monitor when the state will actually submit the report, disseminate information to allied NGOs, update their shadow reports, and direct resources towards pressing the state to comply with reporting cycles parallel to pushing for compliance with the content of the treaties.

Several treaty bodies developed mechanisms to review states that have long overdue reports leading to the potential reopening of these opportunities to domestic activists, including the HRC, CRC, CERD, and CESCRC (Bayefsky 2001; Mertus 2010). However, as Bayefsky points out, undertaking a review in the absence of a report from a state is a different political process which lacks the intended exchange between a government and its domestic civil society as the state generates a report (2001). When the UN compels a review of a state's record it may create some opportunities for shadow reporting which the target state was blocking, but it does so at the cost to activists in the form of other domestic opportunities for dialogue, organizing, and agenda setting. Thus state actions relative to treaty review bodies can and do constrain the type and degree of access that NGOs have within international organizations. Treaty review opportunities are therefore conditioned by the degree of politicization of human rights reviews by domestic politicians. In the long view of history and the development of international review mechanisms, relative to reviewing complaints under the Concert of Europe or the League of Nations, the treaty review bodies represent stronger institutional pressures on states to allow a review of their records.

²⁸ Even when a report has been submitted states can delay, as Bayefsky notes, that "CEDAW has regularly permitted states to refuse to engage in a dialogue on the basis of reports already submitted" (Anne F. Bayefsky 2001, 24).

Special Procedures as Basis for Review

The United Nations has alternative mechanisms to review a state's human rights record that include responding to crises, salient human rights issues, or particularly egregious or widespread violations. The UN's so-called "Special Procedures" of the Human Rights Commission (now the Human Rights Council) were established to produce "studies and analyses of situations, fact-finding and reporting, urgent action to protect those at risk, and advice to governments directly concerned as well as..." to the UN (Ramcharan 2008, 1). Special Procedures encompass a variety of practices and bodies within the UN including Special Rapporteurs, working groups, representatives and special envoys. Reviews may take the shape of the focus on a particular country or on a particular theme or human rights issue.²⁹ Independent experts, working groups, or special rapporteurs, make country visits, gather information, and subsequently generate reports and recommendations to the UN and to target states in hopes of nudging states towards improved human rights compliance.

Since their inception in the 1970s, targeted at a few specific egregious state abuses of human rights such as apartheid in South Africa, the Special Procedures have grown and expanded into nearly all areas of international human rights. Along with the rise of strong international human rights NGOs and the expansion of the human rights

²⁹ As of 2014 those mandates include the countries: Belarus, Cambodia, Ivory Coast, Eritrea, North Korea, Haiti, Iran, Mali, Myanmar, Palestine, Somalia, Sudan, and Syria. Country mandates are available at <http://www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx>. Mandates cover issues including: housing, food, treatment of people of African descent, arbitrary detention, child trafficking and pornography, cultural rights, international order, education, environment, forced disappearance, extrajudicial killing, poverty, foreign debt, rights of assembly and expression, mental and physical health, protection of human rights defenders, independent judiciaries, indigenous peoples, internal displacement of people, mercenaries, minority issues, rights of the elderly, reparations, racism and xenophobia, slavery, terrorism, torture, human trafficking, corporate responsibility, water and sanitation, discrimination against women, and violence against women. Thematic mandates are available at <http://www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx>.

agenda through the 1980s and 1990s the Special Procedures grew from only a handful in 1980 to over 30 “mandate holders,” or bodies empowered to gather information or review states, and have conducted “approximately sixty field missions, and issued 800-900 urgent appeals annually” (Anne F. Bayefsky 2001, 56). By 2014 the UNHCHR reports that over 85% of member states have had some form of visit via a Special Procedure mandate and only 28 states have never been visited (UNHCHR 2014). Figure 2.2 shows the growth of Special Procedures mandates at the UN. Further, a large number of states have given an open invitation to review their records by issuing “standing invitations” to all Special Procedures. As of January of 2014 there are 108 countries with such standing invitations.³⁰ Among Western democracies these standing invitations are nearly universal with 28 of the 30, or 98% of states from the UN’s Western Europe and Others Group (WEOG) opening their borders to all procedures (OHCHR 2014).³¹

³⁰ For the running list maintained by the OHCHR see <http://www.ohchr.org/EN/HRBodies/SP/Pages/Invitations.aspx>.

³¹ The UN’s WEOG group includes: Andorra, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States of America. See <http://www.un.org/depts/DGACM/RegionalGroups.shtml>.

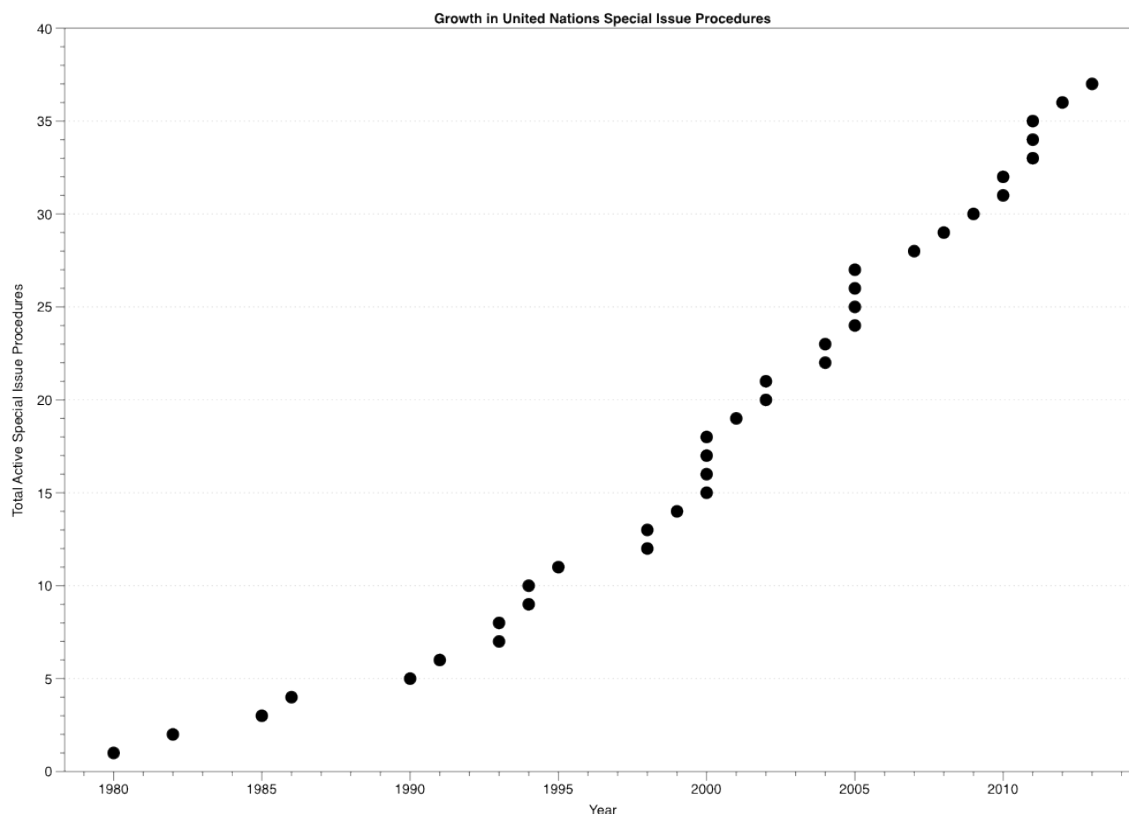


Figure 2.2 United Nations Special Procedures Trend³²

It is not required that a state have committed to any human rights agreements for the UN to review a state's record via Special Procedures. Rather, reviews originate from concern by UN member states, the UNHCHR, and other stakeholders able to bring issues to the attention of the UN, including domestic and international NGOs. As such, the Special Procedures are independent of the state-dominated self-selection problem associated with human rights treaty review bodies. States do, however, attempt vigorously to opt-out of, or prevent, scrutiny of their records and thus deny both domestic and international actors the opportunity for reviews relative to state behavior. For example, at the outset of what would become the collective "Special Procedures," Chile

³² Author's computations drawn from the UN Human Rights Council's listing of "current and former mandate holders" which include both country mandates and thematic mandates (UNHRC n.d.). List is available at <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcompage.aspx>.

argued that review of their domestic actions should be done via prior confidential procedures the UN had established. Essentially at the birth of the Special Procedures as review mechanisms Chile attempted to “superimpose on the Special Rapporteur the modalities of a confidential procedure” established under ECOSOC’s Resolution 1503 (Ramcharan 2008, 52). Since Chile’s resistance to early reviews under the Special Procedures countries have continued to take issue with the *ad hoc* nature of these reviews but states have generally been unable to entirely avoid their scrutiny.

In all of their forms Special Procedures create opportunities for domestic civil society to engage with international institutions and to contest domestic policy. Because the Special Procedures coordinate with civil society each point of coordination provides relatively low-cost chances for local NGOs to begin to internationalize their activism compared to the absence of these procedures. Local civil society is heavily relied upon to provide information about human rights compliance, access and connections to victims, and to eventually disseminate the results of the reports and research generated by the UN. When invited to coordinate with the UN local activists are empowered to steer the outcomes of the review and to place their concerns prominently on at least part of the UN’s human rights agenda. The heavy reliance on local NGOs is reflected in the UN’s quantification of how many procedures interacted with domestic groups. A recent UN report aimed at broadening civil society engagement estimated that “90% of mandates have some form of interaction or relationship with national NGOs” (UNHCHR 2007, 2). The same report also indicates that Special Procedures present the same low barriers to access that characterize submitting reports to treaty review bodies. No special status with the UN is required to partner with Special Procedures as “only 30% of [Special

Procedures Branch of the OHCHR] contacts have ECOSOC status; mainly International NGOs” (UNHCHR 2007, 3).

Special Procedures such as visits by Special Rapporteurs can also generate useful attention in domestic media and society that local groups can take advantage of. Thematic mandates such as a right to food or focusing on poverty can connect local conditions to concrete human rights norms or treaty obligations and for local groups can facilitate a window of media attention to discuss conditions in terms of rights and obligations (Piccone 2012, 105). Media attention to human rights is relatively rare in stable democratic states, and at least in the US and UK comprises a very small portion of news coverage (Brandle 2013). This makes these windows of opportunity particularly useful given the general ignorance of human rights issues at all in the media, let alone human rights issues taking place within the country rather than abroad. Activists can leverage increased media coverage to dramatize the lack of compliance with human rights norms and obligations by arguing that the often more expansive set of right contained in international human rights law imposes obligations on the state to act. For example, activists in Michigan linked to international NGOs utilized the existence of a mandate on the Protection of Drinking Water and Sanitation³³ to illustrate the city of Detroit’s public water utility’s cutting off of resident’s service as a violation of rights (Hannon 2014; Moskowitz 2014). Increased attention also makes it difficult for even democratic states to subvert the review as local activists can easily link blocking or being seen to inhibit a Special Procedure as a way to characterize the government as working against widely agree upon rights. In 2012, after a visit from the Special Rapporteur on the Right to Food,

³³ See <http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/SRWaterIndex.aspx>.

a coalition of NGOs in Canada argued vehemently against their government's efforts to impede and denigrate the work of the rapporteur (Coalition Letter 2012).

The presence of a UN rapporteur or petition to a thematic mandate generates increased attention and windows of opportunity for activists; however, criticism of the lack of universal scrutiny of all states in these bodies is a politically poignant argument which found a sympathetic ear not only among repressive states but also with powerful states such as the US. The United States was a frequent and powerful opponent of *ad hoc* reviews under the Human Rights Commission. Often the US's critique of *ad hoc* reviews stemmed from the view that Israel, as an ally, was subjected to an unwarranted degree of scrutiny in an effort to delegitimize the government.³⁴ Partially as a response to pressure from the US, and partly from a need for a defense against critics of *ad hoc* reviews, the UN member states responded by creating the UPR as a means to make reviews not only non-selective, but also non-treaty based and therefore subject to the problem of opting-out.

The New UPR and Its Process

The Universal Periodic Review process was formulated as one means of depoliticizing the prior Commission on Human Rights (Terlingen 2007, 168-196; Schrijver 2007, 812-814; Callejon 2008, 334). Whereas under the Commission only particular states were subjected to a review – typically when violations were dire, persistent, or politically useful to some member states, or when states had opted into a

³⁴ For example see the critique of then UN Ambassador from the United States John Bolton, a key figure in pushing for reform at the UN prior to the UPR (Bolton 2007, 234). Prior to reform this view is present in Congressional hearings on the UN Human Rights Commission. Virtually every mention of Israel in these hearings reflects the view that Israel is unduly subjected to *ad hoc* reviews and condemnations by the Human Rights Commission, see (United States Congress Foreign Affairs Committee on Foreign Relations 2005).

human rights treaty – the new UPR process ensures that every one of the 192 member states in the UN face a review at least every four years. Some actors within international civil society are attempting to institute informal reviews every two years as a means of providing midway opportunities for states and domestic civil society to check on the status of compliance with prior UPR recommendations. In general see the work by UPR-info.org as well as work referenced in (McMahon 2012, 26) The UNHRC subsequently has encouraged states to submit midway reports on their compliance progress (UN Human Rights Council 2011b, para. E 18) and though far from universally adopted, some states are beginning to utilize midway reporting.

States are subject to review regardless of having signed or ratified any specific human rights treaty. By reviewing all states, the UPR is not simply a “tool of the Human Rights Council,” rather, the UPR is a “mechanism and a process” (Sen & Vincent 2009, 9). Further, the UPR is universal not only because it reviews all member states, but because the basis for review of each state is more uniform than existing treaty review bodies or Special Procedures. By including the Universal Declaration of Human Rights as a basis for review the UPR subjects all states regardless of ratification records to the potential of criticism in every area of human rights (UN Human Rights Council 2006). For NGOs the UDHR as a basis for review provides the opportunity to root criticisms of their state’s record in a set of rights broader than those contained in the patchwork of treaties the state may have ratified.

For NGOs and the state under review, the UPR process begins at least one year prior to the review of the state they wish to provide a report on. NGOs are advised by the UN to consult with the state under review as that state produces a “National Report” – a

report about its progress and challenges on human rights relative to the Universal Declaration of Human Rights as well as a state's formal treaty obligations.³⁵ The ways in which a state preparing for review chooses to consult with its own civil society to generate the National Report vary by country. Some states schedule formal regional meetings via the foreign affairs branch of government, some consult primarily with large national NGOs via telecommunications or draw on existing reports, others utilize national human or civil rights institutions as means of reaching diverse parts of society, while others make minimal efforts to consult civil society. When states do engage in active face-to-face consultations with civil society it presents a unique opportunity for groups to talk about their issue of concern as a rights violation and can generate increased attention in domestic media. The US's consultations for the National Report for its first review is illustrative of this opportunity. Despite traditional opposition to economic rights in the United States, in the lead-up to its first UPR review the consultation with civil society was used to talk about housing as a human right and the US's particular failures in this area relative to post-Katrina New Orleans and after the 2008 housing crisis (Tars and Bhattarai 2011).

Development of the national report in the US, Canada, and Germany is roughly comparable for most democratic states. Each national government organizes meetings in various parts of the country with the aim to engage NGOs from a range of stakeholder groups and affords open access to these forums so long as NGOs register in advance. In the US case access is further expanded by holding virtual meetings in which NGOs can call in via a teleconference with a code given to registrants. The only major difference in

³⁵ For a summary of the timeline and actions NGOs can take relative to the UPR process, see http://www.upr-info.org/IMG/pdf/Timeline_NGOs_participation.pdf.

the development of the national report across the US, Canada, and Germany is that the US lacks an NHRI that would otherwise encourage civil society to participate in the dialogues and fact-finding to generate the report. As it stands the US will likely not create an NHRI, however, the US State Department has taken on the role of coordinating civil society and does so as readily as the NHRIs' work in Canada and Germany.³⁶

Once generated, the National Report, along with a summary of stakeholder reports – primarily information produced by NGOs, national human rights institutions (NHRIs), and IGOs – as well as a summary of information from the UN itself, form the basis for a state's review.³⁷ UN information includes research and reports from Special Procedures, treaty bodies, and other UN bodies with relevant reviews of state behavior.

Domestic NGOs can also develop distinct reports in addition to influencing the National Report via consultations with their government. Some groups compose reports on thematic issues such as rights to health or civil rights that attempt to assess national compliance, while others submit reports centered around specific human rights violations

³⁶ For example in the lead-up to the US's second review at the UPR the State Dept. sent the following email to a network of activists, "Dear Colleagues, The State Department invites you to participate in a civil society consultation with representatives from the State Department on Wednesday, April 27 from 10:00 AM-12:00 PM in Room 1482. The consultation will focus on the recommendations related to Working Group Six, which includes the following topics: Treaties, International Mechanisms, and Domestic Implementation. The consultation will be in the style of a Town Hall, with speaking slots for civil society followed by responses from the U.S. Government. Please RSVP to UPR2015@state.gov no later than Wednesday, April 20th with the following information: (i) your name, (ii) institutional affiliation, (iii) whether you will participate in person or by telephone. Based on your acceptance of this invitation, the State Department will provide additional information to facilitate your entry into the State Department and/or provide call-in information. Written statements provided in advance are strongly encouraged, in order to permit U.S. Government participants to prepare to discuss topics of interest. Please limit your statements and remarks to topics related to working group six. Please e-mail any advance written statements/topic areas to UPR2015@state.gov by the RSVP deadline, so that we may review them prior to the event. Finally, we invite you to circulate this invitation to other individuals and groups who may be interested in participating in this event. If RSVPs exceed capacity, we may ask organizations who have responded to limit attendance to one or two representatives. The consultation is off the record and closed to the press. Sincerely, The State Department U.S. UPR Team. This email is UNCLASSIFIED (Korac 2016).

³⁷ The UN itself defines a 'stakeholder' to be "inter alia, NGOs, national human rights institutions, human rights defenders, academic institutions and research institutes, regional organizations, as well as civil society representatives" (OHCHR, 2) see specifically, <http://www.ohchr.org/Documents/HRBodies/UPR/TechnicalGuideEN.pdf>.

and subsequently link these violations to state obligations. NGOs may also choose to submit a Joint Submission via a network of domestic groups all work on similar issues, something the UN encourages. Reports should be no longer than 10 pages according to UN guidelines, however during the first round of reviews this guideline was regularly disregarded by NGOs with little recourse available to the UN. Despite the length of a report the UN still typically includes a representative statement in its summary of stakeholder reports to serve as a basis for the review. Once composed, reports are easily submitted to the UPR via a single email address used to compile reports for upcoming reviews.

The combined National, UN, and summary of stakeholder reports are meant to foster a dialogue between the state under review, the members of the UPR Working Group, observer states, and with NGOs after the initial review has taken place. The UPR Working Group consists of 47 states elected from the UN membership conditional on their having respect at home for human rights, however, this condition remains largely unenforceable and is likely to produce similar charges of hypocrisy in membership that the Commission faced; violator states with the power to review comparatively less egregious violations. Early assessment of the UPR has pointed out too that members have tended to speak in favor of a state's progress as a means of counterbalancing criticism from other states and in some cases as a means of pseudo-filibuster (Sweeney & Saito 2009, 210). States noted this problem during the first round of reviews as problematic (Cochrane and McNeilly 2013, 168; Sen 2011, 40–41)³⁸ as did some international NGOs (Human Rights Watch 2010, 13–14) and the UPR has been reformed to allow for all

³⁸ Some states also called for reform due to this problem. For example see the US statement on reform at the Human Rights Council as <https://geneva.usmission.gov/2010/10/26/hrc-2011-upr/>.

states wishing to ask questions to have the time to speak (UN Human Rights Council 2011a). Despite politicization of the Working Group, countries under review often face pointed and well-informed critiques of their compliance behaviors regardless of the source. No state is able to completely avoid scrutiny. The blocking tactics mentioned here are limited in their effectiveness.

During the review stage at the UN in Geneva, Switzerland the state under consideration is engaged in a “review dialogue” in which the Working Group and UN member states inquire about that state’s human rights performance. While NGOs are not able to participate in the UPR review dialogue itself, NGOs are encouraged to hold press briefings and events to make their views known publicly during the UPR dialogue (UPR-Info.org 2009). After the dialogue portion of the review, the Office of the High Commissioner on Human Rights is charged with compiling recommendations for the state under review that the state then can choose to accept, reject, or reserve its position on. States make these positions known publicly in a follow-up dialogue to the initial review. During this follow-up dialogue, members of the UPR Working Group, UN member states, as well as NGOs with ECOSOC consultative status, are allowed to offer comments on the state under review’s human rights record and now the state’s decisions relative to the recommendations derived from the UPR (Terlingen 2007, 208). As Terlingen notes, this final ability to offer ‘general comments’ “constitutes the sum total of official NGO engagement in the UPR process at the UN level” (2007, 208). Thus, NGOs participate in the UPR in several ways. At the domestic level, INGOs and NGOs participate in the generation of the National Report and submit their own reports to the UN. At the UN itself, some NGOs hold press conferences and side events in tandem with

the UPR review dialogue and some offer comments during the follow-up dialogue concerning the state under review's reaction to the UPR recommendations.

The Working Group and other UN member states at the UPR present an additional informal access point for NGOs. If they are able to travel to Geneva activists can, and do, target diplomats and officials from sympathetic states willing to pose questions to the state under review (Tars and Bhattarai 2011, 202). Informal meetings and discussions of human rights problems between activists and foreign officials provide a sort of side entrance to the review dialogue. In these meetings activists can engage in lengthy conversation with officials, facilitate testimony by victims themselves, and convey the impact of human rights violations in ways that are more impactful than paper reports. Victims and grassroots activists dramatize on-the-ground conditions, can explain at length the often complex sources of violations, and put a face on violations in a manner that written reporting cannot accomplish. Activists interviewed for this project report that foreign officials respond positively to these efforts to dramatize and educate about human rights violations and that these side events and meetings genuinely increase the information and set of concerns that foreign states are aware of prior to the review dialogue. These types of side events are not unique to the UPR. Groups have long held them during treaty reviews as well. For example, the value added of side events is discussed at some length in a post-review conference call held by the US Human Rights Network after their participation in the US's review under the ICCPR (US Human Rights Network 2014a). If successful these meetings result in foreign officials raising these issues to the state under review during the review dialogue and potentially leading to an immediate verbal response or reply in writing at the conclusion of the UPR process.

Overall the UPR represents an expansion in access to international institutions and human rights reviews in unique ways. Because the UPR compiles information from all other relevant UN bodies and reviews, all of the work NGOs do to influence those bodies enjoys a potential second hearing at the UPR. Further, the expansion of the basis for review to include the UDHR means that states can no longer easily opt-out of a review of certain rights or sets of rights by refusing to ratify a treaty. Further, opting out or delaying reporting has proven to be taboo at the UPR during the first two rounds of reviews, an indication that the norm of slow or non-reporting to treaty review bodies is not being replicated at the UPR.

Illustrative of this developing norm was Israel's attempt to boycott the review in response to their view that they were being unfairly singled out by the Human Rights Council for scrutiny in a 2012 UN report on the settlements in the West Bank. However, after a short delay and international criticism, Israel did comply and was reviewed under the UPR process. All other states complied and have been reviewed (BBC News 2013). Timely compliance with the review process dramatically lowers the information costs to domestic NGOs as it creates stable timelines and expectation of when reports are due, when national consultations with civil society will take place, and can facilitate easier long-term planning on the part of local NGOs to participate in reporting. These unique aspects, taken together with low communications costs for report submission, and a lack of any requirements for ECOSOC consultative status means that, as some critical observers from democratic states have noted, "any unaccredited Tom, Dick or Harry can make a submission" (Harrington 2009, 85). Of course, achieving these low barriers to report submission was no accident in the formation of the UPR.

Conclusion

Over the last one-and-a-half centuries the international society has moved from few if any opportunities for domestic societies to contest treatment beyond their national governments to a web of human rights institutions that provide opportunities for low cost and active engagement with international institutions. Where international civil society groups have pried open international organizations domestic NGOs have followed and pressed for even more access and influence (Quataert 2009). Currently the UPR is among the most accessible venues within any IO for local activists to engage with. In terms of international political opportunities the UPR, if opportunity structures are defined by the degree of access to institutions of governance and to elites and policy makers, the UPR presents activists today with a vastly more accessible institution. Contrasted with the closed, political, behind-closed-doors, or simply non-existent, nature of reviews during the Concert of Europe as a weak institution – or with the selective reviews and limited mandates under the League of Nations – the UPR review process is public, easily accessible, thus far engenders universal participation, provides access points to elites, and has taken substantive steps to reduce the politicization and selectivity of human rights reviews. As an evolution of the UN's human rights regime the UPR represents an increase in accessibility over the treaty review bodies and various commissions. The UPR is by no means a panacea for human rights compliance, but from the perspective of domestic, resource-poor, or local NGOs the UPR provides an attractive, and easily useable, set of opportunities for access to the world's preeminent international organization.

In the following chapters the mobilization of domestic NGOs described and discussed takes place within this context of historically low-cost access to international institutions, the UPR, and to treaty review bodies. Low-cost does not, of course, mean no-cost and organizations do process and consider how incorporating IO reporting in their activism is good value for time and effort. Further, there are up-front information costs associated with learning about IO reviews and their associated events before a group can decide to make use of them. Once groups are aware of opportunities for activism at international institutions they decide to make use of them in a variety of ways. The remainder of this project attempts to identify patterns of how groups come to make use of IO reporting as a means to supplement their primarily domestically-oriented activism, how groups understand reporting to the UPR as an appropriate mode of activism, what the value-added of reporting to international institutions, and what they expect from report submission relative to the human rights violations they work to improve.

CHAPTER 3. PATTERNS OF PETITIONS AT THE UPR

The identification of patterns of reporting to the UPR among NGOs in democratic states can tell us a lot about whether prior explanations can explain why domestic NGOs internationalize issues or not. In the following chapter a series of descriptive statistics and graphical representations of NGO reporting to the UPR help to establish that there are not compelling patterns of reporting to the UPR that suggest prior explanations can successfully address the empirical puzzle in this project: why do NGOs in democratic states divert any resources and effort away from local democratic institutions. If the central contention of this project is correct, that the pathways through which NGOs find the UPR are based on group-level determinants such as their perceptions of political opportunities, frame adoption, or ideas about the appropriate venues to contest rights claims within, then distinct patterns should not be present in much of the data displayed below. Overall, the data below suggests that the explanation for why NGOs in democratic states make use of international organizations lays beyond prior national or international-level structural approaches. The remaining chapters beyond the present one illustrate that a group-level focus on frame adoption, perceptions, norms of activism, and concerns over the uncertainty over “what might work” to make a difference in activism, better explain the patterns of reporting at the UPR’s first round of reviews.

Wealthy stable democratic states show considerable variation in the frequency with which their domestic NGOs participate in submitting reports to the UPR. Human rights issues and grievances present in reports to the UPR also vary significantly across

states. This chapter presents and discusses data collected on both the frequency of NGO reporting across a set of wealth stable democratic states, as well as measures of the particular issues these states face criticism on. While not directly aimed at testing hypotheses about why domestic NGOs report to the UPR, this presentation of data provides insight into three questions.

First, do arguments that primarily rely upon national level measures of political opportunity structures to explain why domestic NGOs internationalize their activism explain the frequencies of reporting at the UPR (Keck and Sikkink 1998; Poloni-Staudinger and Orbals 2014; Risse and Sikkink 1999)? Where democratic states are less responsive, less participatory, or less prone to policy shifts, do NGOs resort to participating in reports to the UPR more frequently? If the move by domestic activists to reach beyond their borders in order to link up with international allies within international organizations is a result of political impasse or blockages at home, then use of the UPR among domestic NGOs should map to patterns of more or less rigid democratic systems. *If there is no systematic relationship between national level measures of political opportunity and use of the UPR by domestic groups, then this project contends that researchers must look closer at NGOs to understand the reasons why they make use of international forums like the UPR.*

Second, is report frequency driven by grievances or the variation in state compliance with human rights norms? Grievances alone are not sufficient to generate sustained activism (McAdam 1982), but they do provide motive for collective action around human rights compliance (Simmons 2009) and may result in a larger number of domestic NGOs reporting to the UPR. Finally, the chapter will discuss what the

challenges of coding “group participation” from reports – combined with insights from qualitative data – tell us about why some states are outliers in terms of the frequency of domestic NGO participation at the UPR. More specifically, are outlier states likely driven by grievances, political blockages, or are there other explanations for why some democracies see dramatically more domestic NGOs at the UPR?

The following chapters will argue that the major determinants for individual NGO involvement are network effects of adopting the “human rights frame,” and subsequently a combination of activists’ perceptions of the domestic political opportunity structures and the usefulness of human rights as a tool of advocacy in domestic politics. This argument is rooted primarily in individual, or NGO-level, influences on the decision to extend local or national activism to international human rights mechanisms. As the preceding chapters have contended, if the reasons that NGOs in democratic states turn their activism towards international human rights review mechanisms have more to do with how groups perceive political opportunities, and how human rights frames encourage membership in activist networks that help steer local NGOs to human rights review mechanisms, then structural variables such as measures of domestic political opportunity structures should map poorly to the patterns and frequency of domestic NGO reporting to the UPR. If reporting to the UPR is about group-level determinants not macro-level variables, then those structural variables should do poorly at predicting UPR reporting. In the absence of uniformly and severely restricted political opportunities, there is likely to be less unanimity in the perceptions among a country’s activists on whether local or domestic institutions provide sufficient venues for political change. This should result in little correlation between national-level measures of opportunities and the

frequencies of NGO involvement in UPR reports from a given state. This contrasts with states where opportunities are severely restricted through a lack of democratic institutions or repressive actions by the state, where we can expect a detectable increase in the internationalization of activism (Keck and Sikkink 1998). In the case of stable democratic states, NGOs at the UPR do feel they face blockages but those blockages exist anywhere from the local, state, or national levels of government and are unlikely to be detectable as large national level patterns of venue choice for contesting rights. Further, the range of differences in political opportunities across democratic states offers far less variation with which to explain the wide differences in the frequencies of NGOs involved in UPR reports among them. In the following analysis I expect that if group level influences are the major driver of reporting to the UPR, there will be a poor fit between data capturing political opportunity structure and UPR reports.

Not all democratic states comply with international human rights norms with the same degree of fidelity. Democratic states tend not to be openly hostile to human rights norms but compliance often requires major legislation, substantial expenditures, or political battles to bring sub-national governments into compliance. For example, though the US does not have a treaty commitment to end the death penalty, it is considered by many to be out of compliance with human rights norms and to comply would require either a federal repeal, major court decision abolishing the death penalty, or repeal at the federal state level, all of which would be contentious. Even more difficult, for example, is eliminating racial discrimination, an obligation Germany has committed to. The implementation of policy to eliminate racism in society is fraught with long-term challenges of embedded opinions in society and perfect compliance may always remain

an ideal to strive for but never reach. The same is true of efforts in democratic states to foster gender equality. As a result of the challenges of compliance, some democratic states have citizens with more grievances – as defined as their imperfect compliance with human rights norms – than others do. Relating variation in noncompliance with the frequencies of NGO reports for each state at the UPR can give a rough check of whether grievances might explain patterns of reporting. Do relatively poor performing democracies tend to have more domestic NGOs reporting on issues during the UPR than states with better compliance records or fewer grievances? The following sections take up these questions, political opportunities and grievances, after a description of the overall patterns of NGO participation at the UPR.

Data & Reporting Behavior Overview

In order to assess the patterns of reporting by domestic NGOs from stable democratic states this chapter draws on data collected from reports to the UPR from a sample of wealthy stable democratic states. Because the motivating puzzle for this project is why do NGOs from the most democratic of states bypass domestic institutions with part of their political efforts and resources, the sample of states drawn represents countries where democratic institutions are among the most stable. The sample consists primarily of the more populous states belonging to the UN's informal Western European and Other Group (WEOG) of countries, with the exception of the inclusion of The Republic of Korea and Japan.³⁹ For each country the official submissions to the UPR for

³⁹ The full sample consists of the USA, Canada, Japan, South Korea, Australia, Belgium, Denmark, Finland, France, Germany, Greece, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

the first full cycle lasting from 2008-2011 were read and coded for the explicit mention of a domestic NGO's involvement with the report. All UPR documentation is available online at the UN's UPR website. They can be located by navigating to an individual state's page from the UPR documentation site. Once navigated to an individual country's page, each entry contains a footnoted link next to the Summary of Stakeholder Information.⁴⁰ Here the UN provides access to the raw reports submitted to the UPR from both domestic and international stakeholders. Both individual NGO reports as well as coalition, or Joint Submissions, can be found here in their raw form.

From these submissions the reports were read for the national origin of the submitting groups and human rights issue content. UPR stakeholder reports under the category of "civil society" were first coded as "domestic" on the basis of their indicated national location either within their submissions or available information via their websites. One exception were large transnational NGOs such as Amnesty International and Human Rights Watch who submit for a large number of countries and consider their mandates to be all countries. Explicitly international NGOs were not coded as "domestic" only for having headquarters in one of the stable democratic states in the sample. Though these organizations do report on their home countries, because they are almost universally active in reporting on all states, their participation at the UPR is a qualitatively different phenomenon than the participation of primarily domestic NGOs. Subsequent to identifying domestic reports, each submission to the UPR from domestic civil society was read for which and how many NGOs were involved with the report. In a typical report one lone NGO lists their name and contact information on the opening

⁴⁰ Available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>.

pages. Other common practices were reporting with multiple NGOs making joint submissions in numbers ranging from two to over a dozen, and NGOs offering endorsements of the content of a report which ranged from two to several dozen NGOs in rare cases. In each of these cases, every domestic NGO was counted as having been involved in making use of a report to a human rights review mechanism. As described in detail below, this produces several outlier states with a large number of domestic NGOs using the UPR. In the final section of this chapter I take up the reasons the respective high NGO involvement democracies end up as outliers due to the mode of report endorsement and production.

Reports were also read for content pertaining to the categories of rights issues they contained and coded for the presence or lack of a complaint across 24 categories of rights. The rights categories ranged from the treatment of immigrants, to torture, to the rights of disabled persons.⁴¹ A single mention of a human rights violation on an issue was sufficient to code the issue as present in the country, however, in most cases entire reports or sections of reports were dedicated to a particular issue category and NGOs then tend to provide illustrative contemporary cases. Collecting data across a large portion of democracies' UPR reports from civil society provides an indicator of the human rights agenda among domestic NGOs in these states, and also is a rough indicator of human rights conditions in a country. A wide range of issues reported to the UPR could indicate two potential aspects of a country. First, that civil society in that country effectively

⁴¹ Issues areas include: racism, immigration, refugees, housing, healthcare, violence against women, children's rights in general, prison conditions, torture/extradition to torture-prone states and tazer use, employment, women's equality, LGBT rights, human trafficking, counterterrorism, rights of the disabled, religious freedoms and expression, indigenous people's rights, corporal punishment of children, labor rights, homelessness, food security, death penalty and extradition to countries with the death penalty, and juvenile sentencing of life without parole.

monitors rights violations and is efficient in translating specific violations into reports at human rights mechanisms. Alternatively, a state with a breadth of issues present in UPR reports may be a more persistent violator of human rights and a less effective guarantor for rights. This chapter uses these complaints as operational measures of grievances, but partially accounts for the potential that they measure only how dense civil society is by additionally correlating report frequency with other proxy measures of grievances.

The raw frequencies of domestic NGO participation in the first cycle of the UPR show some mild but identifiable regional trends including the slightly low rates in Central Europe and higher participation at the UPR when comparing Korea and Japan. When considering the frequencies of domestic NGOs petitioning the UPR, the number of participating groups overall ranges from 165 in Italy to only three from Finland. Finland's scarcity of domestic NGO participation does not generalize across the region to other Nordic countries. Both Denmark and Norway sit at roughly the median value for domestic participation, while Sweden has near to the highest level of NGO participation. Among Southern European countries there is diversity in participation as well.⁴² All three of Greece, Portugal, and Spain have relatively low participation, while Italy stands out as the country with the largest number of domestic NGOs participating in UPR reports. Among more Central European states, Belgium, Germany, and France have a low number of domestic participation, while the Dutch and the Swiss have higher – but still moderate – numbers of groups participating. The North American states included in the sample, Canada and the US, both have very high NGO participation relative to most of the European countries. Figure 6.1 shows the raw frequencies of domestic NGOs

⁴² Southern European based on the UN's grouping which includes: Greece, Italy, Spain, and Portugal in the sample here. For full list and details of these groupings see <http://unstats.un.org/unsd/methods/m49/m49regin.htm#europe>.

participating in petitions to the UPR in the sample of states. What, if anything, at the national level influences these frequencies?

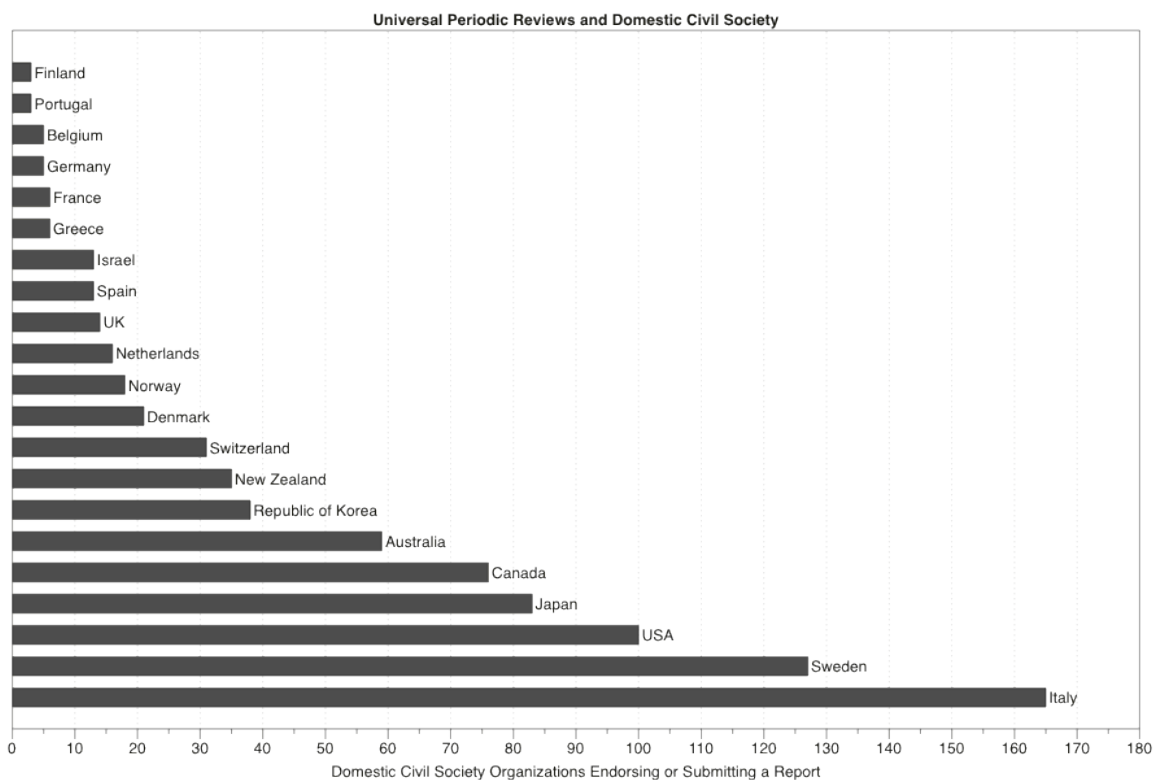


Figure 6.1 Number of Domestic NGOs from WEOG States at the UPR⁴³

⁴³ Author's calculations from first round of UPR country review documentation. Available variously at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>. NGOs were identified via the footnote hyperlinks by country under "Summary of stakeholders' information." For example the United States' stakeholder reports are available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRUSStakeholdersInfoS9.aspx>.

Political Opportunities and Reporting Prevalence

Because human rights review mechanisms provide an additional, and relatively accessible (Chapter 2), venue for activists, there may be a pattern of internationalizing activism (Keck and Sikkink 1998) among democracies in which those states with more restrictive political opportunity structures see domestic activists make use of international opportunities at higher rates. Domestic NGOs at the UPR are able to find international allies within the UN, reviewing states, or transnational NGOs able to further shed light on the grievances in UPR reports. Keck and Sikkink (1998, 12) observed that it was the relative openness of international political opportunity structures when compared to domestic repression that channeled the efforts of local activists. Human rights review bodies such as the UPR are potentially very accessible for domestic activists (Chapter 2), and insofar as local institutions provide fewer opportunities such as access to policymakers or prospects for policy shifts, activists in democratic states are likely to turn to these venues in a similar pattern as activists in repressive states.

There is some reason to believe that movement actors in democratic states do internationalize their work when domestic opportunities shrink. Work on women's movements show that when conservative parties control governments in Western democracies the movements turn to international venues more frequently (Poloni-Staudinger and Orbals 2014). Fewer allies within government leads activists to seek external support for their causes. Further, interviews in this study have indicated that when parties hostile to robust implementation of human rights hold political power, that

international forums become useful tools in a “blocking” strategy.⁴⁴ Local activists do not give up on things like domestic lobbying, protest, and campaigning. Activists do, however, alter the allocation of time and effort slightly towards international venues. At a minimum domestic NGOs in democratic states respond to increased difficulty winning reforms in domestic political arenas alone by making international appeals. The degree to which this observation generalizes, however, is an open question.

If a boomerang pattern of activism is taking place *en masse* in democratic states, then correlating domestic NGO use of the UPR with measures of political opportunities within states should illuminate patterns of strong use of international venues where activists face domestic constraints to policy shifts. Below I correlate measures of how likely a country is to experience a change in national level policy with the frequencies of NGO reports to the UPR from WEOG states. To measure opportunities I use the Political Constraints Index (POLCON) (Henisz 2013) which captures the degree to which a government is likely to experience a policy shift. More accurately it takes into account the constraints faced by policy entrepreneurs who wish to implement new policy in a state in a given year. Though an imperfect measure of the likelihood of human rights-oriented reforms, the POLCON index does provide information about the institutional environment activists face as they attempt to alter government policies at the national level. The index runs from 0-1, where 1 represents a high degree of stability in policy and 0 represents a high likelihood of change in policies. Across WEOG states in the sample used there is considerable variation in political constraints. Spain ranks as the most likely

⁴⁴ Canadian NGO Interview, Nov 21st 2012.

to experience a shift in policy at approximately 0.28, while Belgium sits at nearly the opposite extreme with a score of approximately 0.71.

The data collected from the first round of UPR reviews on the number of domestic NGOs involved in reports to the UN does not show a strong correlation with values of the POLCON index. A strong boomerang pattern of activism in democratic states, as suggested may be taking place by Poloni-Staudinger and Orbals (2014), would manifest as more NGOs involved in UPR reports as the value on the POLCON index increases. Figure 6.2 displays no such pattern. Rather, states with high levels of constraints like Belgium and New Zealand have relatively few domestic NGOs in UPR reporting. Conversely, states with fewer constraints like the US, Italy, Australia and Canada all have relatively high degrees of NGO participation. Finally, among states with average scores on the constraints index there is wide variation in reporting to the UPR by local NGOs.

Based on the first cycle of reviews at the UPR, and domestic NGO reporting from a sample of mostly WEOG states, there is little evidence to conclude that a strong boomerang pattern of activism is taking place. If the combination of constraints to political change at home and open, easily accessible, international forums systematically effects where activists choose to contest human rights issues, then states with a more constrained political system should see more use of the UPR by domestic activists. The data from the first round of UPR reviews fails to provide strong evidence for a boomerang pattern of activism among the sample of WEOG states. The data on opportunities and reporting is displayed in Figure 6.2 as paired bar charts. The top six countries least likely to experience a policy shift: Portugal, Denmark, Finland, Israel,

New Zealand, and Belgium, all have relatively low numbers of NGOs taking their issues to the UPR. Among the four states with the least restrictive political environment in terms of likely policy changes: Spain, the UK, Canada, and Australia, there are widely divergent frequencies of NGO reporting behavior. Both Canada and Australia rank among the democracies with high NGO participation, while the UK and Spain both have low participation at the UPR. States with high frequencies of reporting such as Sweden, Italy, and the USA are distributed evenly over the range the POLCON index of political stability. If national-level political opportunities were driving NGOs' resort to international forums, we would expect the US to have few domestic groups at the UPR, Italy to show moderate participation, and Sweden the highest. This expected pattern is not present in the data. This data is a small sample of states, but statistical checks of systematic relationships between political opportunities and report frequency fail to produce significant results.

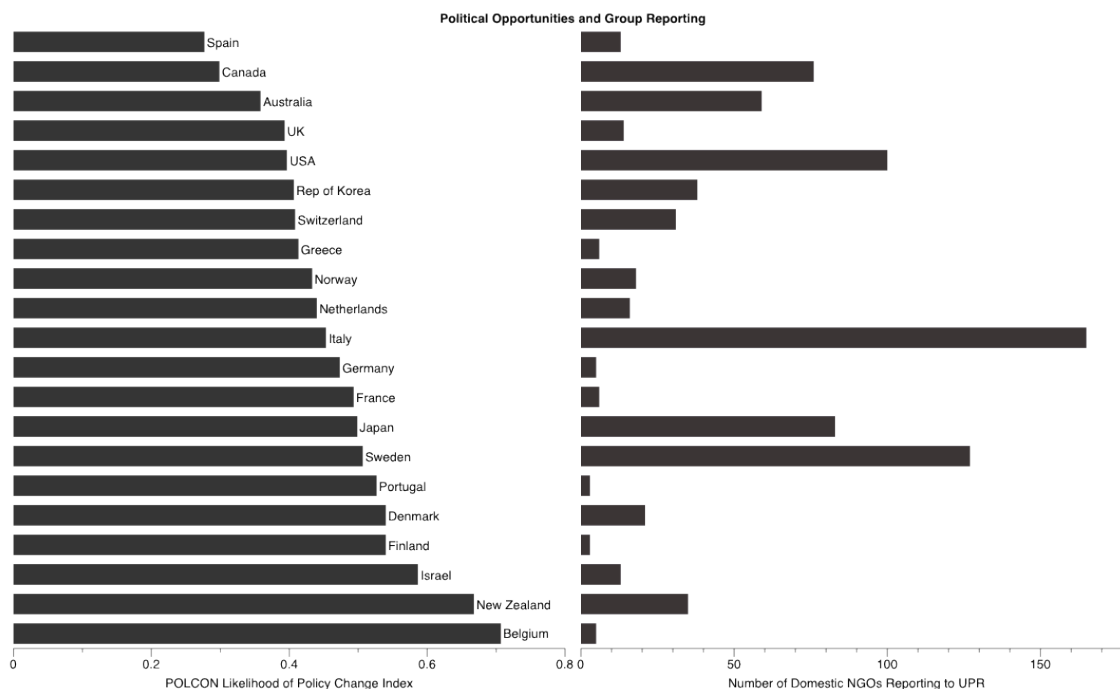


Figure 6.2 Political Constraints and NGO Reporting Behavior Among WEOG States⁴⁵

Because of the lack of a distinct pattern between reporting the national-level structural variables capturing political opportunities there must be some other explanation as to why some countries have more NGOs making use of the UPR than others.

Likelihood of policy shift is not the only potential measure of political opportunity structures at the national level that might alter venue choice for NGOs. A second measure of political opportunity structures is the degree of party competition within a country. A higher degree of party competition in a state means that insofar as those parties are willing to champion issues from civil society organizations, the more likely NGOs are to find influential party allies. Ease of finding allies in domestic government should be associated with fewer NGOs choosing international forums for their grievances. With more competitive parties to choose from, civil society groups have

⁴⁵ Author's calculations from first round of UPR country review documentation. Available variously at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>.

an increased prospect of having their concerns carried into government via elections or coalition formation. Competition should raise the expectation of successfully contesting an issue in domestic political arenas relative to international venues.

I use party competition as a proxy measure for political opportunity structures and use it as predictor for NGO participation at the UPR. To quantify party competition I use the Vanhanen Index of Democratization.⁴⁶ This index measures the percentage of the vote that was not cast for the largest party in the latest election cycle. By virtue of being a percentage measure of party vote capture for the non-largest party the theoretical range of the variable approaches 0-100, however, in reality the variable is bounded between approximately 0-50. States that have a higher percentage of the vote cast for opposition parties are more competitive and therefore should afford fissures between parties that domestic NGOs can exploit to affect change at home. A wider range of competing parties should increase potential allies in government for civil society to appeal to, and thus a more open political opportunity structure.

The data in Figure 6.3 shows in a scatter plot the relationship between the Vanhanen index and UPR participation by state. As with the prior measure of political opportunity structures there is no distinct or strong trend showing that domestic restrictions lead to increased internationalization by NGOs. Some highly competitive states like Belgium and Denmark have relatively low participation at the UPR, while some lower competition states such as Canada and Australia do show higher participation at the UPR. However, some less competitive states such as the Netherlands show low participation at the UPR and high competition states like Sweden have high participation.

⁴⁶ Available at <http://www.prio.org/Data/Governance/Vanhanens-index-of-democracy/>.

Overall, confirmed by statistical checks, there is no systematic relationship between party competition and internationalization among NGOs within the sample.

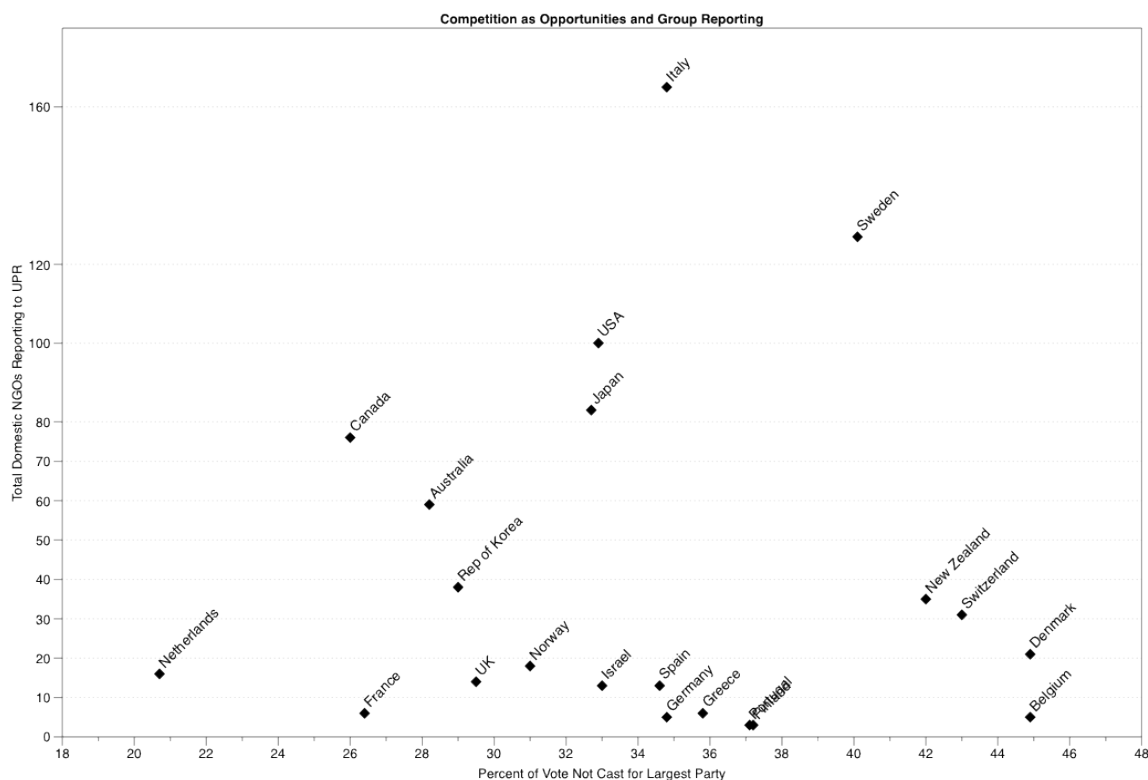


Figure 6.3 Political Competition and NGO Reporting Behavior Among WEOG States⁴⁷

Though only a combination of two proxy measures for political opportunity structures, the data on competition and on likelihood of policy changes provides little evidence with which to conclude that there is a strong boomerang pattern of activism *en masse* among NGOs in democratic states in which relative blockages at home incentivize NGOs to expend resources abroad at international forums. Though this does not provide positive evidence for the argument in the thesis that it is predominantly group-level determinants that drive internationalization, the data does fail to confirm alternative

⁴⁷ Author's calculations from first round of UPR country review documentation. Available variously at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>. NGOs were identified via the footnote hyperlinks by country under "Summary of stakeholders' information."

structural arguments about NGO venue choice and raises the likelihood that patterns are driven by other political dynamics.

Grievances: Issue Prevalence and Democracies

The final question taken up in this chapter is “are reports associated with human rights violations or grievances?” Intuitively, in states where there are more frequent and broad violations of human rights standards we might expect that civil society will more frequently translate those grievances into activism at home and abroad. Thus, report frequency may not be driven by political opportunities at the national level, rather, NGOs may be more active in bringing reports where the state violates human rights in more areas or more persistently. International venues like the UPR in this formulation are just one of many venues that NGOs pursue and the choice of internationalization of activism to the UPR is more an overflow of aggregate mobilization than a specific tactic relative to the prospect of success in domestic politics. If human rights grievances result in more activism overall and this spills over national borders, states with worse human rights records should have greater participation by domestic NGOs at the UPR.

Preexisting data on the human rights grievances within the WEOG states in the sample is less useful than the data available on political opportunities. Traditional human rights datasets such as the Political Terror Scale (PTS) or the CIRI Human Rights Data Project (CIRI) are the most exhaustive and complete sources on human rights conditions, however, they offer little variation in their measures of human rights among highly democratic states. Most of the democracies in the sample score very high each year on most variables within CIRI and PTS and this lack of variation is problematic for trying to explain the variation in domestic NGO participation in the UPR. Without reasonably

wide variation in grievances the variation in reporting would remain unexplained if relying on PTS and CIRI. This lack of variation is driven partly by the three things. Both datasets focus primarily on physical integrity rights which democratic governments typically perform well in protecting. Second, PTS aims to capture a national climate of security or insecurity in physical integrity rights and thus does not capture the specify frequency of rights violations. Though CIRI does build its coding on a rough count of instances, in practice it has relied on coding the national climate from general terms like “frequent” or “widespread” from human rights reports (Cingranelli and Richards 2010; Wood and Gibney 2010). Finally, both scales are built to be primarily sensitive to differences among poor human rights performers and do poorly at detecting and coding localized or minor levels of human rights violations.

This chapter relies on original coding of the number of human rights issue areas brought to the UPR by both domestic and international NGOs. By supplementing domestic NGO reports with international reports I can partially account for the problems of endogeneity between grievances and domestic reports alone. Having a large number of domestic NGOs reporting will be likely to generate indicators in reports of more grievances and disentangling grievances, domestic mobilization, and reporting to the UPR is not possible. Using international NGO reports at the UPR as an additional source of data on human rights conditions helps to partially correct, though not solve, this problem. To further account for this problem, I use a general measure of inequality in the sample countries as a measure of relative human rights conditions. As much of the content of reports to the UPR from democratic states have to do directly with issues of economic, social and cultural rights, using general inequality as a proxy for the

conditions of these rights and when considered in conjunction with data from UPR submissions it gives a picture of national level human rights grievances.

This section first describes the overall breadth of human rights grievances among the democracies in this sample. Subsequently, it argues that grievances from UPR reports themselves are a surprisingly poor predictor of NGO involvement. Finally, it argues that general inequality does not explain grievances and NGO internationalization via UPR reporting. Grievances at the national level, like political opportunity structures, provide an insufficient explanation for domestic NGO venue choice in the context of human rights and the UPR.

Between international and domestic NGOs at the UPR, democratic states are coded as having been criticized across 24 categories or types of human rights violations with varying frequencies. The categories of violations include economic and social rights, as well as rights pertaining to the physical integrity of persons. Countries were coded as having the presence of a grievance in each category if one NGO explicitly criticized the country for performance on that issue during the first round of reviews at the UPR. Most consistently democratic states are criticized for their treatment of vulnerable groups – specifically immigrants, racial minorities, and refugees. Every state in the sample had at least one critique by domestic or international NGOs on these three issues. Nearly every state was criticized for imperfect compliance with their obligations to prevent domestic violence against women and to end discrimination against women in society. Women’s issues were present in the reports to over 80% of the democracies in the sample. Other similarly prevalent issues in these states were shortcomings in the provision of healthcare, problems of housing and homelessness, the conditions of prisons, the rights of

children, the rights of LGBT persons, and torture and the use of force by police. Each of these categories or violations were present in at least 80% of democracies. Less prevalent, but still common, were issues of the rights of disabled people, religious expression, labor rights, the corporal punishment of children, rights to food security, and indigenous people's rights. Finally, among a small number of states issues of the death penalty and harsh penalties for juvenile offenders were present. Overall, grievances related to economic well-being and minority groups were most prevalent among democracies in the sample. Figure 6.4 shows all 24 issue categories and their percent of presence in the sample of democracies.

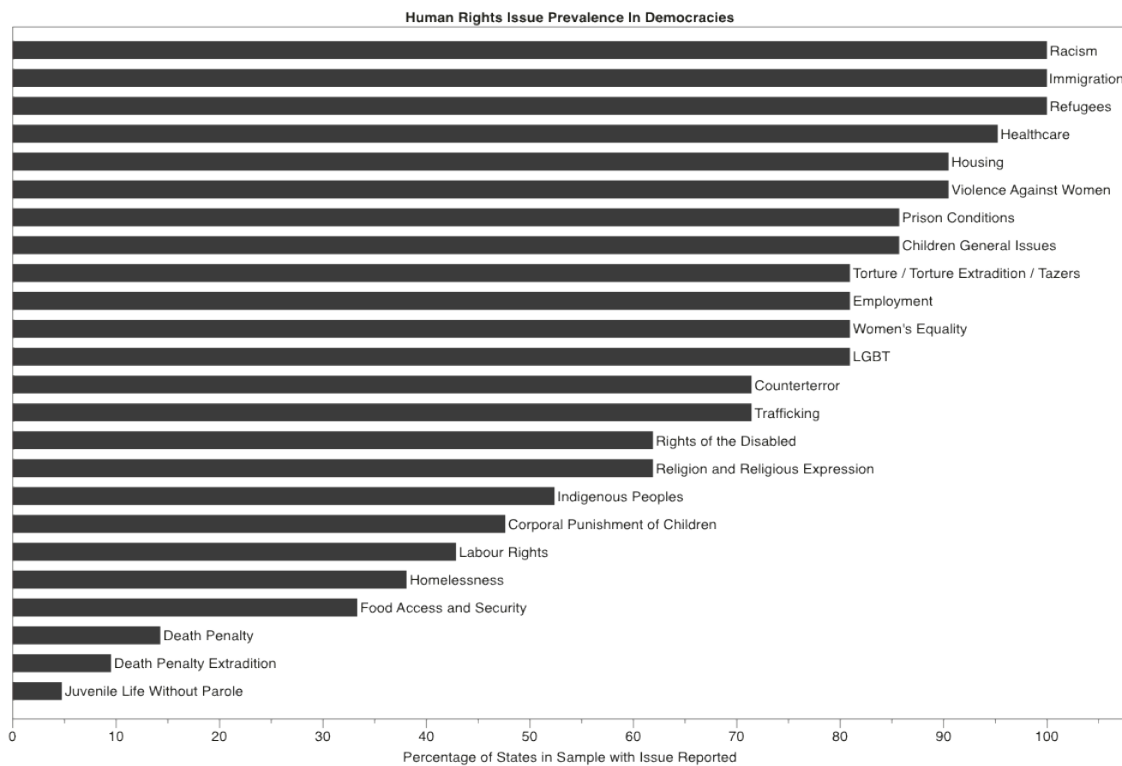


Figure 6.4 Issue Breakdown Across WEOG Democracies within UPR Reports⁴⁸

Democracies do not perform equally well in complying with human rights obligations. Some states have deeper and more severe violations of human rights. For example, concerns over the US's use of torture both in prosecuting the wars in Iraq and Afghanistan, as well as the treatment of detainees in Guantanamo Bay are often expressed as being of greater concern as violations. States also show variation in the breadth of human rights issues. Some states have a wide variety of human rights issues identified at the UPR, while others have relatively few. In order to capture "better" or

⁴⁸ Coded from all UPR submissions during first round of reviews at the UPR. Presence of an issue was coded regardless of source NGO location, thus, critiques from foreign or international NGOs are included as indicators of the presence of an issue. Issues areas include: racism, immigration, refugees, housing, healthcare, violence against women, children's rights in general, prison conditions, torture/extradition to torture-prone states and tazer use, employment, women's equality, LGBT rights, human trafficking, counterterrorism, rights of the disabled, religious freedoms and expression, indigenous people's rights, corporal punishment of children, labor rights, homelessness, food security, death penalty and extradition to countries with the death penalty, and juvenile sentencing of life without parole.

“worse” human rights conditions, and thus “grievances,” I use the breadth of human rights issues as the operationalization and use the count of how many of the 24 issue areas are present in a state as the measure of grievances. A perfect score theoretically for a state then would be 0, ranging to a theoretical worst score of every one of the 24 issues. In practice the worst score achieved by a state is 21 in the USA and Japan, with Canada coming close at 20. No democracy has less than 10 of these issues present in their reports. The average number of issue areas is approximately 15. Figure 6.5 Shows the breadth of issues across the individual democracies in the sample.

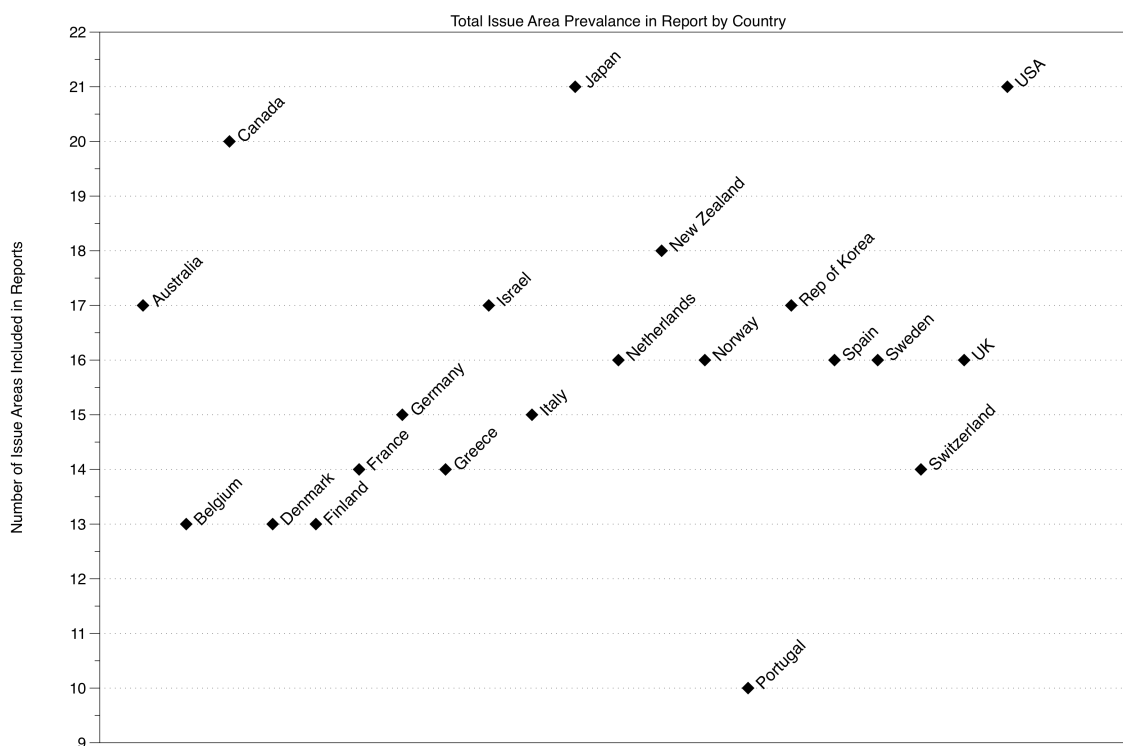


Figure 6.5 Human Rights Issues in UPR Reports for First Round of Reviews⁴⁹

⁴⁹ Coded from all UPR submissions during first round of reviews at the UPR. Presence of an issue was coded regardless of source NGO location, thus, critiques from foreign or international NGOs are included as indicators of the presence of an issue. Issues areas include: racism, immigration, refugees, housing, healthcare, violence against women, children’s rights in general, prison conditions, torture/extradition to torture-prone states and tazer use, employment, women’s equality, LGBT rights, human trafficking, counterterrorism, rights of the disabled, religious freedoms and expression, indigenous people’s rights,

If the choice to report to the UPR among domestic NGOs is driven by grievances, then we should observe that more human rights issues within a state is associated with greater participation of domestic NGOs in UPR reports. Figure 6.6 shows the relationship between the breadth of human rights grievances and NGO participation at the UPR. The sample of democracies shows that more grievances does lead to more NGOs participating in the UPR. There is a distinct trend in the scatter plot below, and though the sample is small, statistical checks of the relationship do allow for the rejection of the idea that grievances and NGO participation are unrelated. Much of this trend is driven by the cases of the USA, Canada, and Japan, all of who are clustered together with nearly every human rights issue area present and a relatively large number of NGOs participating at the UPR. Counter to the trend are the outliers, Sweden and Italy, who have fewer issues present, but extremely high participation at the UPR. As described more below, both Italy and Sweden are outliers largely due to how the UPR reports were generated by civil society and not something about grievances or the political environment. If Italy and Sweden are explicable as outliers, then the relationship between grievances and internationalization is likely stronger than the data reveals. However, drawing concrete generalizable conclusions that grievances drive NGO reporting frequencies at the UPR is difficult due the issues of endogeneity in the data.

corporal punishment of children, labor rights, homelessness, food security, death penalty and extradition to countries with the death penalty, and juvenile sentencing of life without parole.

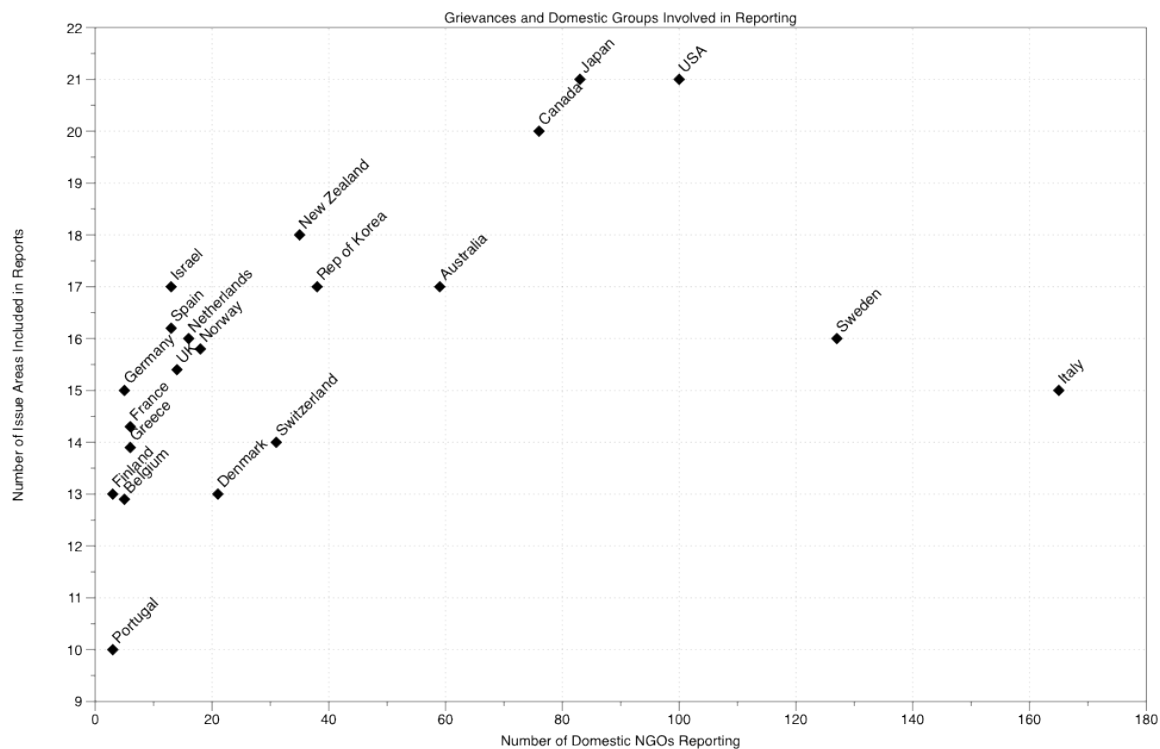


Figure 6.6 Breadth of Grievances by Issues Area and NGO Use of UPR⁵⁰

Statistical tests confirm there is a relationship between the breadth of grievances and the number of domestic submissions to the UPR. However, it is likely that the non-random relationship is driven by endogenous effects of coding grievances through the combination of both domestic and international NGO reports to the UPR. As noted previously, the presence of an NGO report being the dependent variable as well as the source of grievance coding makes it such that by simply having more information in the

⁵⁰ Coded from all UPR submissions during first round of reviews at the UPR. Presence of an issue was coded regardless of source NGO location, thus, critiques from foreign or international NGOs are included as indicators of the presence of an issue. Issues areas include: racism, immigration, refugees, housing, healthcare, violence against women, children's rights in general, prison conditions, torture/extradition to torture-prone states and tazer use, employment, women's equality, LGBT rights, human trafficking, counterterrorism, rights of the disabled, religious freedoms and expression, indigenous people's rights, corporal punishment of children, labor rights, homelessness, food security, death penalty and extradition to countries with the death penalty, and juvenile sentencing of life without parole. NGOs reporting are coded from the prior author calculations from the UN documentation on UPR reports available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>.

many reports will increase the breadth of issues covered. In order to perform additional checks on the pattern between grievances and UPR reporting below I utilize an independent proxy measure for human rights conditions, the GINI coefficient of inequality by country.

The degree to which measures of inequality in these democratic societies is related to NGO petitions can provide a check on the conclusion that grievances is related to use of the UPR. To measure inequality I use the GINI index of inequality which captures the degree to which income in a state deviates from a perfectly equal distribution.⁵¹ Score range from 0-100 where 0 is perfect equality. Thus, higher scores are associated with less equal societies. Figure 6.7 below shows a paired bar chart of the GINI index and NGO participation at the UPR. If inequality is capable of capturing elements of human rights grievances, and grievances are related to domestic reporting behaviors among NGOs, then there should be some observable correlation between inequality and total reports submitted to the UPR.

Grievances as measured by general inequality are not systematically associated with internationalization strategies by domestic NGOs. Overall there is not a distinct trend in the data and statistical checks confirm a lack of evidence for a non-random relationship. Due to the small sample size it is possible to identify which states significantly drive the lack of relationship between inequality and report frequency. Relatively equally Sweden with its high participation by domestic NGOs at the UPR and Japan's moderate inequality and high participation at the UPR both shift the general distribution towards there being no clear trend. A lack of a relationship between

⁵¹ GINI Index data is available via the World Bank at <http://data.worldbank.org/indicator/SI.POV.GINI>.

inequality as grievance fails to confirm the results of grievances measured by the breadth of issue areas coded from UPR reports.

Two conclusions can be drawn from this lack of confirmation. First, that the GINI index itself is a poor independent predictor of human rights grievances. Inequality is at the root of many of the violations reported to the UPR such as housing issues, immigration and poverty, and labor. However, other issues such as racial or gender discrimination are not always derivatives of economic inequality. Racial discrimination in the reports ranges from concerns with employment to critiques of Germany's tendency to focus only on racism among neo-Nazi and not racism towards immigrants. Similarly, for example, women's equal pay for equal work is a part of gender equality petitions, but the presence of women's issues is also bound up with concerns with domestic violence. If in society economic inequality is not strongly correlated with these types of grievances, then GINI will have underperformed as a proxy measure of overall human rights issues. The second possible conclusion to draw from the divergent results is that the endogeneity issue with the data on the breadth of human rights issues is considerable and is producing the correlation between issues and number of domestic NGOs at the UPR. Despite using both domestic and international human rights NGO reports to code for issue prevalence, the effect of having more information as more NGOs engage in reporting makes those states appear to have worse records relative to states with few reports submitted. Worse human rights records could actually be an artifact of detection rather than actually poorly performance.

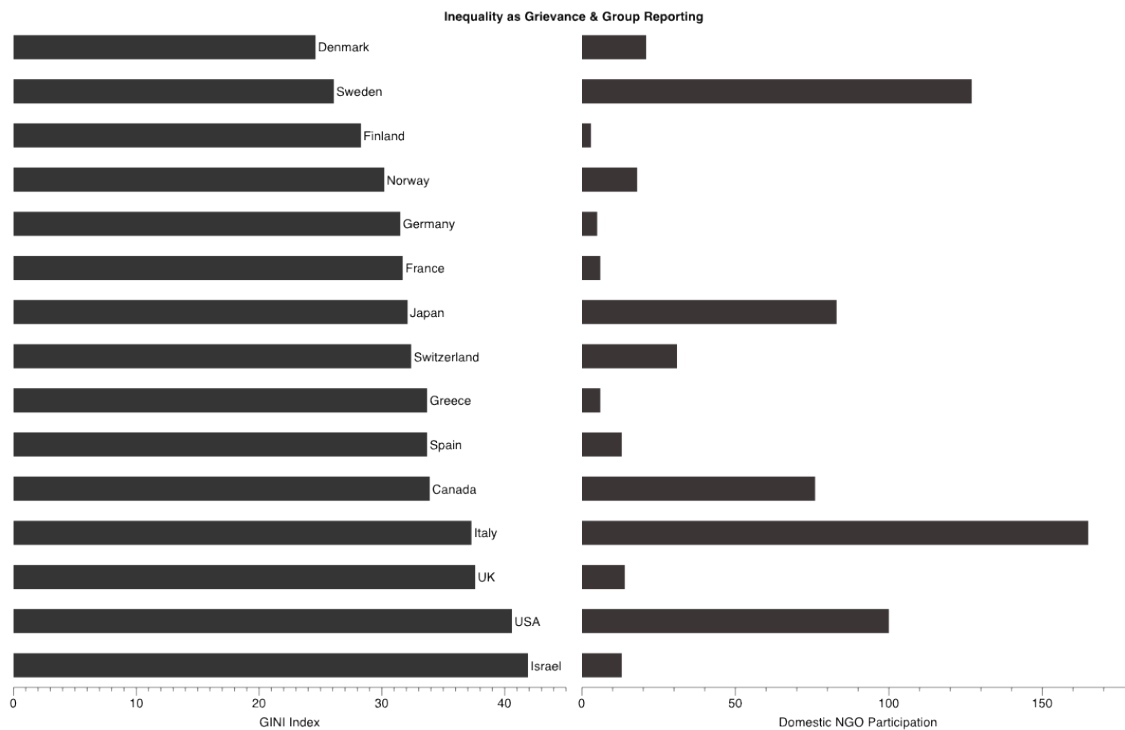


Figure 6.7 Grievances and Reporting to the UPR (GINI Index)

Networks and Norms of NGO Inclusion in Reports

Concluding that national level political opportunities or grievances drives NGO reporting to the UPR is not possible from the data and figures above. There is no clear story that emerges from the data to support the expectation of a boomerang pattern to activism *en mass* in democracies or that grievances are a major determinant of how many NGOs from a state use the UPR. Both of these formulations rely on assumptions that NGOs respond to incentives in their political environment in predictable ways on average. The boomerang pattern of activism expects that NGOs respond to blockages in domestic politics and opportunities abroad on average towards the more accessible political venue. Not every NGO will make the same calculation, but enough will on average to be detectable in national-level data. The same is true of expectations that

grievances will increase report submission. On average NGOs will respond to grievances, and where there are more grievances, more NGOs will take issues to the UPR and result in higher frequencies in the data. However, the paths to the UPR explained in the prior chapters suggest more particular or convoluted pathways to the UPR for many NGOs. Some of these more complex reasons such as network effects are present in the national level data and may explain several of the outlier states and why they failed to conform to either the grievances or political opportunities expectations.

Some of the variation in groups participating in the report submission data in this chapter is explicable by the interaction of the nature of how groups are brought into the UPR process by network partners. Often NGOs are made aware of the UPR through other organizations they are linked to via common issue concerns or the human rights framework itself. Common problems and common frames bring groups into contact with one another more frequently – leading them to work together by sharing information and opportunities for effective activism. The ways that the networks of NGOs who submit to the UPR decide to organize their petitions has a major impact on what groups are considered as “internationalizing” their activism and thus the frequency of NGOs from a given state at the UPR.

Since the resultant frequencies in the data here only take into account groups that are formally listed on the reports submitted to the UPR it cannot account for reports that are written in coalitions but authored by a single organization. This is the case for Germany as it has a coalition organization, the *Forum Menschenrechte*, which coordinates and gathers information from partner and member organizations but does not always list these organizations as contributors. Alternatively, reports from some countries

often reflect formal, named, coalitions of organizations working together and they choose to have their names listed as parts of the coalitions, as part authors, and often indicating substantial input to the reports. For example Sweden and Italy have large numbers of domestic NGOs reporting in the data because they have dense established networks participating in several reports and the networks choose to highlight mass participation by NGOs in each report.

In general there are two general patterns of reporting behaviors among NGOs at the UPR. First, some states such as Germany have a small, but well organized, group of NGOs who have participated in reviewing their country at the UPR. Highly professionalized and well-networked groups organize reports to the UPR and coordinate topical reports, but insofar as smaller NGOs are involved, they play an informational role but do not lend their names or endorsements to the UPR reports. For example, a Berlin-based NGO collected information related to women's rights and sought information from NGOs running shelters and social work organizations on the conditions women face, but did not define its mandate or role as pulling highly local activists into report submission. The larger NGOs submitting the UPR report define the purpose of the information they sought for the report to the UPR, but simply collect information without indicating its purpose or pushing to directly involve smaller NGOs in the report itself. This mode of reporting sees smaller, more grassroots, groups as important sources of information but not does not try to present a picture of a mass movement to the state under review.

Second, other states like the US and Canada have a large number of NGOs involved in reporting and reviewing their record, but among their large number of NGOs are pockets of tightly networked and organized groups reporting along with groups representing

diffuse interests or single causes rather than organizing large coalition reports that address a general category of human rights. But the reason these states have large numbers of domestic NGOs present in reports to the UPR is because the networks of NGOs choose to highlight the mass participation of even the most local of NGOs in the reports. For example, the US Human Rights Network sends out requests for participation by grassroots NGOs within their network at the initiation of a human rights report and follows up once complete with calls again for organizations to add their names to reports so as to endorse the content of the report and signal to policy makers and audiences abroad that there is a mass movement granting legitimacy to the claims contained in the report.⁵² Network organizations in the US and Canada are as professionalized relative to making international appeals as those in Germany, but intentionally implement strategies of making grassroots organizations highly visible parts of their movement.

It is these patterns of network strategies of how smaller highly local NGOs are involved in UPR reporting that produces the very high frequencies of NGO participation at the UPR in the sample. While some states have a large number of reports submitted regarding their records, the states showing dozens to over one hundred NGOs participating are because of network strategies of how local groups are involved in the presentation of the reports. One reflection of these strategies is having groups add their names prominently to the reports to the UPR, and due to the coding criteria for the data, these NGOs “show up” in the data as participating in submitting reports. Distinguishing which groups are more or less involved is intentionally made difficult in many of these submissions as coalitions of groups have little incentive to signal to target states and

⁵² The US Human Rights Network does this not only for the UPR, but also for reviews under CERD and CAT.

potential international allies at the UPR that some groups listed are any less committed to the causes embedded in each report. These network effects producing the outlier states in the data do not necessarily confirm the conclusions from the prior chapters. Modes of report generation do provide some explanations as to why national-level measures of both political opportunities and grievances are imperfect predictors of participation at the UPR.

Conclusion

This chapter began with the question of whether national-level variables could sufficiently explain the patterns of reports to the UPR during the first round of reviews from 2008-2011. The chapter drew expectations from prior arguments suggesting that national-level variables such as political opportunity structures would predict domestic NGO participation at the UPR. Further, it proposed that human rights conditions within democracies might produce patterns in which poor performing states' civil society groups would respond to increased human rights concerns and would bring these issues more frequently to international venues. The overall expectation of this project is that no strong patterns should emerge, thus necessitating a different theoretical explanation for why domestic NGOs in democracies make use of international forums and why some states have more doing so than others.

No clear and convincing trends for either political opportunity structures or grievances emerged from the data. This is potentially due to the responsiveness of small samples to outliers in data, something this data does have. Taking into account issues with small samples, this chapter argued that the outliers affecting any potential

relationships are the result of systematic group or network-level influences. The presence of organized networks of human rights NGOs has the potential of increasing the number of total NGOs involved at human rights review bodies such as the UPR. How umbrella network organizations of human rights NGOs within democracies relate to smaller NGOs determines several outliers in the data such as Italy, Sweden, the USA, and Canada. These networks' choices to name NGOs directly in their reports as authors inflates the measure of participation at the UPR in the data. Conversely, states like Germany with a highly professionalized umbrella human rights organization choose not to present reports with smaller NGOs named as participants, despite still including them as important partners in information gathering and report generation.

Overall through the first round of the UPR reporting network effects and modes of report generation appear to drive some of the patterns of report submission across democracies. Whether this pattern generalizes across democracies such as the WEOG states remains to be seen. There are reasons to expect that the first round of UPR reports would be more subject to information effects than subsequent round of reviews and many NGOs were not aware of the UPR as a new mechanism at all and had little time to learn of it between its creation in 2006 and report deadlines prior to the 2008 review cycle. As reports garner news coverage and as NGOs promote and publicize the results of their efforts the costs of finding out about opportunities at the UPR will diminish. Further, knowledge of how to submit to the UPR, its format, timing, and norms of submissions will diffuse through networks of activists. As information about the UPR approaches ubiquity the costs of knowing about and how to submit to the UPR will drop and influences other than information may begin to drive the decision to submit to the UPR.

Though not directly supporting the argument at the micro level for why particular domestic NGOs decide to make UPR reporting part of their mix of activism, the data and analysis in this chapter provide context and checks on whether reporting is driven by national-level variables associated with political opportunity structures and with human rights grievances. The data show no such strong relationships that might lead to the conclusion that the pathways to reporting to the UPR described by the NGOs interviewed in this project are nothing more than epiphenomenal outcomes of structural influences. That is, the lack of evidence of national level structural effects does not provide positive evidence in favor of arguments such as frame adoption, network effects, and perceptions of POS, but structural variables do fail to refute the arguments. Absence of refuting evidence is not evidence in favor of this projects argument. However, it provides evidence that the explanation for domestic NGO use of the UPR is to be found theoretically elsewhere, potentially at the group or network level.

CHAPTER 4. U.S. HUMAN RIGHTS NGOs & INTERNATIONAL APPEALS

American orientation towards international human rights has been described as a “paradox.” A paradox in which the US government espouses belief in fundamental human rights, pushed for their inclusion in the post-WWII order (Borgwardt 2005; Korey 1998), yet refuses to ratify many of the core human rights treaties that emerged out of the resulting human rights regime at the UN. For most of the second half of the 20th Century this paradox has been mirrored by U.S. civil society. Despite the influential role of US-based NGOs in creating the Universal Declaration of Human Rights (UDHR) (Korey 1998), activists in the US predominantly struggled for rights improvements under the set of rights and protections afforded by the US Constitution or social justice frames (Anderson 2003, 6; Hertel and Libal 2011). Even as activists in other countries have successfully utilized international human rights frames and law to advance their cause at home, their counterparts in the US have asked “Why not here?” (Thomas 1996). Perception of this paradox extends to international institutions as well. Reflecting in 2010 on the human rights movement in the US, Craig Mokhiber of the UN’s Office of the High Commissioner for Human Rights (OHCHR) noted:

I remember talking with so many colleagues in the human rights movement many many years ago, and just asking the question ‘why with so much talent, and so much activism in the United States, why we weren’t as plugged-in with the international human rights machinery as we needed to be, and why it was that there were just these hiccups in history in which experiments had taken place in the past with African American groups and indigenous groups (Craig Mokhiber of OHCHR Monday, November 1, 2010.mp4 2010).

For the US then there are actually two paradoxes; why are human rights opposed at home by the US government even though it helped create them and champions them abroad, and why do domestic NGOs eschew using human rights at home when US activists helped to author central tenets of international human rights. It is tempting to answer these twin paradoxes by a simple combination of them. That is, US activists did not mobilize around human rights because the US government has kept human rights off of its shores, thus denying a vital resource to activists hoping to galvanize others around the domestic application of human rights. By refusing to ratify international human rights treaties, and in the rare case of ratification accompanied by the attachment of legal reservations, the US government altered the perception of the utility of the human rights framework in the eyes of activists (Anderson 2003). Further, the political culture of the US has been characterized as hostile to the application of international human rights as an external imposition on US sovereignty (Andrew Moravcsik 2009). However, despite the United States being characterized as viewing itself as “exceptional” among nations and therefore human rights principles primarily being important for foreign nations, many countries view human rights and the complementary treaties making up human rights law as primarily applying elsewhere, not at home. For instance at the outset of the Committee on the Elimination of Racial Discrimination states acceding to the treaty tended to send diplomats and officials with capacities, training, and their orientation in foreign affairs rather than domestic (Alston, Crawford, and Banton 2000, 58). This problem partly persists as the early UPR saw states tend to staff it with officials from foreign offices and diplomats, but this pattern is beginning to relent as more states send domestic policy-oriented officials to attend the reviews.

In the US institutional and cultural opposition to human rights would suggest that activists should view them as unlikely to yield results as a mobilizing framework for their work and that venues for human rights reviews are of little use when contesting domestic policies. However, despite having a poor record of ratifying human rights treaties and a political culture hostile to human rights, the US now is among the countries with the largest number of human rights NGOs reporting and participating in reporting to the UN, and with reports specifically to the UN's Universal Periodic Review (UPR). Having only ratified three of the major human rights treaties, the ICCPR, CERD, and CAT, the US during the first round of reviews at the UPR saw approximately 100 US NGOs involved with submitting reports. Only Sweden and Italy saw more among wealthy Western democracies.⁵³

This section aims to examine the reasons and rationales behind the US NGOs that are choosing to make use of international institutions through an investigation into the perceptions held by domestic human rights NGOs that participated in the first review of the United States at the UPR. The perceptions of these NGOs offer a window into how the combination of political opportunity structures at the domestic and international levels affects the forms of mobilization for human rights at the micro, or group / activist, level.

The section first offers a brief background of the efforts by US rights activists to use international appeals to international institutions on domestic matters and suggests

⁵³ Based on author's calculations from first round of UPR reports for the US and all wealthy Western democracies. Data is variously available via the UN's UPR website and was created by accessing the raw "stakeholder" reports for each country. Chapter 6 covers this data in greater detail. Reports available generally at <<http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>> and for the US's first round of reviews here <<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRUSStakeholdersInfoS9.aspx>>.

the reasons why this mode of activism for rights remained uncommon until the middle of the 1990s. It situates this activism in the political and social environment of the US. It then describes how a return of human rights appeals to international institutions from US NGOs was a combination of the relaxing of Cold War tensions as well as an increased engagement with domestic issues within the larger transnational human rights movement. It describes the emergence of a dedicated domestic human rights network in the United States and outlines its structure and approach to involving local NGOs. It then describes how, for many NGOs using the UPR, their journey began with a decision to utilize a human rights framework for their activism and this led them into coalition with other likeminded NGOs. These coalitions both ensured they were aware of international petitioning opportunities and, by sharing resources and labor, lowered the costs of reporting to the UPR. I then illustrate the presence of the various strategic, obligatory, and uncertainty rationales among US groups.

Early Internationalization

Among the early efforts to extend domestic political contests beyond American borders were women's campaigns for suffrage, for better working conditions, equal pay, maternity leave, and against child labor. At the inception of the League of Nations, American women's groups advocated and petitioned for the inclusion of these principles as part of the agenda of the new international organization. In the end these women won inclusion for some of these principles in the International Labor Organization (Pietila and Peoc'h 2007). The suffrage movement in the US was well connected to the international struggle of women and found success during the interwar years (Keck and

Sikkink 1998, 58). The right to vote was won state-by-state (McCammon et al. 2001; McCammon and Campbell 2001), leading to the eventual passage of the 19th Amendment securing women's constitutional right to vote.

As women in the US advanced their cause at the League of Nations in order to expand the budding organization's mandate, Native Americans invoked the League's already established principles of national sovereignty, self-determination, and international dispute resolution, in order to assert their rights related to land disputes (Deskaheh 1923).

Immediately at the end of the Second World War, with the construction of human rights as an important concept for state behavior and as formal institutions, African Americans facing violence, discrimination, and disenfranchisement mobilized around the prospect that these new institutions might mitigate the consequence of institutionalized racism and racist violence (Anderson 2003, chap. 1–3; Anderson 2009). Groups immediately petitioned the UN, invoking both the UN Charter's Article 71,⁵⁴ the stated goals of the UN as "...respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion" (National Negro Congress 1945, 2), as well as the Genocide Convention that had recently come into force in 1951 (Civil Rights Congress 1952). Ultimately as the Cold War set in and rifts formed in the movement for human rights among African American organizations, the movement largely settled on a framework of advocacy that eschewed international organizations and

⁵⁴ Which states "The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned."

focused on winning civil and political rights largely on the basis of a domestic legal framework (Anderson 2003).

The political and ideological structure of the Cold War created an environment where those in the US who might mobilize for human rights' expansive set of political, social, and economic rights could be easily cast as "communists" when concerned with economic equality. Natalie Kaufman identifies human rights in the 1950s as engendering conservative opposition partly because human rights did extend rights claims to economic rights and could thus empower "Communist influence at home and abroad" (1990, 2–3) and Carol Anderson argues that accusations that the NAACP had Communist influences largely drove it to abandon this expansive economic agenda (Anderson 2003). Anti-communist influence on the ability of marginalized groups to effectively utilize the full range of human rights is also reflected in the pressure and intimidation of the NAACP to scale back criticism of race relations in the US so as to not give fuel to the US's critics abroad (Janzen 1998, 1090–1091). Using human rights to contest political rights was also problematic as human rights were often used by Cold War enemies of the US as a means of embarrassing the US and countering their own repressive actions. While contesting political or civil rights was easier, doing so under the framework of human rights left groups potentially open to charges of parroting the criticisms of enemy states and making those charges under the supposedly Soviet-tainted human rights institutions. The emerging civil rights movement in the US did seek international linkages (Janzen 2003) but where the emerging movement used human rights and international institutions it was largely as a means to influence the foreign policy of the US rather than domestic

policy, and was aimed at contesting the treatment of individuals in foreign countries rather than at home.

The relaxing of Cold War tensions shifted the efficaciousness of charges against domestic human rights activists as somehow agents of subversion. This relaxing of the ideological environment was coupled with a change in the politics of the UN where the East-West conflict was replaced with a North-South struggle between the developing world and the wealthier global North (Connelly 2003). Along with anti-colonial ideas, human rights had proven a useful tool in struggles in the global South. Even though the emerging countries in the South made biting critiques of the West and wealthy countries, it became difficult to portray their struggle as one that presented an acute existential threat to the United States. A slightly more relaxed ideological and political environment in the US coupled with the fact that a good portion of the international human rights movement was based in the US and was comprised of US activists provided an environment ripe for a reconsideration of the applicability of human rights to domestic issues in the US.

To be sure there was always some degree of the use of human rights in domestic activism in the US, but until the end of the Cold War neared it was relatively rare. Famously the argument to use human rights and international organizations was made by Malcolm X in his By Any Means Necessary speech in 1965, stating "...bring your and my problem before the United Nations. This is our first point of business. We feel that the problem of the black man in this country is beyond the ability of Uncle Sam to solve it. It's beyond the ability of the United States government to solve it. The government itself

isn't capable of even hearing our problem, much less solving it. It's not morally equipped to solve it" (X and Breitman 1970).

A Budding Network in the US

A network of organizations advocating for human rights in the US was built from pre-existing groups working on civil, political, cultural, and economic rights, as well as the US chapters of the larger human rights organizations. Individuals with experience in Amnesty USA and Human Rights Watch began to recognize the potential and obligation to deploy the tools of human rights in domestic issues and made moves within or associated with existing NGOs to expand the agenda to include issues like women's rights (Neier 2003, 168) and to apply a human rights frame to the struggles of African Americans (Albisa 2007). Elements of this network include loosely-linked groups that are not formally part of a coalition of human rights organizations. For example, in the US groups working on environmental justice overlap with human rights organizations insofar as they make use of human rights in their advocacy. Further, there is a more formal network of NGOs in the US, the US Human Rights Network. The USHRN is the most organized, and singularly dedicated, human rights reporting network of organizations in the US. The USHRN aims explicitly to form a grassroots movement for human rights in the US.

A series of regional conferences in the early 2000s in the US helped to bring together likeminded groups with the express purpose of discussing the prospects of a human rights framework in their work and larger international conferences simultaneously aided in expanding the agenda of international human rights to place a

higher degree of consideration on both universal application of human rights as well as explicitly applying human rights to the rights of women. Important nodes in the network of US civil society also coordinated with national and international human rights groups (US Human Rights Network n.d.). Significantly the American Civil Liberties Union (ACLU) publicly embraced the mantle of human rights and as one of the, if not the, highest profile and embedded rights group in the US helped to foment a network of human rights NGOs. This represented a shift from predominantly using litigation to influence policy, what former Executive Director Aryeh Neier characterized by the 1980s as “achieving diminishing returns” (Neier 2003, 171).

The ACLU had, since the 1920s, established links with international human rights groups but had not spent resources to build a network of human rights organizations in the US (Ramirez 2013). Signaling the ACLU’s willingness to invest in grassroots organizing through the United States Human Rights Network (USHRN) and acted as the co-coordinator of the efforts to make use of the US’s required reviews under the ICCPR in 2011 (ACLU n.d.) The ACLU is thus an important influence in the founding of a network, as well as an important member.

Other institutions such as legal clinics, law schools and universities contributed to the creating a network of NGOs dedicated to the use of a human rights framework and human rights institutions.

Out of these domestic and international events a web of organizations in the US became convinced that human rights was the appropriate framework for their activism. These groups began to build formal links in 2002-2003, projects, and network structures able to provide resources linked to the normative and legal bases of human rights

principles, including information, funding, and cost-sharing. The USHRN is the most important NGO in this network as it serves as the hub for other smaller NGOs. A key aspect of this organizing network includes elevating the rights claims of grassroots NGOs to both the federal and international level. Thus, groups linked to this network are heavily represented at the UPR.

Preconditions & US NGOs

Because the expansion of international opportunities precondition is constant for all groups and has been discussed previously via the UPR's development and procedures, in this section I focus on the precondition of adoption of a human rights framework within NGOs that petitioned the UPR's review of the US in 2008. Preconditions represent how a subset of NGOs becomes more likely to consider using international political opportunities. However preconditions are not proximate causes of why groups eventually undertake to move their activism at least partially to international organizations. The precondition of human rights frame adoption is not proximate cause of UPR reporting given that the decision to adopt such a frame for advocacy takes place well before the decision to use the UPR. No group interviewed suggested they had recently decided to use human rights and that this immediately suggested to them that they should make use of human rights review bodies. Most NGOs interviewed had adopted a human rights framework and the more immediate cause for using the UPR was learning about the opportunity through networked connections and rationalizing its use. Similarly, the precondition of an expanded international political opportunity structure did not directly cause local NGOs to use the UPR.

Group Discussions & Personal Experiences as Pathways of Frame Adoption

Determining that human rights is the appropriate frame for an NGO's work is often the outcome of discussions based on the personal experiences of the individual members of groups. Alternatively the organization was formed by an individual who had already adopted a human rights approach in their work. Below I draw on three examples of how diverse NGOs in the US arrived at a human rights framework through the personal experiences of group members.

The path to human rights began within a network of lawyers with personal experience with disabilities themselves for one NGO (Org. A) advocating for the rights of disabled peoples. This activist characterizing how they and their organization found the human rights frame tell a personal story of personal experiences that made human rights the best fit for their work. They described the origins of seeing health as a human right as beginning a long time prior to the UPR:

I lived in Los Angeles for 13 years and when I was there I was practicing law and began to get connected up, for the first time really, with other professionals with disabilities that had spent quite a bit of time together in a city like Los Angeles where you have a critical mass, and they spent some time together thinking about disability and how it fits in the world, and at that process of me connecting to them, being mentored by them, some real leaders and thinkers of our movement in the earlier years, that really is what turned things for me and made me look at issues in a human rights way, not in a way I previously had. That's where it understood it as a political identity, as power struggle...⁵⁵

This activist went on to be influenced by organizations advocating tactics of civil disobedience on behalf of the disabled and eventually formed their own group using a human rights approach to the politics of disability.

⁵⁵ NGO interview Oct. 25th, 2012.

For a leader in another organization (Org. B) working on issues of healthcare the road to human rights began with parental influence on how to think about health as a right for all. Having a father who “ran the first free clinic” in her hometown made an early impact in teaching that healthcare should be apportioned to anyone to needs it and cannot rightfully be denied simply because of limited means. This parental influence was supplemented by occasions of family health tragedies which left both parents in need of regular access to healthcare but being intentionally dropped by their health insurance carrier and unable to obtain future coverage. Coupled with a personal chronic illness the experience and influence of their parents’ health issues and views on care formed strong opinions about the appropriateness of a right to healthcare. Eventually they gained training and experience as a civil and human rights lawyer and this provided increased exposure to human rights as a framework for activism. Later this activist became involved with a movement for healthcare as a human right, in discussion with other likeminded professionals with experience in human rights advocacy, “... on everybody putting their heads together to figure out why” the movement for healthcare was not taking off, they determined that human rights would be both the appropriate way to discuss healthcare as well as an effective way to generate grassroots energy around the issue.⁵⁶

A third activist, also working on issues related to healthcare, recalls the exact moment their organization came to agree that human rights was the correct frame for their work. They stated that:

...at an organizational meeting fairly early in our existence, in 1991, sitting around in a circle in the grass, we were really responding to the leadership of one

⁵⁶ NGO interview Nov. 5th, 2012 .

of our members, at his urging we adopted the human rights language. Our understanding of that has evolved over time to the point that my stump speech right now includes a little clip of Eleanor Roosevelt talking at the United Nations talking about this great moment in human history...⁵⁷

Often the winning argument for human rights is its compatibility with addressing what activists view as the structural underpinnings of inequality, discrimination, or disenfranchisement. Because other members agreed with these arguments, the adoption of a human rights frame for this group was due largely to the entrepreneurship and convincing of a single member who had been exposed to and convinced that healthcare could be best advanced as a right via human rights principles.

These cases of NGOs deciding to use a human rights frame are clustered around issues of health rights and the rights of the disabled, however, there is no reason to think these are the only issue areas in which activists select a human rights frame via group dynamics and conversations.

Expansion of the Human Rights Agenda

For other groups, as the agenda of international human rights was expanded to include their issue, the struggle over this agenda expansion, and relative success, solidified a belief in the appropriateness of using human rights. This is particularly prevalent with indigenous peoples' activism and is illustrated by the experience of an NGO working for indigenous peoples. Activists in this organization were involved with a global movement for the recognition of indigenous peoples' rights in the 1970s and as the discussions for the drafting of a treaty for the protections of indigenous rights progressed into the 1990s. With some success in 2007 with a UN declaration, and a permanent

⁵⁷ NGO interview Oct. 30th, 2012.

presence on the agenda of the larger international human rights movement and its major constituent organizations, activists in this group subsequently set about using human rights opportunities at the international level to their advantage.⁵⁸

Another organization working on equal rights initiatives and against the death penalty said that the interest from international institutions in the form of a UN Special Rapporteur on Extrajudicial Executions visit the US concerning juveniles and the death penalty, along with other IO interest in the topic, led to inquiries about the status of the death penalty in the US. They noted that they are often contacted directly:

When information gatherers and fact seekers from any of these international bodies are looking for information and facts specifically about the death penalty we certainly have been a source of information for them and that has often involved actual trips [by international institutions] to Alabama and providing information about the death penalty about the death penalty in Alabama specifically for which we are kind of the ones to keep that data, and track those cases and know firsthand from representing people in Alabama's death row for 20 years.⁵⁹

Beyond being contacted by international institutions via the Special Rapporteur concerned with the death penalty, “the broader movement around ending extreme sentences for children has taken kind of a human rights framework and is working on building a movement around those...” In these cases an organizations’ involvement with a human rights framework and other human rights organizations is the consequence of developments abroad and external to the organization itself.

The Consequences of Adopting a Human Rights Framework

Upon adopting a human rights framework NGOs make decisions about whom to ally with, and this subsequently conditions the information and opportunities they are

⁵⁸ NGO interview Oct. 23rd, 2012.

⁵⁹ NGO interview Oct. 22nd, 2012.

connected to. Human rights “changes a bit who we work with and what we are interested in.”⁶⁰ Groups that make lasting or formal connections to networks of human rights groups are at times presented with easy opportunities to petition international institutions. A group working for human rights in the southern US was “contacted by Amnesty International, and was asked if we were willing to participate [in a report to the UPR]... about the death penalty and one about prison conditions because those two issues, they are at the core of our work” and “certainly we never want to say no to an opportunity for our concerns to be amplified at a higher level, and certainly at the level of the United Nations, that’s an opportunity we’d never want to pass up.”⁶¹ As information about new venues and pressure points for activism flows through networks of activists. The human rights framework links particular groups together and as they engage in information sharing those NGOs that are in-network will increasingly be made aware of international opportunities.

Without connections to a wider network of groups through which they are made aware of access points within international institutions, smaller local groups are unlikely to have uncovered these opportunities themselves and made a discrete effort to compose a full report on their own. A majority of organizations from the US at the UPR report having heard of the opportunity via emails or conversations with members of their networks, or via list serve messages among groups. Where NGOs are involved in human rights networks, because much of the institutional basis of human rights is at the international level, they are disproportionately more likely to be made aware of new access points at the UN.

⁶⁰ NGO interview Oct. 30th, 2012.

⁶¹ NGO interview Oct. 24th, 2012.

Networks can further facilitate involvement by reducing the costs of generating a report by aiding the bundling of the efforts of many NGOs working on compatible issues. The above example of Amnesty International asking for a smaller NGO's contribution to a report is reflected by other smaller local NGOs working within the US Human Rights Network, a domestic coalition of grassroots groups. In each case a larger NGO or coalition leaders can ask for participation among several members or connected groups so as to lower the resources any single group must expend to compose a report. This takes the form of smaller organizations contributing what is often their own preexisting analysis and information about local conditions and violations to a larger report coordinated by coalition leaders or the larger NGOs. In cases where a group participated in a joint report facilitated by a larger organization they recall that where they provided some information from existing work they had done, their participation was also "largely endorsing work that others had done, but [work that] reflected our interests in a human rights analysis and framework for the work that we do."⁶²

Often groups producing UPR reports will complete the report and subsequently reach out to other NGOs to "endorse" the report so as to increase the legitimacy and political efficacy of the report. More endorsements can signal to governments that a broad coalition in civil society is concerned with the issues contained in the report. Endorsements of a report represent possibly the lowest-cost form of petitioning international institutions and are analytically different from instances where a group may only contribute a small portion of analysis, examples, testimonials, narratives, or other forms of information to a report. They differ in that the provision of original information

⁶² NGO interview Oct. 30th, 2012.

and analysis is an attempt to influence both the content of the petition and ultimately the agenda of a state's review within an IO. Conversely, endorsements seek to signal to reviewing states or bodies, as well as states under review, that a large segment of civil society agrees with the claims of a report, hopefully lending credibility to factual assertions of rights claims as well as the bases of those claims.

Explanations for Participation in the UPR

The above preconditions do not exhaust the pathways through which US NGOs arrive at the use of reporting to the UPR, nor do they guarantee participation or reporting. US groups explain their involvement in various ways, both strategically and as part of a feeling of obligation, as well as in response to the uncertainty between the act of mobilizing and achieving a political victory. This project finds that NGOs in democracies advocating for human rights issues often find the issues they advocate for and the populations they serve have been marginalized by the imperfect responsiveness of democratic institutions. Intractable issues created by democracy's inability to respond exacerbates the uncertainty under which NGOs make decisions because traditional channels of influence are essentially blocked. Thus, NGOs must search for new venues and tactics through which to exert influence on the democratic system and these new venues and tactics carry with them likelihoods of success that are harder to predict.

Perceptions of Political Opportunities

Many activists surveying the prospects of mobilizing within domestic 'democratic' institutions perceive the US as far less than an open and responsive democracy. One activist, when presented with the term 'democratic' to describe the US

government, responded immediately with “are you kidding me?” Such views are rooted generally in long historical experiences of activism in the US, a particular view of US history, and close experience with immediate and persistent human rights violations.

Another activist expressed that:

I believe this looks like a democratic country but I don't really believe it is... And my generation suffered terribly because of the lack of democracy in this country. I mean not only were civil rights workers killed with impunity, but I am going right now to pick up a man who spent 22 years in a control unit... an isolation unit, because of his politics and the Justice Department says it and they are embarrassed or ashamed. So I have such different feelings because of the generation I was born in.⁶³

The generational experience that mattered for this activist was that of the Baby Boomer generation and that generation's experience protesting in favor of civil rights for racial minorities and protesting against the US's war in Vietnam and Cambodia. Further, experiences working on behalf of the politically marginalized or those persecuted for their political views exposes activists to the least democratic elements of the US government. This colors the expectations of how responsive and democratic the government is. The mention of how the US government, as well as state governments, were reluctantly pulled towards the respect of civil rights for minorities is indicative of a view that ostensibly democratic regimes systematically underperform in compliance with basic rights.

Other organizations see local institutions as unresponsive, undemocratic, and thus insufficient targets for their activism. A local activist with a different NGO working in an urban area in the US South noted one of their primary objectives as to “stop and push back against neoliberal austerity measures and for the last 30 to 40 years we have seen

⁶³ NGO interview Nov. 29th, 2012.

that black elected officials in collaboration with white economic elites and have been driving just that neoliberal austerity agenda, so we often find ourselves in conflict of policies they propose.” Despite having a few elected officials they can at times partner with they noted that when they think about the city and county government “we are definitely in an oppositional struggle” with the government. This group’s identity is very much one of purporting to speak for the African American community in their city. As members of that community, they express that even when they are able to elect officials that symbolically represent their community these officials end up either being co-opted or abandon the interests of the African American community. The coalition “because it is led one half by black elected officials, it really has the potential, it has the power to control dissent, it has the power to muddy the waters because a lot of the policies these people implement has a racist impact, but if I call it racist you get into a hard conversation.” Because of this “the real struggle for us, the obstacle for us, is helping folks overcome the mystification that this... hundred year coalition produces.”

Mystification being that elected officials symbolically representing African Americans have that community’s interests necessarily at heart. Fighting this inaccurate belief requires educating voters and members of the community. And for many average people in the city the consequences of poverty and conditions of work are such that “people really have less and less time to be civically active, and that makes it hard for people to get organized and strong enough to resist neoliberal austerity measures.”⁶⁴ Thus, poor economic conditions degrade participation and low participation degrades how democratic one can consider local government to be. Under conditions of political

⁶⁴ NGO interview Oct. 25th, 2012.

marginalization reaching out to international forums is a way to reach a receptive international venue for these grievances and to reflect these issues back towards the federal government.

Even very small, local, political levels are viewed by some as particularly problematic when human rights violations are concerned. Based on “28 years of experience” working on issues of homelessness in a southern US city, one activist explains the problematic of using local government:

I’ve been naturally seeking higher and more nearly just authorities to appeal to regarding these violations... And as I see it, the closer to the ground the violations occur – and the closer to the ground meaning city, sidewalk, street – the closer the controls are with no hope of appealing to a higher level of authority for resolution or action, or monitoring even, in this political environment, the more obvious it is to me to go to an international forum.

This is coupled with a view that city political coalitions had remained stable for over 60 years so it might “control access to downtown, to keep it safe for businesses, and for the, I guess, the white middle-class, middle to upper-class, and to protect against the movement of poverty into the city back and forth into the inner-city.” And that even with elected officials, “the control of the elected officials is *clearly* behind the scenes with the aging white male, sort of, class of business leaders” at major businesses, universities, and foundations.⁶⁵

A belief that entrenched interests distort government from the will of the people, or experience with a purportedly democratic state resorting to violence or subversion against activist, or views that local government is uniquely problematic as a violator, has a lasting effect on the degree to which organizations expect meaningful political change to come about if they use seemingly co-opted or undemocratic institutions in their

⁶⁵ NGO interview Nov. 12th, 2012.

activism. This view of the institutional environment raises the comparative prospects of drawing on external, international, institutions as a means of overcoming local institutions. Groups rationalize moving their activism to the international level based on a belief in the decreased opportunities at home to affect change.

Some US organizations feel they must additionally struggle against the perception abroad, and partly at home, that democratic institutions are somehow synonymous with good human rights performance or that if left to their own devices the institutions will address what must be somehow aberrant human rights violations. Democratic government can therefore act as a trap in which human rights violations exist but potential allies in society and abroad are less likely to view their course as political and therefore a systematic failing of democratic government. US groups express that it is therefore important to counter the idea that conditions are good in the US, or that institutions of discrimination such as ideologies of white supremacy.

Tools of Advocacy

US activists also consider appeals to the UN and the required language of human rights to be a useful tool in their advocacy. The act of reporting to the UPR generates tangible resources for advocacy both abroad and at home. Activists understand that, though the UPR is unlikely to directly change policy, an international review can raise the profile of local issues to either the international or federal level. Further, garnering formal critique from UN member states based can lend credibility to local rights claims, can bolster morale, and the critiques themselves can be used to generate attention for local human rights issues.

The ability to point to a report that was considered at the UN is a means of moving issues that might be considered radical towards a more centrist framework. One activist for the rights of prisoners puts it particularly well:

...to me when I looked first towards the Convention on Torture, when the US first signed it, I think that was '95,... it was like an 'aha', I can *use* this. And of course the people I work for love it... I think that what the UN has written both in terms of the Convention Against Torture and the Convention On the Elimination of All Forms of Racial Discrimination is compelling. There's no bite to it, but its compelling enough to teach people. I can say 'what you are doing, what the US is doing in its prisons, overseas and in this country, violates the UN Convention on Torture, and because I have eyes I see that this is happening largely to people of color. And very often to young men of color.'⁶⁶

Considering these violations "if I can put that in human rights language, I don't sound so much like I am ranting." Rather than calling US policies explicitly racist, "if I can say 'according to the UN definition of genocide, this is what I see, and this is what I see, this is what I hear, and you can't argue with my experience. So it gives me a capacity that I would not have otherwise.'⁶⁷ Increasing the perceived legitimacy of their claims, it is hoped, will work to change opinions in the public and make a small step towards addressing violations if people eventually demand that their democratic leaders that they not tolerate abuses.

Audiences in a democracy might be especially susceptible to the invocation of human rights treaties by activists. A US group working on healthcare perceives from their advocacy work that "maybe particularly in a democracy, having a documentary basis for our rights, because we are so used to asserting Constitutional rights, and talking about them, having a documentary basis really helps" and then the challenge becomes simply

⁶⁶ The US first signed the CAT treaty on April 18th of 1988 and the Senate ratified the treaty in late 1994 on October 21st of 1994. See https://treaties.un.org/Pages/ViewDetails.aspx?mtmsg_no=IV-9&chapter=4&lang=en.

⁶⁷ NGO interview Nov. 29th, 2012.

convincing audiences that those rights are in fact insufficiently protected. A societal belief in legal documents, charters, and proclamations as the prime legitimate basis for rights claims makes the use of human rights principles a stronger basis for claims-making because international human rights are defined partly by the existence of treaty law and legal declarations.

Obligation to Speak Out

Activists also rationalize using international institutions in their work as a means to simply get the word out about local struggles. They view international institutions as “an important opportunity to really tell the story of what is happening” in local contexts “on a world stage” and highlight generally “what is taking place in the US.”⁶⁸ Another organization had developed a strong founding principle of speaking out to anyone who would listen and accepting every opportunity to speak based on the work of a former director. They felt that “...to tell people about the struggles we are fighting here” and “we try to follow in that example. The reality is that nobody is going to know what we are doing unless we tell them. Our clients, the people that we work for, are some of the most discarded, marginalized, disenfranchised people in our community and if we don’t speak up and tell their stories it is unlikely that they will be told.”⁶⁹ While advocates desire a political outcome from their efforts to bring the stories of the marginalized to new audiences, telling these stories is held as a valuable activity not just because not telling them means there will likely be no action by government to address the injustice, but also

⁶⁸ NGO interview Oct. 25th, 2012.

⁶⁹ NGO interview Nov. 24th, 2012.

because the right and moral thing to do is to ensure that the marginalized are given voice when they cannot speak for themselves.

Grappling with the Uncertainty of Activism

The “explanations” groups draw upon above are ultimately means for groups to understand their tactics as good decisions, as useful, and as in the interests of the individuals they purport to speak and advocate for. However, it would be incorrect to conclude that these groups are either behaving consistent with a narrowly rational decision making process. In fact, decisions are often made with little consideration of all potential outcomes. Nor is it correct to conclude that groups even believe their decisions to *be* rational in this sense.

Groups readily admit that they undertake actions that they actually do not think will make a difference. A group working on issues of racial discrimination suggests that “not that we thought the act of going to Geneva would by itself create some magical remedy. For us it was just one more tactic in our ongoing struggle.” The inability to connect a specific tactic such as internationalization to an expected outcome is the outcome of the complexity of the political processes that lie between action and policy response. An organization working on homelessness illustrates and articulates well how actions under profound uncertainty about their impact, and even extreme pessimism, can still be undertaken with a belief that it is a useful action. When asked how likely they thought petitions might lead to policy change they replied with “little to none,” and expanded that “I have to be frank. I wish I thought that it would... I always hope, I

always get into an issue and never lose hope, but I just hoped against hope that it would matter, and I do believe it matters because you never know whether or when something you do, tiny as it is, might strike somebody who picks it up, you just never know...’’⁷⁰

This view uses uncertainty about the complex chains of cause and effect in social movements and in political action in order to build a rationale for both continuing activism in general, as well as for the specific tactics used in that activism. Where outcomes cannot be readily known to activists making use of every opportunity available that is relatively low investment is a perfectly reasonable decision. NGOs are most certainly “boundedly rational” (Jones 1999; Tversky and Kahneman 1983), as they face significant barriers to understanding the consequences of one tactic or method of advocacy over another. The human rights issues that persist in democracies are by their very nature those which systems of representative government have failed to respond to. Just what form of political action activists must take to alter policy is murky in these cases and the use of international forums is partly a response to this uncertainty.

Conclusion

This chapter presented a puzzle identified within theories of international human rights activism and when domestic activists choose to extend their efforts beyond their country’s borders and investigated the reasons among NGOs in the United States. Where prior work drew on combinations of domestic and international political opportunity structures to argue that groups work at home if international organizations are closed to them but are considered the source of a contentious policy, and that when formal participation in domestic institutions were closed groups would mobilize towards open

⁷⁰ NGO interview Nov. 12th, 2012.

international institutions via networks of activists around the world. This work took up the combination of open domestic institutions and open international institutions and aimed answering what groups are likely to pursue international advocacy under these conditions. It has argued that *preconditions*, both structural and group-level, define a subset of groups likely to internationalize due to the networks defined by a master frame for their activism, and from within this subset activists in organizations choose to internationalize largely in their view because they should use new and promising avenues of contention. Groups then rationalize the use of these opportunities, not necessarily incorrectly, through invoking three types of rationales: feelings of obligation and norms of activism with the organization or its peers, strategic considerations including their perception of democratic governments and the utility of human rights relative to other tools, and by invoking the uncertainty of the political process and decision making under such uncertainty.

CHAPTER 5. CANADIAN HUMAN RIGHTS NGOS & INTERNATIONAL APPEALS

Canada's orientation towards international human rights as mechanisms to comply with at home is often considered comparatively less adversarial. Further, Canada is often characterized as lacking the paradox of norm promotion abroad while resisting those norms at home that so commonly characterizes its southern neighbor. In fact some consider Canada today to have among the most robust sets of domestic institutions for the implementation of human rights norms as well as the treaties it has ratified (Clément 2013, 102). However, Canadian political and social life does contain considerable organized opposition to human rights norms and the consequences of compliance with human rights treaties. And while today Canada has comparatively more enforcement mechanisms linked to international human rights than the US, it has a history that in ways is similar to the politics of human rights in the US; promotion abroad with contentious resistance at home for decades.

At the conclusion of WWII Canada was slow to endorse and support the Universal Declaration of Human Rights, starting from a point of secret diplomatic subversion, or dilution, of the UDHR despite publicly supporting it (Tunnicliffe 2013). The Canadian government at the time of the negotiations for the UDHR was concerned with the domestic implications of such a definition of rights and the extension of authority to supranational bodies as well as the implications of foreign conceptions of rights on domestic definitions. Canadian diplomatic officials extended this suspicion as

the UN debated the content and legitimacy of the twin covenants on civil and political rights and on economic, social, and cultural rights (Tunncliffe 2013, 167–173).

As in other democracies, opponents were able to point to domestic protections and definitions of rights as either sufficient to ensure dignified treatment of individuals and groups, or held that only civil liberties were legitimate rights, thus limiting claims for economic, social, and later cultural rights. Similar to the US, the seeds for today's human rights movement for domestic compliance in Canada is rooted partly in century-long struggles of minorities and disadvantaged groups within Canada, as well as particular Canadians' experiences in advocating against Apartheid and other early international human rights campaigns.

Canadian human rights activists prior to WWII faced an institutional environment that was equally, if not more, challenging to the realization of human rights than those in the US. Social institutions of racism and xenophobia presented a less than accepting environment for arguments for racial and ethnic equality (B. Walker 2008). As a consequence some ethnic or national minorities, such as indigenous peoples and ethnic Chinese, were denied basic civil and political rights such as voting, property ownership, and employment rights (Blackhouse 1999, 129; Patrias 2012). Further, in the 1940s Canada lacked federal protections against discrimination in public accommodations and during WWII was more than willing to deport or displace immigrants based on ethnicity regardless of citizenship (Bangarth 2003, 2008; Lambertson 2005; Patrias and Frager 2001; Walker 2013). Because Canada largely drew on the British tradition of civil liberties as the definition of rights, infringement by the government on private behavior was the predominant concern. This focus on civil liberties left little room for concern

over the consequences of the discriminatory exercise of private liberties (Heathorn and Goutor 2013, 2–3; Walker 1997). Most significantly, at this time Canada lacked any federal document enumerating rights within its borders and unless specific legislation existed protecting individuals and groups or prohibiting particular treatment Canadians had little to no recourse at the federal, or often provincial, level to claim a violation of rights. Further, in Canada judicial review at the Supreme Court was limited by this lack of a bill of rights and the principle of parliamentary supremacy (Clément 2013, 93–94). Parliamentary supremacy essentially prevented the courts from overruling discriminatory laws at the provincial or more local levels of government. Despite the US Supreme Court’s hesitancy to interpret its own bill of rights in ways that prohibited discrimination, activists at least had the opportunity to bring cases to the court that could lead to sweeping national changes in rights. Without a bill of rights that would trump parliamentary supremacy the federal courts offered limited recourse for rights activists in Canada.

Efforts to incorporate human rights into Canadian law after WWII failed for similar reasons that efforts to implement the federal government’s prior anti-discrimination laws at the provincial level failed; the nature of Canadian federalism. Enforcing federal laws on discrimination in the provinces had proven difficult due to the domains of policy delegated to the provinces, and federalism slowed the enforcement of human rights agreements as well. The federal government could sign treaties and join international organizations but the powers to implement their covenants, provisions, and declarations lay with provincial governments (Behiels 2009, 151–152). Even if Parliament and the Cabinet signed and ratified international treaties it did not bind

provincial governments to compliance; only federal level laws would be bound by treaty obligations and those powers were limited. “This caused Canada to appear ambivalent toward the [United Nations covenants on human rights] when, in fact, it was simply powerless” (Tunncliffe 2013, 171). In 1950 when the federal government convened a Special Committee on Human Rights and Fundamental Freedoms, even with significant public sympathy for the new human rights emerging at the UN, arguments and objections invoking provincial rights meant that producing a bill of rights reflecting the content of human rights into Canadian law was a political non-starter (James 2011).

The landscape faced by activists was characterized by a very limited federal “rights” tradition and a lack of a bill of rights to invoke when claiming mistreatment. A lack of a bill of rights further limited the ability of activists to translate the limited set of rights into justiciable rights in the courts. Even if the federal government had the option to ratify enforceable human rights treaties covering economic and social rights in the 1950s it is unlikely they would have.⁷¹ Human rights had few wholehearted supporters within elite government circles. Among federal officials there was substantial skepticism towards any expression of collective rights and the legitimacy of economic and social rights as basic “rights” at all (Tunncliffe 2013, 173). At the provincial level, where some bills of rights were passed in the late 1940s and early 1950s (Lambertson 2005, chap. 4; MacLennan 2003, 84), these laws established only rights of political participation and non-discrimination “solely on the basis of race, religion, and national origin... [and the laws] ...were rarely enforced, few people were aware they existed, and the legislation was poorly drafted” (Clément 2013, 92). Similar to the US (Anderson 2003, 2009) the

⁷¹ Not being able to ratify was due to the UDHR not being translated by the UN into the Twin Covenants on civil and political rights (ICCPR), and economic and social rights (ICESCR), until 1966.

ideologically charged politics of the early Cold War period opened up activists and politicians who pressed for economic rights as part of a more expansive definition of human rights to charges of using those rights as a Trojan Horse for communist ideas (Lambertson 2005, chap. 6; Patrias 2006).⁷²

The federal institutional environment for Canadian activists shifted dramatically through the 1960s to the 1980s. A series of anti-discrimination bills were enacted during this period and public opinion shifted in opposition to the characterization of rights as only permissive liberties that had led to private discrimination (Miron 2009), a shift also seen among civil libertarian NGOs in Canada (Lambertson 2005, 333). Under prior common law rights orientations rights essentially protected the liberties of individuals and if they chose to use those liberties to privately discriminate that was the cost of liberty. That view changed. Activists succeeded in pushing for a bill of rights passed as statutory law in 1960, but it only applied to areas of law under federal jurisdiction and largely “failed to serve as an effective shield for Canadians against discrimination” (Heathorn and Goutor 2013, 12).

The most important development in the period after 1960 was the adoption of the 1982 Charter of Rights and Freedoms, which for the first time embedded a bill of rights into Canada’s constitution that would apply equally to federal and provincial legal jurisdictions (Bateman 1998). The Charter provides for federal protections of civil and political rights, as well as group protections aimed to ensure gender equality, minority, linguistic, and indigenous rights. Passed with popular appeal, the Charter empowered the

⁷² See also (Clément 2013, 95) in support of the stifling impact of anti-communist fears in both Canada as well as Australia, stating that “[f]ears of being associated with communism not only silenced potential critics, but also made co-operation among activists extraordinarily difficult. Civil liberties organizations in both countries became defunct by the 1950s.”

Supreme Court in Canada to the detriment of parliamentary supremacy and raised concerns among legal and political experts that an empowered court would “judicialize” Canadian politics (Kelly 2011). For activists the Charter of Rights and Freedoms and the judicialization of politics meant that where democratic processes in the provinces or at the federal level produced laws inconsistent with rights provisions the court would have the constitutional power to invalidate such laws (Kelly and Manfredi 2010, 6–7). Though the Charter of Rights and Freedoms has not been a panacea for rights protections in Canada on its own, it has bolstered legal activism and led to an increase in what Charles Epp refers to as “the support structure for legal activism” (1996, 765). By removing the long-held principle of parliamentary sovereignty the Charter of Rights and Freedoms removed the protection of human rights from the purview of majority rule through the parliament and placed human rights protection in the hands of an empowered judiciary (Anne F. Bayefsky 1983, 241). Combined, the Charter and legal support such as trained lawyers, funding to bring legal challenges against unconstitutional laws, and organizations dedicated to using litigation to hold the Canadian government accountable have created an environment in which human rights activists have considerable recourse in domestic politics when either provincial or federal laws are inconsistent with a wide range of civil, political, and even social rights (Epp 1996; Tarnopolsky 1983).

The creation of the 1982 Charter of Rights and Freedoms followed the development of a movement in Canada during the 1960s and 1970s to redefine the mandate of civil liberty organizations to include the more expansive set of rights contained in the UDHR and human rights treaties (Clément 2013, 97). The late 1960s and early 1970s had seen a rise in a holistic approach to rights among the New Left in

Canada, partially encouraged by focusing events such as the International Year of Human Rights in 1968 (Clément 2013, 88-89 & 97-98). The Canadian movement for human rights had prompted the introduction of human rights legislation in “every Canadian jurisdiction... between 1962 and 1977” (Clément 2012, 104–105). This new holistic approach added socio-economic, women’s, and LGBT rights to the agenda of the Canadian human rights movement. As this project considers the perception of domestic and international political opportunities, the addition of the Charter of Rights and Freedoms represents a major opening of new institutionalized legal means for contesting human rights in Canada.

The rise of social and political movements such as the New Left, largely supportive of human rights, led to increased openings in domestic institutions for activists to press for human rights compliance at the federal and provincial level (Clément 2013; Egri and Stanbury 1989). Increased opportunities for legal activism after the enactment of the Charter of Rights and Freedoms helped to fuel legal activism for rights among women’s and LGBT rights groups (Smith 2013). Despite the presence of supportive political movements on the left and an empowered Supreme Court, human rights activists still face the challenge of convincing courts to favorably interpret human rights principles and human rights laws (Bateman 2012). Overall the Charter of Rights and Freedoms has been a pivotal new opening in Canada’s democratic institutions for activists to utilize but has not been a panacea for rights compliance (Epp 1996).

The human rights movement and politics in Canada since WWII have not been without contention. In Canada there has been conservative political opposition to some human rights, which is rooted in the protection of the prerogatives afforded by national

sovereignty and often in disagreement with expansive definitions of rights contained within international human rights. In general, social conservatives have opposed some of the rights implied and made explicit within human rights instruments. This has led to opposition to linking human rights with constitutional rights and the litigation of human rights violations (Warner 2002, chap. 2). Conservative politicians have opposed the extension of indigenous rights (Martin-Hill 2008) and vigorously opposed extension of marriage rights as human rights rather than a form of ‘civil union’ separate from ‘marriage’ (McNamara 2007). Since Canada built its national and provincial human rights commissions beginning in 1977, often to promote antidiscrimination, conservatives have attempted to narrow their scope, defund, or dismantle them. For example, “in 1995 the Conservative Party in Ontario... came into office on a platform that included a commitment to eliminate Ontario’s Employment Equality Commission...” and eventually removed the agency’s leadership (Hucker 1997, 549). Conservative opposition to strong human rights implementation and commissions has shifted over time in Canada. Under attack in the 1990s, the Ontario Human Rights Commission was supported and created by the Conservative party in 1961 (Howe and Johnson 2000, 11–12). Opposition to independent human rights commissions grew out of a realization in the business community that what were expected to be innocuous or toothless commissions and very narrow criteria for what qualified as “discrimination” was being expanded by activists and liberal allies in government (Howe and Johnson 2000, 10). This opposition paralleled efforts to dismantle and defund human rights commissions in the 1980s and early 1990s, including reconfiguring the human rights commission in British Columbia so it was significantly weakened (Howe 1993, 29).

Canada also has a long history of opposition to human rights as it pertains to the rights of First Nations, one that extends back much further than the post-WWII period. Canadian governments, colonial, provincial, and federal have been hostile to the realization of rights for First Nations since at least the Indian Act of 1876. The fundamental way in which the Indian Act undermined the rights of First Nations was that it “assumed the First Nations peoples were not adults... [and] structured the relationship between the federal government and First Nations as that of a trustee and ward” (J. R. Miller 2013, 234). First Nations peoples were unable to use traditional democratic processes to advocate for their rights, most fundamentally there were denied even limited provincial franchise until the two decades following WWII (J. R. Miller 2013, 250). Unlike how the rise of social movements in the 1960s-1980s made the Canadian political environment more hospitable to human rights activists this era yielded little change in opportunities for First Nations. Federal and provincial governments routinely placed the government’s need above the interests of First Nations and “consultation” on policy was often little more than a façade behind which officials ignored First Nations’ interests (J. R. Miller 2013). The domestic political opportunity structures faced by First Nations activists through Canada’s past half-century have been far more restrictive than for activists working on human rights issues such as civil and political or women’s rights.

It is the view of some activists in Canada that over the past decade that opposition to human rights compliance has gained the upper hand. This has led the Canadian government to retreat from advocating for human rights norms in international institutions and to shift towards being a systematic human rights violator in its behavior at home. The most prominent example of which is the refusal of the Harper government

to dedicate resources to address the issue of high levels of rape and murders of indigenous women. Unfavorable governments at the national level have contributed to this perception of both the government's record on domestic human rights and on the prospects for policy change when human rights advocates criticize the government's behavior.⁷³ Depending on the particular NGO this perception of the political opportunities at home is an important ingredient in deciding to use international institutions as part of their activism. This point is expanded upon as this chapter takes up the perceptions of political opportunity structures and the "democracy trap" some organizations find themselves in.

Prior Internationalization

Struggles for civil and political rights in Canada across the 20th Century were hardly contained within domestic politics alone. Racial and ethnic minorities facing discrimination and disenfranchisement forged links to social movement organizations in the USA, sharing resources, ideas, and tactics for advocacy (Frager and Patrias 2013). Significantly, Jewish advocacy organizations in Canada worked against discrimination against Jewish peoples as well as against discrimination against immigrants in general in the post-WWII era by learning and coordinating from similar groups in the US (Frager and Patrias 2013, 160–161). These transnational connections aided activists in sharing resources, ideas, and tactics for challenging domestic governments, but did not result in targeting international organizations largely because there were few international venues to hear such complaints.

⁷³ Canadian NGO Interview, Dec 5th 2012.

Similar false starts in internationalizing Canadian rights issues can be seen just after World War I. At the conclusion of the war the League of Nations was pushed to make a Declaration of the Rights of the Child by a transnational movement for children's rights (Marshall 2013, 190–191). The Declaration set out standards for child welfare and the publicity surrounding it prompted attention and “a schoolteacher from Alberta proceeded to assess the lives of children in her district against the... principles” (Dobbs 1924; Marshall 2013, 195). This assessment was not sent to the League's Child Welfare Committee. It never made it past the Canadian government which complained that the Declaration by the League of Nations constituted unwarranted meddling in Canada's domestic affairs (Marshall 2013). It would not be until Canada ratified the UN's Convention of the Rights of the Child in 1991, which established formal reporting requirements and invited comment from NGOs, that sustained reporting to international forums emerged among Canadian NGOs on child rights (R. Brian Howe and Covell 2003, 1071).

For politically marginalized groups in Canada such as indigenous peoples internationalization has been an important corrective to the failures of democratic procedures. Late in the 20th Century organizations advocating for the rights of indigenous peoples such as the Council of the Grand Cree reached out to international figures and international organizations to embarrass the Canadian government into dealing with a cholera outbreak in 1981.⁷⁴ Reaching out to the Pope and the United Nations indigenous groups aimed to raise awareness of international audiences so they might pressure the Canadian government into action to mitigate the outbreak. In this effort the indigenous

⁷⁴ Canadian NGO Interview, Nov 11th 2012.

groups saw the Canadian government as a soft target for embarrassment because in 1981 they perceived the government as “being very concerned” with its reputation on human rights.⁷⁵ Indigenous groups have also made use of the International Water Tribunal at the Hague to pressure the Canadian government on indigenous water access rights (Notzke 1994). This effort at the tribunal and other instances of internationalization through the International Labor Organization and Inter-American Court are viewed as having been fairly successful even if they engendered significant backlash at home in Canada.⁷⁶ Instances of internationalization may have been common among indigenous rights activists in Canada given that domestic law has persistently restricted their participation in Canada’s democracy. Even as Canada constructed its bill of rights, indigenous rights were excluded (Miller 2013).

Overall Canada has a history of internationalization that broadly parallels the US experience. Canada has had sporadic efforts by racial minorities to reach beyond democratic borders where they found themselves legally discriminated against. However, among racial and ethnic minorities Canada saw little sustained reporting to international forums given the poverty of opportunities and opposition at home. The proliferation of human rights treaties after WWII and the exponential growth in treaty review bodies (Bayefsky 2001) saw a general increase in Canadian NGOs reporting to UN bodies including the UPR (Chapter 3). Explaining how that NGOs in Canada come to make use of the UPR gives us some insight into the shift away from domestic activism only among rights groups in Canada.

⁷⁵ Canadian NGO Interview, Nov 11th 2012.

⁷⁶ Canadian NGO Interview, Nov 11th 2012.

Preconditions & Canadian NGOs

In the opening chapter this dissertation presented three major preconditions that define the conditions under which domestic NGOs take national or even local issues to international institutions. First, human rights frame adoption, where the human rights movement takes up an issue previously framed predominantly in different terms. And second, the expansion of access to international organizations. If the preconditions have explanatory power then the Canadian cases should provide evidence of human rights frame adoption processes leading to reporting to the UPR. Respondents from Canadian NGOs should indicate that personal or organizational/professional experiences in the human rights movement beyond Canadian issues had an impact in frame adoption for their work in Canada as well. Human rights should be considered by activists as partly the correct or “appropriate” frame within which to understand issues of justice, equality, and liberties. As a consequence of this frame adoption, the expansion of international opportunities for international review of Canada’s compliance with human rights obligations will be linked to low-cost engagement by domestic NGOs. That is, Canadian NGOs represented at the UPR should be largely those who have previously adopted human rights as their language of understanding and argument for improved rights. As a precondition this rises to being nearly a necessary condition as almost no groups report to the UPR without using the language of human rights in their reports.

Because Chapter 2 takes up the general expansion of international opportunities precondition, this chapter focuses primary on the two other preconditions present among Canadian NGOs: the adoption of a human rights framework and the expansion of the human rights agenda. As stated previously, the UPR process itself is highly accessible for

groups wishing to submit human rights reports on their home country. Reports are meant to be short per the UN's instruction, five to ten pages being ideal, and reports can simply be emailed to a UN email address for consideration as part of the information that peer states, domestic policy makers, and other UN bodies have access to. Groups can offer reports with no formal status with the UN at all such as having "consultative status." The vast expansion of access to international forums is taken as a constant in this project for all states and their constituent NGOs. Therefore, this chapter explores where preconditions do vary slightly so as to show how domestic NGOs navigate different paths to the UPR. The following sections consider how some Canadian NGOs at the UPR came to adopt a human rights frame and how that adoption led to UPR report submission.

Personal and Professional Experience as Pathways of Frame Adoption

I have argued that NGOs come to adopt a particular framework partly as an outcome of professional exposure through training, experience in advocacy campaigns, and personal experiences. At the core of the argument that professional or personal experiences partially define the frameworks within which activists and the NGOs they populate work is the contention that previously working within a certain legal or moral framework conditions actors to consider a particular frame as the appropriate language for future activism. Prior exposure to human rights and expertise-building in human rights law serves to funnel NGOs and the activists who staff them towards venues built around a human right framework.

Canadian NGOs reporting to the UPR show similar patterns to those from the US in that some have long been involved in the human rights movement on issues abroad, but different in Canada is the exposure and engagement with human rights that comes via

national human rights institutions (NHRI). NHRIs play an intervening role between government and civil as they provide oversight to government policies and compliance with human rights obligations. Though not all NHRIs around the world enjoy the same level of authority and autonomy from government, the NHRIs in democratic states such as Canada typically do operate separately from government bureaucracies and have somewhat non-political budgets. NHRIs also engage in capacity-building of civil society organizations and human rights education. Through these functions NHRIs also build expertise and norms of activism among their staff. As staff leave NHRIs and enter into civil society organizations they carry with them human rights familiarity, understanding of the nuances of national and international obligations their governments have towards citizens, and a belief in human rights as the appropriate framework for future activism (Mertus 2009).

A small NGO working through legal advocacy in Canada on a range of socio-economic issues partly came to a human rights framework through exposure and experience via governmental human rights institutions (HRI). A leading activist for the organization interviewed had been involved in the new social movements of the 1960s against racial and gender discrimination and through a resulting career in advocacy was elevated to a regional human rights commission in Canada where they were working explicitly to interpret the behavior of local Canadian government through the lens of human rights standards. Work with the HRIs included both public education efforts as well as using legal challenges against human rights violations just after Canada passed the Charter of Rights and Freedoms in 1982. Upon leaving the HRI, having gained expertise in using legal challenges as a means of fighting for human rights compliance,

the activist chose to form an NGO working on socio-economic issues such as the right to basic provisions needed for a dignified life within Canada.⁷⁷ With the creation of the UPR in 2006 the organization this activist worked for viewed part of its value-added to the campaigns for socio-economic rights as helping others appeal to the UN system because of the activist's experience with the UN in past work. Familiarity with the UN system and human rights law lowers the information costs involved with reporting to an international forum such as the UPR. Legal training and professional experience with advocating within a human rights framework mix in the Canadian case. Both types of experience involve activists and NGOs familiar with the political tools that human rights offer. Developing tools such as experience with legal activism, international appeals, rights claiming, naming and shaming relative to international standards, and cooperation within activist networks lead NGOs and activists to choose these tools more frequently as they confront future rights violations.

Additionally at least one group in Canada settled on the use of human rights for their frame of activism on the basis of group discussions among members. They retell the story stating "I guess the spark really was a workshop where [members] for whom there was a conversation about 'why do we not yet have a [public program] to [provide this service]' and somebody talking about how, you know, they need to have better access to [medical care] and somebody said 'it's not just about a need, it is a *right* to have [access to this service]'".⁷⁸ This same NGO went on to say that at this moment there was widespread agreement among those in attendance that "rights" was the best way to understand this issue. There "was a bit of a spark and some said 'really, it is a right,' and

⁷⁷ Canadian NGO Interview, Dec, 5th 2012.

⁷⁸ Canadian NGO Interview, Jan 24 2013.

this was very empowering conversation to have because it is different to think of something as a right; it's not because you need it or you are a needy person or are not capable." In this conversation among activists the view was that "if you reframe it as actually this is my right to have this and my right to have this support so I can [have access to economic opportunities] then you think of it in different terms."⁷⁹ Out of these discussions and workshops with those needed to claim rights this organization realized that their members and constituents had not been thinking about this issue as one of rights. Among the more seasoned activists who had long thought about social programs as "rights" they decided to engage in "reemphasizing, reintroducing, reorienting, people's thinking around and helping to raise awareness that [access to social programs] is a right, and it is a right" under several of the international human rights conventions that Canada had signed and ratified including the ICESCR. This realization that the very people they worked so closely with had long been alienated from thinking of social programs as a right, and discovering this in workshops and discussions led the NGO to drift towards a human rights framework because of the powerful and expansive sets of norms and legal rights that could be claimed under international human rights treaties.

Expansion of the Human Rights Agenda

Post-WWII creation of human rights treaties and struggles for new human rights instruments involves the extension of core human rights principles to target groups or specific human rights violations. New treaties and instruments are one among many outcomes of the national and international activism of those affected by particular

⁷⁹ Canadian NGO Interview, Jan 24 2013.

violations of rights, those belonging to target groups, and social movement allies. Since the signing of the Universal Declaration of Human Rights affirming the general principles of human rights national and international movements have articulated grievances in terms of rights protected under the UDHR. The results has been the expansion of the agenda that the broader human rights movement considers to be part of its concern. Previously wholly distinct issues of mistreatment or a deficiency in rights protections can become part of a larger movement for international human rights garnering the attention, resources, and allies that exist within the international human rights ecosystem of activists and organizations (Carpenter 2007a).

Creating Disability Rights and Agenda Expansion

For example, the unique challenges faced by people with disabilities were codified in the Convention of the Rights of People with Disabilities (CRPD 2006) (Schulze and Sabatello 2013). While ostensibly protected by human rights principles in the UDHR, a treaty dedicated to articulating specific protections for those with disabilities granted specificity to how the UDHR's principles might be applied to people with disabilities. Disability rights activists “crashed the gates” of the human rights movement and one lasting success of that effort is the creation of the CPRD (Lord 2010). Similarly the international movement for women's rights secured a treaty specifically aimed at the range of forms of violence perpetrated against women (I-VAWA) (Shawki 2011). As the human rights agenda expands – one measure of which is the addition of international treaties – the target groups addressed by new human rights instruments enjoy an additional international venue for their activism. Activists press international

institutions and for human rights agreements among states so that they may subsequently use them (Clark 2001; Quataert 2009).

Expansion of the international human rights agenda does not compel NGOs to then make use of new international treaties nor partner with international nongovernmental organization. It does, however, lead to a selection of groups advocating for the people or issues now covered by the expanded agenda down two paths that make reporting to international institutions more likely. Direct participation in efforts to secure a new international treaty or human rights instrument serves to familiarize and build experience among NGOs with the provisions of international human rights. Involvement with drafting language for a treaty in negotiations with domestic government and in the UN creates buy-in among those participating as they have a hand in crafting human rights provisions they believe will substantively address their concerns. If a group has been involved in shaping the international human rights agenda they likely have at least in part already adopted a human rights framework for their activism. If not, the investment in negotiating to create new treaty language and expanding human rights instruments makes the new provisions more compatible with the issues a group has been advocating on in the past. Among domestic NGOs an expanding agenda for human rights either deepens commitment to the framework or makes the human rights framework an increasingly useful one to adopt.

Among Canadian NGOs the expansion of the international human rights agenda constitutes the precondition of “adoption of the human rights frame” for disability activists. Similar to the German case NGOs working on the rights of the disabled aimed to change policy domestically while simultaneously taking part in an international effort

of networked activists to create an international treaty setting standards for disabled people (Kelemen and Vanhala 2010; Vanhala 2014). In the 1990s a rights-based model of disability emerged internationally and displaced long-standing views of disability as a medical defect leading the disabled to be less able to perform work or achieve the same goals as able-bodied individuals (Schulze and Sabatello 2013). This rights-based model, driven by disabled activists (Stienstra and Wright-Felske 2003), asserted principles of social equality and that disability is not something to be fixed, but rather that the disabled have rights to be able to participate in society as others do.

Canada saw its disability activists move from a series of provincial groups to a coordinated network of organizations through the 1970s and eventually this network of organizations played a large role in establishing a rights approach to disability in Canadian policy (Kelemen and Vanhala 2010). Pivotaly, Canadian disability activists were able to successfully press for the inclusion of disability rights in the Charter of Rights and Freedoms in 1981. Changing domestic policy was not the only way these NGOs aimed to affect change. Canadian NGOs were also involved in establishing the UN's Convention on the Rights of People with Disabilities (CRPD) in the 1990s. Vanhala and Kelemen (2010) characterize Canadian disability activists as part of the larger transnational movement for a human rights treaty that would set standards for the treatment of the world's 650 million disabled people.

For one Canadian NGO reporting to the UPR the rise of the transnational movement for expanded human rights for people with disabilities was an important moment for their activism at home and abroad. Abroad, a network of activists meant that it may be possible to create new international standards based on a rights mode. The

creation of new legal instruments for rights for the disabled could lead to locking in progress in making the rights model of disability the standard in Canada. If the Canadian government could be pressed into signing the CRPD it would be all the more difficult for the government to retreat from this model. Participation in the efforts to create the CRPD bred familiarity with the treaty and the resultant review body it would create. Further, investment in the creation of a human rights treaty, coupled with a recasting globally of disability rights as human rights, meant that NGOs working domestically in Canada built path dependencies around the adoption of a human rights frame. Activists and NGOs do not work to build legal tools and normative arguments they do not intend to deploy. Further, as the collective efforts of the international movement for disabled rights began to center around a rights based model rooted in human rights language, local groups suddenly had strong incentives to become familiar with human rights law and the venues and means by which it can be enforced. The UPR is not the only, nor the main, venue for enforcing the CRPD. The periodic reviews provided under the CRPD's treaty review body is the primary international review of Canada's rights record pertaining to the disabled. However, because the UPR's basis for review includes the treaties a country has ratified it provides an additional venue for NGOs to press for compliance.

Indigenous rights groups in Canada using the UPR also reflect the influence of the expansion of the international human rights agenda, and like disability activists the indigenous rights activists in Canada were not passengers watching an international movement emerge. An NGO staff member who works on indigenous rights recounted their NGO's participation in supporting the international effort to codify indigenous rights into treaty law. This support included help in drafting the treaty language for the

Declaration of the Rights of Indigenous Peoples.⁸⁰ They had used conversations at the UN about indigenous right during the 1990s to convince the United Nations that Canada's assertion that it did not contain other nations within it was inaccurate. Canada, an ardent opponent of an international treaty on indigenous rights (Miller 2013), had maintained that the issue of indigenous rights was one of minority rights, not one of the rights of nations.⁸¹ A treaty addressing indigenous rights at the UN would be an additional normative basis on which to challenge the Canadian government's treatment of native peoples. Speaking of why the Declaration was needed, one NGO interviewed indicated that it was not really necessary because the existing protections within human rights law and existing international law on national self-determination should be sufficient to protect indigenous peoples. As the global human rights movement expanded to more explicitly address indigenous rights, even skeptical NGOs such as the exemplar interviewed suggested that a human rights framing of indigenous rights is useful because it connects them with international mechanisms.⁸² The indigenous rights group interviewed indicated that supporting the move to explicitly expand human rights to include indigenous rights was the clarification of a distinction that did not really exist; that indigenous people are human as well and entitled to rights and dignity like everyone else. Even this critique that indigenous rights were always theoretically protected via human rights is a tacit admission that human rights and international law has long provided a means of understanding the gap between rights that first nations have and the treatment they are subjected to by even the more democratic of regimes.

⁸⁰ Canadian NGO Interview, Nov 21st 2012.

⁸¹ Canadian NGO Interview, Nov 21st 2012.

⁸² Canadian NGO Interview, Nov 21st 2012.

In both cases where the human rights agenda has expanded since the 1990s Canadian NGOs were involved intimately in building new human rights law. Both disability rights groups and indigenous rights groups contributed effort to a transnational movement for treaty law covering their respective issues. This partially suggests that these groups had at least partially accepted a human rights frame for their work prior to the expansion of the human rights agenda to include these issues. Neither NGO pinpointed a time at which human rights was decided upon as the correct way to understand and advocate for both disability rights and indigenous rights. Though both NGOs were drivers of the international movement to expand human rights, the expansion solidified and formalized human rights as the appropriate framework for their advocacy. Disability rights activists in Canada had been shifting away from medical models of disability to a rights model and human rights provided a legitimating set of principles. Both disability rights activists and indigenous rights activists in Canada, like others around the world, have used the expansion of human rights to remind audiences at home and abroad that the universality inherent in human rights means those rights apply to them as well. The consequences of adopting a human rights framework ultimately explain how local NGOs find themselves in venues such as the UPR arguing their government must alter its behavior and policies.

The Consequences of Adopting a Human Rights Framework

Canadian NGOs reporting to the UPR show how the adoption of a human rights framework partly led to their report submission. Networking among human rights organizations facilitates Canadian NGOs being aware of new international opportunities

for mobilizing, critiquing, and reviewing the Canadian government. Networks push information via email listserves, social media, professional conferences, and professional contacts among networked members. For those densely networked among human rights activists, the creation of the UPR was followed closely by tips and suggestions by affiliated or linked NGOs.

For one Canadian NGO working on rights pertaining to health and justice it was so routine to hear of new opportunities via listserves that the UPR did not stand out in memory. Finding out about the UPR as a venue came via a colleague who suggested simply they “try this avenue” that had been brought to their attention via network affiliate NGOs. Being enmeshed in a network of organizations working on human rights, and/or aware of human rights standards and institutions, increases the chances that a given NGO will learn of new opportunities as they emerge. Further, those opportunities are disproportionately likely to be linked to international forums given that human rights standards are integrally linked to the review bodies that treaties create at the UN. Insofar as activists are always looking for low-cost opportunities to press for compliance, they are likely to be steered to openings like the UPR if connected to other human rights groups.

Another organization working on socio-economic rights and reporting to the first round of the UPR suggested that as they were made aware of the UPR because “many of us got into this work [the movement for socio-economic rights] by viewing access to [care] as a right.”⁸³ Having worked for so long in a rights-based framework for advocating access to public funding for social programs, this organization developed

⁸³ Canadian NGO Interview, Jan 24th 2013

years of experience reporting to other UN treaty bodies. International reporting to this group was a logical outflow from the fact that “thinking about [access to social programs] as a right has always been part of [their] toolkit.

Professional experiences that lead groups to select a human rights frame for their work also have the effect of developing expertise that makes international venues a more likely choice. That is, experience with the domestic implementation of human rights can lead to familiarity with international human rights mechanisms and review bodies such as those at the United Nations. Human rights work begets more human rights work.

Activists from two reporting NGOs, both working on social and economic rights partly chose to report to the UPR because their legal knowledge and past professional experiences made the UN system a familiar venue for activism. One small NGO exemplifies the influence of training and experience as it took up fundamental economic rights in Canada. Whereas churches and other social justice organizations were working against government policies towards privatization of public goods leading up to the first round of reviews at the UPR in 2008, one activist with considerable experience with human rights law in Canada decided that this experience could be put to use by comparing the privatization of water, which would deny access to those unable to pay, with human rights provisions protecting social and economic rights.⁸⁴ Familiarity with human rights and the adoption of international human rights law as a way of recasting the issue of water access funnels the choices of venue activists make towards human rights review bodies. Because these are the formal bodies within which human rights standards

⁸⁴ Canadian NGO Interview, Dec 5th 2012.

are reviewed groups working to contrast government policy with the obligations a state has under human rights treaties find a better fit for their adopted framework.

Explaining Participation in the UPR

Explaining participation refers to the perceived utility of reporting to the UPR on the basis of how activists understand the political environment they operate within as well as norms of activism. This project contends that activists pursue new opportunities with only minimal expectation as to how likely those opportunities are to bear fruit in the form of a policy response from government. Canadian NGOs, like others in this project, often do not view engagement with the UPR as a straight line means to the ends of compliance or redress for their complaint. Rather, the decision to use international institutions in activism is prompted by the combination of the expansion of UPR access to civil society and activists that are aware of new avenues within international institutions often decide to make use of these venues first, and then often make *post hoc* explanations for reporting. As noted in previous chapters, this is not a contention that NGOs are unaware of the strategic advantages and utility of reporting to the UPR. Rather, *post hoc* explanation refers to the frequent – but not universal – pattern of learning about the UPR and deciding to petition without debate, but subsequently offering rationales for why the “decision” to make use of the UPR is the appropriate one. NGOs understand the importance of the UPR in their advocacy through how they perceive the domestic political environment, how the UPR can be used as a strategic tool in their activism, and through norms of activism in which international reporting is a largely unquestioned mode of activism. The theoretical reason for the gap between expectation of compliance

and the decision to pursue new venues for political activism is that human rights violations in democracies often are the result of intractable issues which domestic participatory institutions have been unable to address and there is a high degree of uncertainty as to which mode of activism will be the one that nudges states or local government towards compliance. Groups sometimes throw everything they can at the issue and see what sticks. However, that does not mean they do not spend considerable time in thinking about how certain forms of activism might stick. “Explanation” is not blind excuse-making for something an activist group has chosen and aims to justify. Rather, explanation serves as a *post hoc* sense-making of what the causal chain between modes of activism and eventual state compliance with human rights obligations might be.

Perceptions of Political Opportunities

International institutions can provide local political actors a supplement to the inadequacy of domestic political opportunities (Keck and Sikkink 1998; Keohane, Macedo, and Moravcsik 2009). In the Canadian case the way the activists perceive the political environment, or political opportunity structure, plays a key role in how they rationalize the use of the UPR and other international institutions. Whether a government in power is hostile to human rights, international norms, and civil society groups working on related issues, sends signals to organizations about the prospect of successful mitigation of human rights violations if activist advocate in domestic venues. Hostile governments effectively constrict the perceived political opportunity structures that local groups face. International institutions present opportunities to supplement limited domestic opportunities and to sometimes work backwards to increase domestic

opportunities such as helping NGOs link up with opposition party members or to place their issue on the public agenda.

By taking into account perception rather than giving explanatory power primarily to objective, or institutional, measures of political opportunity structure the Canadian cases begin to show how various activists and NGOs respond differently based on their view of the political environment. Variation in perceptions of political opportunity structures (POS) also enables the consideration of more than one objective POS, typically the national level in human rights research. Several Canadian NGOs interviewed for this study rationalize their use of the UPR as a response to a “hostile” national government, while others indicate that compliance within provincial governments is uneven at best. Where local compliance is lacking, and national level government is not amenable to rigorous human rights compliance, activists have limited prospects of leveraging federal government to push compliance downwards to the provinces. Overall Canadian NGOs’ perceptions of their opportunities is mixed. Many have access to political parties, bureaucrats, and the courts, but access does not always readily transform into compliance in democratic states. Below I present the contours of how Canadian NGOs perceive their political environment and for some how that influences their decision to make use of the UPR.

In 2011 the Canadian Minister of Aboriginal Affairs and Northern Development suggested that the criticism from the invited UN Special Rapporteur on the rights of indigenous people was a “publicity stunt.” Subsequently in the House of Commons the Parliamentary Secretary to the Minister of Foreign Affairs suggested that the visiting Special Rapporteur on food security was offensive to Canadians, stating “it is an insult to

Canadians and their tax dollars that this fellow came over here to waste the dollars they have contributed” (Coalition Letter 2012). Both instances and other insults to the credibility of UN rapporteurs were quoted in a letter rebuking the Harper government for the poor treatment of UN human rights officials that had been invited by the Canadian government.⁸⁵ Echoing what I have previously called the “democracy trap,” the view that human rights standards need not be rigorously applied to stable democracies because advanced democracy is synonymous with compliance, the government critics of the Special Rapporteur on food security said the Rapporteur “should not get involved in ‘political exercises in developed democracies like Canada’” (Coalition Letter 2012). Embedded in the invocation of “developed democracies like Canada” is an unspoken argument that human rights critique need not be leveled at these states because their compliance records are necessarily good enough by virtue of democratic institutions and wealth. Government hostility in Canada since 2008 towards human rights goes beyond embarrassing or verbally attacking UN officials. Government opposition to vigorous monitoring of human rights standards diminishes activists’ perception of how responsive domestic government venues are likely to be to information about rights violations. As the prospects that domestic governments will respond negatively to activist pressure, the incentives to bypass domestic politics and leverage pressure from international forums increases. The presence of Canadian NGOs reporting to the UPR partly reflect their response to these disincentives to exclusively target a hostile domestic government.

An NGO working on social justice issues interviewed suggested that they and others are working in “a climate of silence” in which they are afraid to speak out against

⁸⁵ Over 100 NGOs and individuals signed this coalition letter.

the Canadian government.⁸⁶ This climate of silence is prompted by the threat of removal of funding from organizations that speak out about human rights issues against the Harper government. Because many civil society groups performing social welfare functions receive government funding, they are left vulnerable to having the funding pulled or reduced in retaliation for criticism. At least one organization reporting to the UPR fell victim to losing their funding, a move that correlated with criticizing government policy on social justice and health issues.⁸⁷

Under conditions of hostility from a party in government at the time makes human rights mechanisms more valuable. There are parallels here to Simmons' (2009) observation that special rapporteurs and human rights review mechanisms empower local actors relative to their opposition. Canadian NGOs expressed that the media and political attention from human rights reviews and rapporteur visits lends legitimacy to critiques of the ruling party. Though Simmons' conclusion is largely drawn from test for a causal relationship between treaty ratification and transitional regime politics, there is no reason to believe that NGOs would not be similarly empowered by human rights obligations where their government is currently falling short of compliance or is hostile to compliance.

The same NGO above mentioned that they operated in a climate of silence also suggested that for them "democracy" is not the determining factor in their venue choices but rather the response from governments that matters most.⁸⁸ Gaining access to policy makers and opposition party members was no barrier to pushing the Canadian government towards compliance. Politicians would listen, even advocate on the socio-

⁸⁶ Canadian NGO Interview, Nov. 21st 2012.

⁸⁷ Canadian NGO Interview, Nov. 21st 2012.

⁸⁸ Canadian NGO Interview, Nov. 21st 2012.

economic issues the NGO advocated for, however, because the ruling party's orientation was largely opposed to taking action to address those issues, there was little chance of policy change outside to elections and a new governing coalition. The Harper government had campaigned, won on, and believed in, a "law and order" orientation towards the socio-economic issues this group worked on. Therefore this NGO saw little prospect in the government changing policies in response to their concerns.

This is consistent with Poloni-Staudinger and Ortvals (2014) conclusion that conservative parties, often hostile to international obligations, increase the likelihood that domestic NGOs will use international appeals and forums as a part of their activism. This lends credence to the idea that the presence of competitive democracy does not create an overwhelming strategic rationale for NGOs to work within Canada's or other democracies' participatory institutions. Democracy, even if competitive and consolidated, can produce politics that are hostile to human rights compliance.

Contributing to the perception of NGOs that political opportunities are constrained in the Canadian case was the fact that public opinion in Canada was deaf to human rights concerns, or more so than society had been prior to the recession in 2008. It is not entirely clear why Canadians viewed human rights concerns as in competition with post-Great Recession concerns, however, it is not a new phenomenon that opinion shifts towards conservative views in the face of recessions (Bermeo and Bartels 2013, 198–199). Much of the policy change required to bring a state into compliance with human rights obligations is naturally subject to requiring a winning coalition and as public opinion shifted towards support for conservative government in Canada several NGOs viewed that shift as a severe constriction of domestic opportunities.

Beyond the left-right party divide in support for human rights compliance in Canada the perception of political opportunities for some NGOs is shaped by past experiences with domestic government. For NGOs working on the rights of first nations peoples there is a long history of ignoring their concerns. Characterizing the overall relationship of indigenous groups, rights, and peoples, one NGO described the relationship as one of “malignant neglect.”⁸⁹ The same group expressed that a history of essentially colonial treatment has contributed to the view that domestic venues must be supplemented by appeals beyond Canada’s borders.⁹⁰ Though this group expressed that Canada’s New Democratic Party – a party having given considerable attention to indigenous rights – being in opposition was encouraging, even when favorable parties are elected into office as a majority they tend to fall short of addressing the concerns of indigenous peoples. The reason is because even when coming into government “... there is significant bureaucratic inertia.. and a lack of will to actually confront the issues which requires a very fundamental confrontation of the foundation of neglect and of disregard that has characterized [Canada’s] policies and I think that the political will is absent when people come into power.”⁹¹ The perception here is not that parties only pay lip-service to indigenous issues, but rather that even when elected parties are unwilling to push to overcome the entrenched policies that leave a deficit in Canada’s fulfillment of its human rights obligations. As it was stated, “there needs to be significant political will to overturn the bureaucratic inertia. And the inertia of past policies that have been ones that are fairly colonial in their content. And that the will to overturn that requires concerted effort and devoted resources. And these [indigenous] issues are not the type that attract that

⁸⁹ Canadian NGO Interview II, Nov. 21st 2012.

⁹⁰ Canadian NGO Interview II, Nov. 21st 2012.

⁹¹ Canadian NGO Interview, Nov. 21st 2012.

concerted attention in the absence of crises.”⁹² The chances for policy shift using only domestic venues is thus viewed as limited because of the lack of incentives for parties to pay attention to indigenous issues when in office. Past failures and a legacy of colonial policies towards indigenous peoples contributes to the perception of a lack of open and fruitful domestic opportunities for policy change. This does not mean that abandonment of domestic advocacy is the best strategic reply, but supplementing it via international shaming through venues like the UPR is viewed as a necessary form of addition activism.

Some of the perceived lack of opportunities in Canada’s democracy in the eyes of indigenous rights activists stems from how statutory law prevents indigenous rights groups from using the full range of domestic protections other groups might. Canada’s national human rights institution, the Canadian Human Rights Commission (CHRC) has not historically been empowered to deal with the rights of “Indians,” in the carefully chosen words of one activist, and that this has led to little engagement with a major domestic institution aimed at pressing for compliance with human rights. As stated, “[until recently] there was an exclusion of application of human rights matters to issues affecting Indians... and there was an exclusion in our human rights legislation for anything to do with the Indian Act. You couldn’t challenge Federal Government action on Indian Government action as being a human rights violation.”⁹³ The Indian Act is the primary law, derived from its 19th century origins, that governs the status of indigenous people within Canada including the governance of reserves. As a consequence of Canadian law having excluded indigenous groups from making use of the CHRC “there was not much that the human rights machinery locally could do in relation to these issues

⁹² Canadian NGO Interview, Nov, 21st 2012.

⁹³ Canadian NGO Interview, Nov, 21st 2012. See also, (Borrows 2010).

[of human rights].” Reaching out then to ever higher levels of government which transcend domestic law was a strategic choice for indigenous groups as it is for many activists the world over (Donnelly 2003).

Tools of Advocacy

Reporting to the Universal Periodic Review has tangible benefits for Canadian NGOs, some of which were mentioned above. Even though the payoffs for using the UPR might have been unclear at the time of deciding to report during the first round of reviews, the low-cost nature of reporting affords NGOs an easy rationale for going forward with a report. UPR reports take relatively little time and effort and offer at least a non-zero chance of bolstering human rights campaigns at home. This section considers how Canadian NGOs understand the probable benefits of UPR reporting as a tool of advocacy and how organizations understand the costs of reporting and participating in UPR country reviews. Among highly professionalized Canadian NGOs there is a clear understanding of how the UPR can be beneficial in their campaigning even if they undertook no careful cost-benefit computation weighing these advantages against the expected effort it would take to utilize the UPR. Activists viewed the UPR as a low cost opportunity through which to press intractable issues and the uncertainty surrounding how to assess the potential of the UPR led several to pursue an “all of the above” strategy to test and see if the UPR might bear fruit.

UPR reports are meant to be short and precise, offering what concrete evidence of target state non-compliance, or compliance in more rare cases, can be mustered by individual or networks of NGOs. At roughly 5-10 pages reports are not burdensome for

most NGOs. One NGO working on social issues in Canada indicated that participation in the UPR is a low cost form of engagement. Writing their report and submitting was “fairly easy,” however, the costs do rise if their group wished to expend additional effort to ensure their issues are included in the final report considered by the designated three main reviewing member states at the UPR hearings.⁹⁴ When asked how burdensome the UPR was overall they indicated that “I don’t think there are huge barriers to NGO participation.” And while the page constraint of 10 pages can be a challenge, “these are issues we’ve written about so extensively that it isn’t difficult to turn them into a briefer summary.”⁹⁵ In complying with page limits at the UPR this organization simply “tried to stick to the page limit so we just distilled [prior work] into a [shorter] submission.” They confirm that the burden of this distillation is not high despite the fact they “don’t have the benefit of interns to write them.” This partly confirms that for NGOs on the ground the UPR’s goal of being accessible by local actors at a low cost to participation is a successful one (Danchin and Fischer 2010).

As a “tool of advocacy” how do Canadian NGOs rationalize using the UPR? “Tools” implies that activists view the UPR reports as a strategic form of advocacy that can buttress other domestic advocacy. “Buttress” (Sikkink 2003) means that UPR reports by themselves are no perfect solution leading to quick compliance, but rather that they can be invoked, publicized, and can reframe public or policy discussions over an issue. Even though several NGOs targeted the UPR without a lengthy decision process in which the UPR was debated as to how it might be useful, activists within these NGOs can look

⁹⁴ Canadian NGO Interview, Nov, 21st 2012.

⁹⁵ Canadian NGO Interview, Nov, 21st 2012.

back and clearly articulate how international reporting can be helpful in their advocacy work.

As tools a tool of advocacy the participation in the UPR offers several types of uses. As human rights norms and laws do in non-democracies reporting to the UPR empower NGOs and sympathetic political parties relative to their opposition (Simmons 2009). Reports to the UPR generate normative pressure which NGOs can leverage in domestic political struggles. Also, reporting to the UPR reports lend credibility to NGO claims to have placed the issue before their government. Elected officials then cannot claim ignorance of a human rights violation as a reason for inaction. Finally, reporting internationally can kick off a traditional “boomerang” pattern in which foreign states respond to information sent by domestic activists with diplomatic pressure for compliance. This section explains and offers examples presented by activists in Canadian NGOs who chose to report to the UPR. How then to NGOs understand their use of the UPR as a strategic tool?

Canadian NGOs make use of UPR reports to empower political opposition to the governing party if that party is violating human rights. Though opposition parties cannot always leverage a policy change they can sync their efforts with NGOs to push back on human rights violations. Because UPR reporting involves NGOs contrasting a regime’s existing record with its normative and legal commitments these reports render more clearly what is morally right or wrong for a government to do. Conclusions from the UPR process and criticisms from peer countries during the review process lend legitimacy to the claims contained in reports to the UPR. Several NGOs from Canada reported that

those reports can be provided to opposition members of parliament so that they might more effectively criticize the government in power.

Human rights reports can empower and fuel opposition parties. When domestic political coalitions are unlikely to win a change in policy the UPR reports from domestic civil society, because they are based on commitments that government has made or on international normative standards, give ammunition to opposition members in legislatures. When thinking about the usefulness of UPR reports one NGO suggested that “the benefits are limited but they’re helpful in terms media coverage in engagement with opposition policy makers who might be able to support something.”⁹⁶ Attention to human rights principles and criticisms by international bodies, including special rapporteurs, can provide a legitimate basis for opposition party members to criticize the ruling party. This same group noted that “when [Canada has been] criticized for something the opposition members will certainly take those up and raise it in the media.”⁹⁷

Essentially, UPR reports allow for opposition MPs to name and shame their own government against some external moral standards, human rights. The more NGOs do the hard fact-finding and sending reports to the UPR the more it creates recommendations from the UN body and foreign countries. This lends additional credibility to the claims made by political opponents of a hostile government. Behaving in compliance with Canadian law is not the only moral standard, human rights provisions carry with them a moral obligation that can be invoked to embarrass the government and engender media attention towards that end. Whether the climate such criticism creates will lead to policy change is not easy for activists to predict, but a hostile climate of public opinion “could

⁹⁶ Canadian NGO Interview, Nov, 21st 2012.

⁹⁷ Canadian NGO Interview, Nov, 21st 2012.

result in a change in government” and that may lead to progress.⁹⁸ But these groups had not yet seen evidence of any such changes in government being influenced by the attention brought by international human rights reviews.

Even when not expecting a direct response from government, some NGOs use the UPR reports as a tool to bolster their own credibility in protracted struggles for redress. Activists can use the UPR to place their issue in the public record so as to develop a lengthy number of instances in which the Canadian government was informed and has been clearly told that they are in violation of treaty obligations. Consistent with the idea that the UPR is a low-cost opportunity one NGO noted that in terms of costs reporting is “minimal work for something that we can add to the public record” because “with the UPR there is not a lot of work involved to just make a written submission.”⁹⁹ Making use of this low-cost opportunity groups press to “focus on this [medical] issue and have it on the record as something that we made a submission to the Human Rights Council on.” Here the expectation is not that international human rights bodies will even respond to the report, but rather by reporting groups “[have] it on the record as something that we as an organization have made a submission to, and we can use it in our domestic advocacy efforts.” Building the public record denies a democratic government the excuse that it was unaware of the rights violations and “if we go to court we can say ‘this is something that we’ve lobbied on countless times including in front of the Human Rights Council’ without an expectation that [the Council] would actually say something about it.” For this group it is also useful for them to point to the public record and say that the “Canadian government is on notice” because of these reports. In media and publications the reports

⁹⁸ Canadian NGO Interview, Nov, 21st 2012.

⁹⁹ Canadian NGO Interview, Nov, 21st 2012.

lend credibility to claims to be able to say we have pursued the government in x,y,z forums and they are aware of the problem. If a group has accomplished this Canada cannot simply deny that the issue exists or that they did not know about the problem. Reports then help to establish that government is a willing violator rather than passive due to ignorance or inability to comply. Overall as a tool the use of UPR reports is meant to spur action on behalf of policy makers because the disconnect between conditions and promises helps push the issue forward on the agenda and as noted above helps policy makers define the stark contrasts between state behavior and state obligations.

Groups also engage in a form of “boomerang” pattern of activism (Keck and Sikkink 1998) in which they aim to shame their government abroad in hopes of bringing at least international social pressure back to push their government to change. Indigenous rights groups especially noted this use of the UPR and international forums. Because “legal remedies take forever, and are very very expensive, [indigenous activists] decided early on [in their activism] that they could obtain political remedies through the international arena.”¹⁰⁰ This same group noted that social pressure is effective “because Canada is sensitive to how it is perceived internationally, and [the violation] is a disgrace...” By spreading information about rights conditions that are inconsistent with human rights standards and radically out of line with the expectations for a wealthy democratic state, activists hoped to leverage social shame to force Canada to take action. This group describes one such effort by stating that “there are conditions that are otherwise seen in the Third World and when that comes to the attention of the international community Canada is embarrassed and then it perhaps does something.”¹⁰¹

¹⁰⁰ Canadian NGO Interview II, Nov. 21st 2012.

¹⁰¹ Canadian NGO Interview II, Nov. 21st 2012.

Consistent with the idea that NGOs perceive the likelihood of policy change on the basis of historical experience, indigenous groups find that sadly “that kind of attention is gotten internationally, in some ways, much more easily than domestically and the UN systems provides an opportunity for that.”¹⁰² This places indigenous rights groups as among the only NGOs in Canada aiming to actually produce something akin to a boomerang pattern of activism. Most of the other NGOs at the UPR from Canada use the UPR to echo pressure directly back to domestic audiences through media coverage, to bolster domestic work they are doing themselves, to build a compelling case in domestic politics about the government’s stubbornness in compliance, and in empowering rival parties against a violating government.

Echoing work at the UPR back into domestic political arenas is not the simplest use of the UPR as it is not easy for NGOs to predict when and how the UPR reports will generate attention. Some NGOs note that getting media attention is easy to get, but it often lacks the sustained coverage necessary for a major shift in policy.¹⁰³ The level of media attention won on a specific issue, in the view of more than one Canadian NGO, scales to the way that an NGO engages the UPR. For groups that dove into the UPR with little experience with international reporting, and of course with the UPR as beginning from 2006 was the first round of reviews, they found that having their issues mentioned in concluding reports by the Human Rights Council (HRC) was very difficult. Having submitted a sweeping general report on rights related to the justice system this group was unable to place its issues on the HRC’s agenda and therefore found it harder to get traction with the media. This group subsequently altered its strategy towards the UPR as

¹⁰² Canadian NGO Interview II, Nov. 21st 2012.

¹⁰³ Canadian NGO Interview, Nov. 21st 2012.

a tool and invested increased resources into the process. That investment took the form of participating in coalition processes in which groups of domestic NGOs working for human rights decide on “themes” for their reports to the UPR. By focusing on themes the idea is that this results in increased attention at the UPR when Canada, or other states, are reviewed. That attention during the review raises the chances that themed issues will make it into the concluding recommendations from the HRC as well as the bilateral recommendations that member states make during the UPR’s dialogue sessions. To accomplish this the investment in time goes well beyond the “low-cost” engagement of groups only submitting reports. As this same group noted, again, “these are issues we’ve worked on and reported on for a long time” so it is not terribly burdensome to create a short UPR report and other groups have confirmed the low-cost nature of reporting alone.¹⁰⁴ But to increase the utility of the UPR as a tool in domestic activism by becoming involved in discussions for themed reports requires man-hours, travel, and significant inter-group coordination. NGOs with greater resources can invest in the types of coordination efforts required by themed reports or can even invest in going to Geneva to lobby their government directly on behalf of their issues. One group suggested that in subsequent rounds of the UPR process for Canada they did talk about the potential costs and benefits of traveling to Geneva or coordinating with groups on a themed report.¹⁰⁵ In each case however the original UPR decision for the first round of reviews was reported as non-controversial and was a project undertaken before a thorough accounting of the costs and benefits of it could be performed.

¹⁰⁴ Canadian NGO Interview, Nov. 21st 2012, Canadian NGO Interview II, Nov. 21st 2012, Canadian NGO Interview Dec 5th 2012 & Canadian NGO Interview Jan 18th 2013.

¹⁰⁵ Canadian NGO Interview, Nov. 21st 2012.

As a tool in domestic politics the UPR can be rationalized as something that can, but with no guarantee and even little likelihood, actually alter policy towards compliance with human rights norms. Several Canadian NGOs look at the decision to report as one they jumped into without significant debate, but also a decision that once committed they were able, based on past experiences, to see some limited possibilities for how the UPR can advance their causes. So even as Canadian NGOs thought hard about the tangible outcomes of the UPR in terms of some utility to their advocacy, it was only in later rounds of reviews that NGOs could realistically calculate those costs and benefits and make a more classically “rational” decision in which preferences are ranked, alternatives are known, and consequences are reasonably predicted.

Obligations and Norms of Activism

When compared to US NGOs the Canadian organizations display less of what in Chapter 3 was referred to as “obligations or norms of activism.” “Telling the world” about the conditions that some Canadians face is hardly invoked as a rationale for using international forums. Where telling the world is mentioned by NGOs it is much more concretely linked to echoing that criticism back into domestic politics so as to shame their government; as tools at home. This differs starkly from US NGOs who were often telling the world about human rights violations as an end in itself as a way to rationalize the choice of the UPR as a venue. For the Canadian NGOs non-strategic rationales drawing more on the norms of activism to were more prevalent as they described why they would submit to the UPR. If norms of activism are the understood beliefs in what types of venues an NGO with an identity of a “human rights group” should make use of, then

Canadian NGOs show that they rationalize using the UPR as an accrued norm from past experiences reporting to international bodies.

In a sort of reversal of the *expansion of human rights* where NGOs' find their issue area absorbed by the larger human rights movement and thus work in that framework, the NGOs that have been actively involved with pressing for the expansion of human rights find themselves making use of the UPR too. For an NGO in Canada working on disability rights their involvement with the creation of the CRPD set them on a path in which they felt obliged to continue to make use of the CRPD. In advocating for the CRPD they "were very involved in the process of the negotiations of the UN convention."¹⁰⁶ And as they were pressing for the CRPD described it as "the best way to think about it is to say that the promotion of these rights [CRPD] has been seen as an inexorable link of our work domestically." Their work abroad cannot be separated from domestic advocacy in the views of this activist for disability rights. Partly that inability to separate the two levels of activism, domestic and international, is because of Canada's long tradition of supporting international human rights. They suggested that "you have to understand that Canada has traditionally been seen itself, and I mean both the government and civil society, as a champion of human rights. So the development of human rights standards domestically and internationally have been strongly interconnected in terms of Canadian perceptions and self-perceptions."¹⁰⁷ This belief in the appropriateness of NGOs from Canada working for the promotion of human rights at home and abroad has no basis in "strategy" or in linking specific actions or tactic to policy change. Rather, one NGO suggested that "we have looked at the development of international human rights

¹⁰⁶ Canadian NGO Interview, Jan 18th 2013.

¹⁰⁷ Canadian NGO Interview, Jan 18th 2013.

standards as something that Canadians contribute to an improved international community.”¹⁰⁸ Making the world a better place for human rights, to this group, is something woven into the fabric of what it means to be a Canadian NGO.

Other groups characterize the expectations of their group members as having developed out of a long tradition of using international bodies. An NGO working on socio-economic rights said it “had always been a part of the mission” of the group to work internationally and it had done so via the “Inter-American Court” and other treaty bodies at the United Nations.¹⁰⁹ Further, this NGO stated that one of their founders had long before steered the NGO towards using international connections for information sharing, networking, and for sharing skills and tactics. This legacy of reaching beyond Canada’s borders created a culture within the group that transcended the parochialism that may lead some domestic NGOs to ignore international bodies.¹¹⁰

Speaking generally about NGO experiences in Canada, groups have a tradition of expecting that the Canadian government would take UN bodies more seriously thus raising slightly expectations for progress from submissions. As a consequences of that more strategic rationale groups have developed routines of participation in international bodies. They have developed staff who expect that regular reporting to the UN is simply a part of what it means to do human rights advocacy as a Canadian NGO. Further it engenders a belief that abandoning these international venues might delegitimize the venues themselves. Thus reporting can be rationalized as tradition and a social expectation within and among Canadian NGOs, and that this results partly from a path-dependent effect of investing in the use of international forums in the past.

¹⁰⁸ Canadian NGO Interview, Jan 18th 2013.

¹⁰⁹ Canadian NGO Interview, Nov. 21st 2012.

¹¹⁰ Canadian NGO Interview, Nov. 21st 2012.

Conclusion

The Canadian case supports the major hypothesis in this project, that with expanded international opportunities for reporting to the UN groups come to report to the UPR via several preconditions. The precondition of human rights frame adoption and the largely information consequences of advocating within that framework lead groups to report to the UPR. As groups are grappling with the uncertainty of persistent issues in Canadian democracy that uncertainty presents a considerable challenge to knowing what opportunities and venues will be the ones that result in progress. Thus, NGOs who are aware of the UPR via their network of partners and colleagues often decide to make use of the UPR in a form of “all of the above” strategy. Canadian NGOs also think about their participation at the UPR as an outcome of normative practices in which they are obliged to make use of international forums because of the routines for reporting they have developed and the belief that if they worked to build an international mechanism, as is the case for the CRPD, they should use it.

Canadian NGOs also explain their choice of the UPR as a strategic tool in domestic politics. Despite perceiving the political environment as hostile to human rights or even civil society during the Howard government Canadian NGOs considered the UPR an important tool in countering that hostility. By employing the credibility that an international condemnation from the UN carries with it these NGOs aimed less for resounding policy change and more so to “nudge” the government along or to block regressive policies.

CHAPTER 6. GERMAN HUMAN RIGHTS NGOS & INTERNATIONAL APPEALS

As a case for investigating the phenomenon of domestic NGOs internationalizing domestic human rights issues Germany shows how a Western European consolidated democracy differs from both the US and Canada. The differences found below suggest that the political environment among highly democratic states does affect the paths through which domestic NGOs report to the UPR.

Introduction and Political Background for German Human Rights

Human rights NGOs in Germany, more than the prior two cases of Canada and the USA, display a division of labor in which larger often national organizations take the leading role in reporting to the UPR. As a consequence the presence of grassroots organizations at or reporting directly to the UPR is limited. Further, Germany shows how NGOs make the decision to internationalize their issues differently in a context where government – federal, state or local – is not viewed by NGOs as hostile to human rights implementation. Germany's human rights NGOs display greater confidence in incremental progress and engagement at the UPR is one among many avenues for NGOs to work with and gain access to legislators, bureaucrats, and other key policymakers.

German NGOs reporting to the UPR display the importance of the adoption of a human rights frame in domestic advocacy. For some NGOs in Germany who were active in transnational networks of activists, the adoption of a human rights frame altogether

was not so new, but rather the inward focus on their home country was an adaptation of a frame they had long used abroad now retooled for domestic advocacy. There are no cases among NGOs interviewed in Germany where their prior advocacy had no international component at all prior to either human rights frame adoption or prior to the initiation of the UPR.

Germany's orientation towards post-WWII human rights norms is deeply affected by the experience and crimes of fascism and the subsequent influence of the postwar occupation by the Allied Powers. The new democratic German society utilized human rights narratives partially as a means to atone for the past and to ensure against future atrocities (Wildenthal 2008). As the Allies heavily influenced the rewriting of the West German constitution, or the Basic Law, protections for human rights were built into the foundation of what was expected to be a new "Western" democracy. Holding that the basic dignity of humans is inviolable, the German Basic Law provides an institutional basis for human rights claims that exceeds most democracies (Article 25). Because what "human dignity" comprises is a contested topic, as judges and legislators interpret Germany's constitution international human rights norms and treaty law, human rights provide compelling definitions that affect legal decisions and place limits on the actions of legislators. The combined result of coming to terms with the past and forging a new national identity in West Germany through respect for human rights supported the eventual growth of a human rights movement in Germany and a general political orientation towards respect for human rights principles.

While divided at the end of WWII, West Germans were early adopters of the human rights mantle and were quick to form domestic NGOs as well as chapters of

international human rights NGOs. Early adoption was partly an outgrowth of post-war efforts to promote democratic “rights” and values in West Germany (Wildenthal 2008), though organizing human rights NGOs in Occupied Germany was nothing if not difficult, requiring permission by the occupying powers. By 1961, without barriers to forming associations in West Germany, activists joined the emerging human rights movement by forming one of the largest chapters of Amnesty International for the next two decades (Wildenthal 2004).

Compared to the US and Canada, Germany’s human rights movement grew up around domestic issues framed as human rights, not primarily civil rights. Whereas the US and Canada saw movements primarily for civil rights in the late nineteenth and twentieth century develop offshoot movements concerned with the human rights of those abroad, Germany’s human rights movement after WWII grew out of a inward-looking concern with domestic politics. Lora Wildenthal’s history of the use of human rights in Germany argues that much of the attention of the early human rights movement in Germany was paid to millions of returning expellees after the war (2012, 8–9). Further looking inward, the human rights movement in Germany aimed to confront the lingering narratives of denying collective responsibility for Nazi atrocities. By the 1960s the movement found another domestic target in Chancellor Adenauer’s conservative politics, anti-communist foreign policy which alienated West Germany from East Germany and any other state that offered recognition to the East, and the concern that Adenauer’s long tenure as Chancellor was undermining the healthy turnover that a democracy emerging from dictatorship needs. Activists for human rights in Germany mobilized around these three issues during the 1960s (Wildenthal 2004).

At approximately the same time as some have argued the human rights movement “matured” and became an influential international social movement (Moyn 2010) the Berlin wall was being erected by the East German regime to stem emigration from east to west, a threat and embarrassment to the East German state (Mazower 1998). German human rights activism in a divided Germany largely reflected the global pattern of strong mobilization after the early 1960s. Mobilization within West Germany during the 1970s was so strong that the Amnesty International chapter in West Germany was “the largest in the world” and was “larger than the United States section” (Wildenthal 2004, 1).

Strength and structure of civil society will likely impact the degree of citizen participation in policy making. In contrast to some stable democratic countries over the last half-century (Putnam 2001), Germany’s civil society has not experienced the same decline but in fact has been relatively stable or growing since the 1990s (Joas and Adolff 2006). This includes traditional membership associations with volunteerism as one of their main objectives, another form of civil society organization that some democracies have seen a decline in (Skocpol 2003). Membership organizations include fraternal orders such as “Elks,” political party organizations such as the Social Democratic Party (SPD) in Germany, and religious organizations such as the German Evangelische Kirche (EKD).¹¹¹ Additionally, labor unions remain a powerful part of civil society in Germany as well (Conradt and Langenbacher 2013; Thelen 1991) and unions are active in promoting human rights as well as labor rights (Cube 1997). Similar to other democracies, these civic associations and advocacy groups in Germany have become more professionalized in their staffing and training across the latter half of the 20th century, part of what some

¹¹¹ Church membership in Germany is an exception as formal membership in a church has declined significantly along with a general trend towards secularization (Wolf 2008)

have called the “NGO-ization” of political and social movements (Lang 2000b). A strong civil society provides the basis for citizens to engage in forms of collective action, including the formation of civil and human rights organizations. Germany is no exception.

Contemporary Human Rights NGOs & Networks in Germany

The relationships between and among Germany’s human rights NGOs significantly shapes the likelihood of both large numbers of NGOs reporting directly to the UPR, as well as how grassroots, or local, the NGOs reporting are. Germany has had a national network of NGOs working for human rights implementation since a few years after Reunification in 1990. Founded in 1994, the Berlin-based *Forum Menschenrechte* (Forum Human Rights) brings together more than 50 NGOs in Germany. As a network organization the Forum has as its mission observing Germany’s compliance with its international human rights obligations via the coordinated efforts of its member groups and other NGOs. It serves specifically as a central hub through which information on disparate human rights issues in Germany is processed, shared, and packaged into research reports for the government and shadow reports for international organizations. Further, the Forum supports local NGOs and links them horizontally to one another via a shared commitment to human rights and links those local groups vertically to government, international organizations, and international NGOs. It also publicizes its members’ activities and human rights issues in general towards the end of raising public awareness of human right conditions in Germany (Forum Menschenrechte n.d.).

Despite the fact that this network of NGOs does not coordinate their formal reports to the UPR with the National Human Rights Institution (NHRI), the *Deutsches Institut für Menschenrechte*, there is considerable interaction between the network of organizations and Germany's NHRI. Further, the *Institut* actively helps NGOs to make use of international forums. According to a top administrator in the *Institut* one of "the hallmarks of the German Institute since its inception, for the Institute it was always important to strengthen NGOs in using international procedures."¹¹² To accomplish this, due to its unique position within a network of NGOs, the *Institut* would "[hold] kickoff conferences... when the state report procedure begins for Germany and is on a specific treaty, [and] when the state report is published we then invite civil society to come together and we provide a forum where they can self organize."¹¹³ By providing a central hub Germany's NHRI helps to disseminate information about when treaty reviews are coming up as well as to aid likeminded NGOs in coming together and bolstering the network of human rights NGOs in Germany. Further, when the NHRI brings NGOs together it aids them by providing a chance for them to "draw up a report and we do this in providing information about experiences from past [NGO] alliances for drawing up a parallel report."¹¹⁴ Report generation is only one of the ways in which the NHRI "cooperates closely" with civil society.

Germany's NHRI also contributes to the diversity of NGOs networking as they make use of international forums. Over the years the NHRI:

...[has] considered [its] role to be that of making sure or encouraging civil society to reach out to non-obvious actors because often civil society is filled with the

¹¹² German NHRI Interview, July 18, 2013.

¹¹³ German NHRI Interview, July 18, 2013.

¹¹⁴ German NHRI Interview, July 18, 2013.

usual suspects but maybe small organizations that are not in the mainstream networks of human rights NGOs but that have a lot to say on a particular issue.¹¹⁵

The *Institut* finds these organizations that have specialized knowledge but may not be using a human rights framework and:

we give them a chance to be on board if they want to be part of an alliance. [However], sometimes they don't want to be part of an alliance and want to submit their own report because then they think their voice is clearer than being part of a huge report where you may have to make compromises.¹¹⁶

Overall, these smaller more diverse NGOs make their own determination because the NHRI does not attempt to push groups to work together. The NHRI, rather, provides them the platform and network connections to be able to choose to work together if the NGOs deem it prudent. This leads to fewer small, grassroots, NGOs in Germany making direct use of reporting to the UPR.

Preconditions & German NGOs

The German case reflects similarities in preconditions to the other two national venues, the US and Canada. Groups find the UPR by adopting a human rights framework for their activism and this conditions the venues they subsequently choose. One way in which German NGOs came to adopt a human rights framework for domestic advocacy sticks out, international conferences. It is clear that the UN World Conference on Human Rights, or Vienna Conference, in 1993 was a focusing moment for German NGOs to turn inwards with their advocacy for human rights and begin to hold the German state accountable for its international obligations to uphold human rights. More than the prior cases of Canada and the USA international conferences have been the focal point for the

¹¹⁵ German NHRI Interview, July 18, 2013.

¹¹⁶ German NHRI Interview, July 18, 2013.

organization of a formal network of NGOs working for domestic human rights in Germany.

International Conferences and Frame Adoption

As in the prior cases of the US and Canada, NGOs often come to adopt the human rights framework through either individual experiences, group discussions, or pivotal events such as Canada's Year for Human Rights in 1968. Frame adoption for many of the NGOs in this study in Germany took root via their participation in international conferences on human rights.

In the early post-Cold War period several pivotal international conferences brought together civil society actors, states, and UN agencies in response to pressure from the international human rights movement. The Fourth World Conference on Women in 1995, or Beijing Conference – the final in a series of conferences over two decades – was the culmination of successful pressure from, and the growth of, the international women's rights movement. Activism at the Beijing Conference succeeded in “gendering the agenda” of the UN and partly the human rights movement agenda as well (Friedman 2003)(Quataert 2009).¹¹⁷ The end of the Cold War also prompted an effort to revisit the human rights regime in the light of new the global political power balance (Boyle 1995). The World Conference on Human Rights held in Vienna in 1993 was meant as a reassessment of where human rights stood at the dawn of a new era of global politics and

¹¹⁷ The increasing international women's movement across the four conferences over 20 years is a good indicator of increased pressure on the UN, states, and the human rights movement to take gender seriously and integrate gender into human rights instruments, laws, and campaigns. Friedman notes that at the first conference on women in 1975 there were roughly 6,000 attendees working on women's rights and by Beijing attendees had swelled to over 30,000 (Elisabeth Jay Friedman 2003, 313). For an account of the success of women at this and other conferences around this time see (Clark, Friedman, and Hochstetler 1998).

an attempt to define how the global community of states and civil society should proceed in realizing the human rights vision. In this new geopolitical environment over 800 NGO participants (UN Secretary General 1993, 9) in Vienna discussed the indivisibility of the various human rights contained in the UDHR and other human rights treaties (Shawki and Cox 2009, 29). Meaning that in contrast to the view that human rights are a menu from which some locals could select to comply with those they agree with, that the enjoyment of one set of rights could not be realized without the realization of all rights. Political and civil rights could not be fully enjoyed if one is too impoverished to exercise them. Economic rights of having basic needs met, or cultural rights, are not realizable if one cannot participate in collective decision making within one's state.

Vienna in 1993 also focused on how human rights law and norms could be integrated into all levels of government and governance, international, national, subnational/state, local levels, and even among private actors. This led to increased attention to human rights compliance in all states, democratic or otherwise. After Vienna, states that had not already, were expected to create independent domestic monitoring institutions for human rights compliance, or national human rights institutions (NHRI) (Cardenas 2011).¹¹⁸ Among nongovernmental actors, towards the purpose of implementation of human rights, domestic NGOs in Germany turned their attention towards their own government's record in response to Vienna as well.¹¹⁹ Immediately after Vienna (1993), German NGOs collectively formed the *Forum Menschenrechte* as a

¹¹⁸ The German government unanimously founded its NHRI, the Deutsches Institut für Menschenrechte (German Institute for Human Rights) in 2001 in response to the concluding documents from the 1993 Vienna conference. See <http://www.institut-fuer-menschenrechte.de/en/about-us/faqs.html#c2786>.

¹¹⁹ The perception of NGO participants at the Vienna +20 Conference in Berlin, Germany in 2013. Author was in attendance.

means of coordinating efforts to monitor and influence Germany's compliance.¹²⁰ No longer was it sufficient for human rights organizations to be outward looking, policing the behaviors of foreign states only. In order to foster coordinated reporting on Germany's human rights record, the Forum provides important networking functions by keeping member organizations connected to one another, by linking them with NGOs in other countries working on similar issues, and in reporting to international institutions it helps to coordinate shadow reports from member organizations (*Forum Menschenrechte* n.d.). For some NGOs that participated in the UPR reporting, the influence of the Vienna conference in 1993 and the subsequent formation of the *Forum Menschenrechte* is more than just information flows and networking.

For one NGO working on economic rights the Vienna conference provided the turning point at which the group adopted a human rights framework for their work. Around "this process we started to have a focus on human rights, immediately after the Vienna assembly of the United Nations in 1993, so in the meantime we were one of more than 50 organizations who joined a platform called Forum Human Rights."¹²¹ Inextricably linked with the turn to human rights and joining the Forum was Vienna's increased attention towards domestic implementation of human rights. From the view of this NGO it was a central motive of the founding members:

In that platform [the Forum] the common objective was to lobby for the promotion and implementation of human rights and even for the improvement or development of standards in Germany, in different regions of the world, and globally. So from the beginning [the Forum] had the perspective to work for human rights outside Germany but also inside...¹²²

¹²¹ NGO interview Feb 7th, 2013.

¹²² NGO interview Feb 7th, 2013.

International conferences such as the Vienna Conference helped to deepen the domestic orientation of Germany human rights organizations by defining the post-Cold War human rights agenda as universal compliance with renewed focus on domestic politics all states.

Beyond specific conferences, as noted in Wildenthal's (2008, 2012) work, post-war Germany has had a strong relationship with human rights as a framework for activism and a robust set of formal human rights organizations like Amnesty International. Though no organization interviewed pointed to this broader culture of human rights acceptance in Germany it is worth noting that the application of rights frames for a broad range of issues in Germany is less controversial than somewhere like the United States and the German state has willfully enmeshed itself in the European human rights regime, the strongest of its kind in any region of the world (Moravcsik 1995). That this broader culture and history would not steer some groups towards human rights frame acceptance is difficult to imagine, even without direct evidence of its influence. At least one NGO hinted at this effect as it discussed its long tradition of being involved with human rights advocacy abroad and at home. This NGO working on social issues said that making use of human rights in domestic activism "...fit quite well to the nature of our organization."¹²³ Because this primarily domestic NGO had international connections and sometimes advocated for human rights in other countries:

...and doing international advocacy work with our government but on the other side also having members here in Germany promoting human rights in Germany and saying "this is not something only related to countries in the South." It is also an issue that has to be addressed everyday... and also in the context of a democratic country like Germany.¹²⁴

¹²³ NGO interview Feb 7th, 2013.

¹²⁴ German NGO Interview, Feb 7th 2013.

This NGO expressed that there was a fundamental belief in the universal nature of human rights and because of that universality it necessitated that they advocate on all fronts domestic and international.

Expansion of the Human Rights Agenda as Precondition

For some groups, being involved in a global movement that has collectively adopted a human rights frame and/or has struggled to create new human rights mechanisms covering new issues or target groups can tilt them towards both a human rights frame and provide experience and incentives to work at the international level. Among the core United Nations human rights treaties only the Convention on the Rights of People with Disabilities (CRPD) was created in the 21st century, the first since protections for migrant workers was instituted in 1990.¹²⁵ In Germany the timing of the emergence of an international disability rights movement and its victories in creating international mechanisms established patterns both in the frame shift to disabled rights as human rights and patterns in the use of international organizations in domestic activism.

International activists working for the recognition and codification of the rights of the disabled in Europe had targeted the European Union for several decades before the CRPD was finalized. Though through the 1970s and into the early 1980s the EU held conferences, workshops, and worked to develop expertise on disabled peoples' issues, the early efforts shied away from attempting to establish clear rights and rather focused on the provision of welfare benefits (Kelemen and Vanhala 2010). Meanwhile in the 1970s

¹²⁵ Excluding expansions of prior treaties via Optional Protocols. For the list of what the UN OHCHR considers to be the core treaties see <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>.

West German (FRG) disability rights NGOs and activists struggle to coalesce and gain traction in the media and to make their issues known to the wider public. The watershed moment for the German disability rights movement came in reaction to a 1980 court decision awarding “a vacationer a reduction in travel expenses because she had to bear the sight of severely disabled persons on her well-earned travels” (Klee 1980; Köbsell 2006). The “*Frankfurter Urteil*” (Frankfurt Judgement) provided the focal point around which the movement significantly mobilized. At nearly the same time West German disability NGOs were bolstered by the UN’s designation of 1981 as The UN Year of the Disabled and used this international linkage between the UN and disabled rights to engage in contentious, disruptive protests by interrupting events held by German government officials to recognize the “UN Year” (Köbsell 2006; Poore 2007). The demands of the disability movement in Germany at the moment when the public were paying attention had moved from accepting policies of accommodation to demanding rights on the basis of equal treatment norms. By linking the demands of disabled people to the broader movement against discrimination and rights to equal treatment in the 1990s German activists, as well as those across Europe, were able to shift the EU towards a “rights” model in developing directives and mechanisms (Geyer 2013; Kelemen 2011; Kelemen and Vanhala 2010). Disability activists in Germany and around the world continued to press their concerns at the UN, ultimately facilitating the development of the CRPD and its opening for signatures in 2006.¹²⁶

Because the struggle for the rights of the disabled in Germany intersected with the a transnational and international effort to negotiate and codify these rights into

¹²⁶ That once the CRPD was opened for signatures it enjoyed the most rapid rate of signatures of any core treaty at the UN (Vanhala 2014, 326) shows partly the exponential success of the disability rights movement and increased norms of adoption for UN human rights treaties in the post-Cold War era.

international legal mechanisms, activists continuing to work on these issues have ample exposure to both the human rights framework for understanding rights and to the international institutions at their disposal to enforce them. For one group in Germany participating at the UPR the prior experience of working for international mechanisms (CRPD) set them on a path to build networks around, and to utilize those mechanisms. Disability groups coordinated with the German government during the negotiations at the UN over the CRPD. The German government provided funding to bring the concerned NGOs to New York and included a representative from civil society into German delegation. This inclusion led to significant parts of the suggestions made by Germany during the negotiations reflecting the priorities of disability activists.¹²⁷ Having used their influence in lobbying the German government to shape the CRPD disability activists in Germany set about adding ratification and subsequent compliance as important “next steps” for their work.

As in the Canadian case, the expansion of human rights in the form of the CRPD and NGO involvement in framing this agreement led domestic NGOs working on the push for a treaty on the rights of the disabled to continue to make use of a human rights framework in their activism as well as to make use of these new international opportunities for advocating change. As in the Canadian context, in which local NGOs worked to create international human rights mechanisms, German disability activists never questioned the appropriateness of making use of these mechanisms once available. German and Canadian disability activists believe in the potential of international human rights mechanisms such as the CRPD in moving state behavior closer to full compliance.

¹²⁷ German NGO Interview July 18th, 2013.

Thus, the decision to make use of venues like the UPR, which includes the CRPD as one basis for review, is essentially made at the point in which NGOs press for the creation of new treaty law and normative obligations for states. NGOs do not work to build international mechanisms they intend to subsequently abandon. Rather, disability activists in German and Canada show that by establishing new international mechanisms for human rights protections creates an expectation or reporting and using the new mechanism among NGOs involved.

The Consequences of Adopting a Human Rights Framework

Groups working on issues that have been taken up by the broader international human rights movement often cultivate links to transnational networks of activists and to international NGO networks. As mentioned in prior chapters these links make groups more aware of international opportunities when they arise. This effect in Germany does not differ from the effect in the US and Canada, with one exception. Germany's NHRI plays a role in actively linking human rights organizations together and thus an NGO not working within a human rights frame but rather with substantive competency on a certain issue can be pulled into contact with human rights organizations. However, the evidence from Germany's reporting to the UPR suggests that not many smaller NGOs do get involved in submitting reports to the UPR. With only eight domestically-focused NGOs reporting to the UPR during the first round of reviews, Germany has by far the smallest number sending reports when compared to the US and Canada. This is likely because smaller NGOs may be asked only to offer their expertise to a larger NGO that will subsequently generate a report on some larger issue.

NGOs operate in a more hierarchical manner as they network compared to how they network somewhere like the USA. This was apparent in the case of an organization working on trafficking of women in Germany that reported to the UPR. The larger organization “reached out” to smaller NGOs running shelters for violence against women across a German federal state and compiled that information into a larger report. But the report was compiled, edited, sent, and advocated for by the larger NGO that had requested information from the smaller NGOs.¹²⁸ This is consistent with Germany being a “corporatist” state in which semi-official organizations in civil society work closely with the state on whole issue areas and smaller NGOs are either subsumed or provide a supporting local role for larger state-recognized NGOs. So even as the NHRI in Germany makes attempts to pull smaller groups in civil society up and towards international forums, their presence at the UPR is thin at best and non-existent at the other extreme.

As is shown in more detail in Chapter 3 Germany and other states in Central and Northern Europe have fewer small NGOs involved in reporting to the UPR because of the structure of their NGO networks.¹²⁹ Networking among human rights NGOs in Germany is dense. Larger professionalized NGOs work in close consultation with one another, with the help of smaller more local NGOs, but the division of labor is such that actual reporting and international activity is disproportionately done by the larger human rights NGOs. Those larger NGOs are often those that are members of the Forum Menschenrecht. In contrast to the Canadian case, and in particular the US case, smaller grassroots German NGOs are not involved directly in reporting to the UPR.

¹²⁸ German NGO Interview May, 2013.

¹²⁹ On key exception to this is Sweden’s network of NGOs.

Explaining Participation in the UPR

Perceptions of Political Opportunities

German NGOs at the UPR do not offer the same perceptions of the domestic political opportunity structures as the US and Canadian NGOs do. Though a smaller number of NGOs, the German activists express a view in which policy progress is possible, even likely over a number of human rights issues. There were no utterances across any of the interviewed German NGOs or the NHRI concerning a hostile government or even hostile public opinion. This of course does not suggest that human rights compliance in Germany is easy or automatic. Rather, it suggests that activists simply view their domestic opportunities for change quite favorably. A view that a stable democratic government is open to substantive change to address human rights concerns mitigates against the need to use the UPR to considerably bolster domestic activism.

Tools at Home

The nature of consultations with the German government on human rights is far more regularized, less contentious, and more formal than it is in the cases of the US and Canada. With primarily several large organizations having close connections to the German government the smaller more contentious organizations may be effectively blocked from participating. However, there is no evidence from interviews or at the UPR that smaller German NGOs are choosing to reach out to try and bypass the state's tight relationship with formal large organizations like labor unions and large human rights NGOs such as the Forum Human Rights. If there were any proclivity among small

German NGOs to make use of the UPR, as this project has established in Chapters 2, 3, and 4, the UPR is a low-cost endeavor and the barriers to bypassing democracy are not steep at all for even the smallest of NGO once aware of the UPR. Further, because the NHRI makes an effort to promote the UPR and other international mechanisms to smaller NGOs the awareness of the opportunity is easily as widespread as it is the US and Canada.

Despite civil society having a close relationship with the German government in complying with human rights, the UPR still adds some value to activists' efforts at home. With the UPR one group notes "we had a standardized mechanism [the UPR] which *forces* the German government to report on its own performance" and though there are other international instruments for reporting, "but in this way the UPR is an additional and new or more well known instrument than maybe some other mechanisms which you will find the in the UN system."¹³⁰ The prominence of the UPR as a new venue offered additional opportunities to gain attention from the media and political parties for human rights concerns in Germany.

Grappling With Uncertainty

Concerning how groups process the likelihood of positive outcomes from a particular mode of activism, German NGOs express clear visions of the chain of actions proceeding from report submission, to interactions and discussion with domestic government officials, to either regulatory compliance or changes to statutory law in line with concerns brought up at the UPR. This is among the most stark differences across the

¹³⁰ German NGO Interview May, 2013.

three country cases and all NGOs interviewed. Canadian and US NGOs in several cases suggested that making use of the UPR was part of what I have called an “all of the above” strategy of activism. Groups make use of the UPR precisely because of either a hostile government in power or because local politics has produced an intractable human rights violation that “democracy” as the will of the majority fails to respond and where rights protections in domestic law have proven insufficient for contesting issues in court. Nothing of the sort was expressed by German NGOs. Of course, that does not mean that German NGOs see all issues as simple to solve. Indeed, issues such as racism, gender bias, the treatment of migrants or sexual minorities, or the disabled remain major concerns in Germany. However, across interviews in Germany with human rights NGOs none expressed that the government essentially refused to respond at all to the issues they raise. As a partner in governing with the human rights portion of civil society, from the evidence at hand in the interviews conducted, the German government is at least a potentially cooperative partner.

German NGOs were able to articulate from experience how the UPR can lead to the improvement of human rights, whereas in the other two country cases that was rare at best. For German NGOs, reporting to the UPR will move information to the UN, create commitments for their government, and subsequently NGOs can link those commitments to responsible parties within government or raise public awareness. Those commitments and responsible parties then progress through NGO-government consultative process moving towards a policy shift, and eventually to increased compliance. To illustrate how German NGOs explain this process I will quote one at length:

The UPR can be taken as an example of how you slowly can make certain progress. Always with human rights you can say the glass is half full or half

empty. It depends a little on the perspective. But taking the Universal Periodic Review, when we had the first UPR with Germany four years ago, you know there was no real consultation with the civil society. It was just an ad hoc meeting with a few people and I was then there on behalf of a [large human rights organization] in Geneva to give a press conference addressing some issues in [the government's] report critically. And at that time the German government, even the [Geman] Foreign Affairs Ministry, the Human Rights Commissioner, there was of the opinion that it isn't just busy-ness to deal with the UPR because it concerns internal things in Germany. So in the last four years we have tried to convince the German government saying 'look take this UPR very seriously' [because] it is a, it is not just a formal thing. It [the UPR] will portray also outside to what extent Germany seriously reflects on its own obligations with regard to human rights and whether it is serious with implementation. And it didn't look like this here but in the end the Human Rights Commissioner from Germany invited us for a public discussion of the UPR in December in Berlin. So we had it in the [nearby university]... and I think that was a major achievement. And when you can see then a discussion or when you look at the discussions we've had throughout the past years for many ministries and in the Foreign Ministry they know exactly what the UPR is about and what is expected [of] Germany.¹³¹

For this NGO the process of engagement with the German government, creating "buy-in" from the government overall was not difficult and this opened doors to pressure for human rights progress. However, not all agencies of government were equally receptive. But for other ministries it is very unusual that they are challenged or they have to report back on certain human rights obligations and they are maybe of the opinion that 'oh that's something very far away, we have our national laws and procedures and that's it, [and] there is nothing from outside which can challenge us.' And so we try to lobby with others to overcome this attitude. For instance when the Special Rapporteur on Education visited Germany some years ago the reaction and some critical remarks on [their] report were quite similar to the reactions you will see when a report is issued on Iran or some other countries where they will also blame the rapporteur for being totally incompetent, that he does not know anything, or she does not know anything. While there was

¹³² German NGO Interview May, 2013.

backlash or resistance from some ministries, the experience of this activist was that the UPR has created new avenues of pressure and cooperation between human rights NGOs and the German government.

So I think we try with our human rights approach to bring the international obligations closer also to our country and our government. As an organization... I think in the last years when you look ask progress you can see for instance in the Ministry for Development Cooperation (BMZ), they took up the human rights issue very seriously and they even have a criteria system for their programs and projects on human rights and when you look in the coalition platform of the present [CDU] government, human rights will be always there. It is something important and they have some quite important issue that they want to address, [such as] minority rights, religious freedom and others.¹³²

There is clear optimism about the uptake of human rights as a concern within the German government and this NGO was able to articulate further how policy change can come about from advocating via the UPR. Agendas in agencies can be set through lobbying pressure from NGOs and there is genuine view that change from advocacy is possible. “Bringing human rights home” (Sooahoo, Albisa, and Davis 2008) in Germany is less contentious than what NGOs in the US and Canada report in this study. However, that is not to say that there is no evidence of “Democracy Trap” in Germany. The democracy trap is the defense of human rights violations by a democratic state by invoking the existence of democracy within the state. Where leaders suggest that a specific violation is not worthy of criticism because the government is democratic they are setting a democracy trap. NGOs working to pressure their governments to address human rights violations are trapped by the invocation of “democracy” because their appeals, information, and reports rely the perception of other countries, international organizations, or domestic constituents. Democratic leaders can deflect specific critiques

by appeal to democratic processes and the assumption by audiences that violations are aberrations or will be self-correcting and therefore not worthy of outside attention.

In this explanation of the fairly clear value of using the UPR and international forums in Germany, this NGO makes reference to prior opposition within ministries in which politicians criticized UN rapporteurs and invoked “our laws and procedures and that’s it” as a means to block the applicability of international standards to domestic bureaucracies. The difference in the German case and among the NGOs in Germany is not in principle that the German government and all of its subsidiary agencies never invoke “democracy” as an excuse for the inapplicability of human rights to domestic politics. German NGOs do not report government invocations of democracy as a reason for making UPR reports. The UPR is not valued as a means of challenging Germany’s democratic reputation. Rather, government invocations of a democratic reputation is cited as at least one NGO’s reason for using a human rights frame and lobbying the agencies directly. NGOs adopt human right language in interactions with policy makers so as to convince them to no longer see German democracy as beyond human rights criticism. And unlike the US and Canadian cases, the German NGOs cast their experience with such lobbying as generally productive, rather than contentious.

Conclusion

Why are fewer German NGOs present at the UPR? Activists in the USA and Canada provide evidence that how they perceive the political opportunities of their home country conditions the venues choices they make. The same may be true of German NGOs. German NGOs reporting to the UPR simply are not nearly as frustrated with a

lack of progress as those in the US and Canada. It is clear each NGO interviewed has had success in moving towards compliance in consultation with the German government.

There are two possible reasons the data from interviews shows this pattern. First, German NGOs genuinely have a productive cooperative relationship with policy makers and therefore the UPR reporting is more about the implementation of civil society's role as watchdog in helping the German government comply. This would suggest government and civil society working in a less adversarial manner in which each understands their role in moving towards a largely shared goal of compliance. Alternatively, this image may emerge by virtue of a selection effect in which NGOs not given privileged positions relative to policy makers perceive their opportunities as far more restricted but did not report to the UPR and thus are not included in this study. The latter seems unlikely given that both the US and Canadian NGOs who perceive a restricted or hostile political environment frequently do take their issues to the UPR. If anything, if there were a large number of frustrated German NGOs who view the government as inaccessible or hostile they would have been likely to participate in the UPR process. That the corporate model of state-civil society relations shapes the prevalence and rationales behind why German NGOs make use of the UPR is the most probable explanation. In a corporatist system, in Schmitter's (1974) oft-cited conception, NGOs or portions of civil society are granted a monopoly on direct government access in a given issue area. Though the NGOs forming Germany's human rights network (*Forum Menschenrechte*) are certainly not a monopoly they do enjoy access and coordination with government entities such as the NHRI that smaller NGOs do not. That large professional German NGOs are comparatively more empowered and influential in policy making networks is not a novel observation in and of

itself. Others have shown that Germany's NGOs are an integral part of policy making in realms such as the environment (Foljanty-Jost 2005).

The relative hierarchy among German NGOs engaged in human rights work, despite the efforts of the NHRI to pull a wide range of smaller organizations into being involved in thematic human rights reports to the UPR, ends up preventing these smaller groups from reporting directly to the UPR. Systematic research has shown that Germany's NGO sector is highly corporatist and restrictive (Bloodgood, Tremblay-Boire, and Prakash 2013) and thus it is not altogether surprising that the consequences are seen among human rights NGOs as well. On the ground this looks like the larger organization in Berlin working on violence against women choosing to draw on information from a network of NGOs operating women's shelters, but ultimately compiling that information into a report that the larger organization would press at the UPR and with the German government, leaving smaller local groups to their frontline functions and away from lobbying. Though some have noted that NGOs can act as a form of "mediator" between the individual and government, in the German case they suggest that hierarchy among NGOs complicates that mediator role. Sabine Lang's work on communication strategies of German NGOs, though not addressing international-level divisions, puts it well:

There is an increasing division between big, resourceful, and diversified NGOs, on the one hand, and small, financially less potent, single-issue-oriented NGOs, on the other hand. The... state often makes use of resourceful NGO collaborations while failing to integrate smaller NGOs and less formalized citizen groups into the political process. Access to institutionalized local political communication processes, therefore, has only been democratized for some. Moreover, within new governance schemes, the local German state retains the power to redistrict the boundaries of communicative inclusion (Lang 2000a, 386).

Rather than the local state in this case it is the NHRI and the German state overall that does not manage to engender the integration of smaller NGOs into reporting to the UPR.

And, unlike the politics of the US's much more pluralistic system, the smaller NGOs are less likely to find themselves at the UPR of their own accord. This is true even though the UPR's barriers to access make it far less "corporatist" than most of the rest of the UN system that empowers large international NGOs through "consultative status" thus restricting access to smaller less-resourced groups (Martens 2001).

Beyond the perceptions of political opportunities and the structure of civil society, the German case shows preconditions comparable to the US and Canadian cases. Groups adopting a human rights framework are funneled towards the use of international mechanisms in which arguments based on human rights law and state obligations "fit" with the basis for review of the venue. The overwhelming pattern among German NGOs is the adoption of a human rights frame for their domestic work either after the 1993 Vienna Conference or the expansion of the human rights agenda to include an NGO's issue area, disability rights in most cases. In a sense Vienna 1993 can be viewed as an expansion of the human rights agenda as well. Despite Vienna 1993 as typically characterized as asserting the universality and indivisibility of human rights principles against the challenge of cultural relativism (Quataert 2009), NGOs in Germany recall another pivotal development out of the conference. Because universal applicability of human rights norms was a theme of Vienna 1993 it suggested that domestic NGOs in democratic states should work to more closely monitor their own governments' records. By focusing inwards to governments at home, rather than only countries abroad, Vienna 1993 put home governments on the human rights agenda and asserted the necessity of applying universal principles – which had for decades been rigorously applied to the global South – to domestic governments in the West as well.

CHAPTER 7. CONCLUSION

This project has asked why civil society organizations such as domestic human rights organizations in highly democratic countries feel the need to make use of multilateral forums such as the United Nations' UPR.

Human rights norms have an inherently international component in that they represent globally shared standards of behavior but realization of human rights within states typically does not require the coordination of other countries (Simmons 2009). Most if not all of the human rights concerns of the NGOs in this study and contained in the reports sent to the UPR from highly democratic states do not spill over national borders. Countries need not sync their welfare policies to ensure that they sufficiently comply with the human right to food or basic shelter. Ending racial inequities in policing or gender discrimination in employment is wholly achievable by any single wealthy democratic state without regard to how a neighboring state is performing on these issues. Unlike with global environmental degradation, or concerns with the potential detrimental effects of international trade agreements, activists need not target international forums to push multiple states to coordinate, or in the case of trade to cease coordinating, their policies. Activism is not pulled upwards towards international organizations for the purpose of pressuring or aiding states in policy coordination. Further, in the case of reporting to the UPR domestic NGOs are not attempting to create new norms or law which might necessitate engaging international organizations (e.g. Clark 2001). NGOs in

highly democratic states have different rationales for making use of international forums as a venue for their activism.

The international relations literature on why local groups reach out beyond their borders has been heavily shaped by Keck and Sikkink's (1998) work on transnational activism. Keck and Sikkink's influential conclusion is that if activists at home are going to go shopping for political venues that can effect some change in their government's behavior they will seek the venue with the most open political opportunity structures such as sympathetic allies, lack of repression and fear of retribution, and institutions that will allow them to participate. Activists are aided in accessing international venues through links and information exchange with transnational activist networks comprised of NGOs, journalists, and policymakers. In response to Keck and Sikkink's supposed assumption that transnational networks are efficient transmitters of local activists' concerns some have investigated how international NGOs and international organizations are highly imperfect in taking local issues to international audiences (Bob 2005, 2010b; Carpenter 2007a, 2007b). This strain of research concludes that "gatekeeper" organizations are responsive to how locals frame their issues and how well local issues "fit" with pre-existing issues that these gatekeeper organizations work on. Poor fit will lead local groups to possibly repackage their issues into new frames, or will lead to contention between local activists and international NGOs over the scope and nature of what belongs as part of the human rights "agenda." Both groups of scholars root their explanations in a combination of domestic and international political opportunity structures. That is, they ask about how "the openness to new actors" and the "availability of influential allies" and the "extent to which the regime represses or facilitates collective action" (S. Tarrow and

Tilly 2009) at both the international level and domestic level combine to alter the venue choices that local activists make. Activists facing repression at home make use of international venues and allies if possible. When repressed at home and transnational networks are unresponsive activists struggle against networks in order to add their issues to network agendas and create openings abroad. Thus, international relations scholars have strong expectations where domestic-international opportunity structures are configured as closed-open and as closed-closed. Neither of these strains of work pay much attention to the case of activists in highly democratic states who have easy access to international forums, open-open.

Considerable attention has been given to the influence of international organizations on domestic politics in democratic states and how civil society responds (Abbott and Snidal 2009; Follesdal and Hix 2006; A. Moravcsik 2004; Nye 2001; della Porta and Caiani 2009, 2009; Steffek, Kissling, and Nanz 2008). Where an international organization such as the World Trade Organization (WTO) influences domestic policy, and are closed to domestic activists, domestic civil society groups including trade unions and environmental activists will predominantly target domestic government in their activism. Insofar as they target international and intergovernmental organizations domestic activists are outsiders pressing for institutional reform towards democratizing organizations like the WTO. Thus, the combination of open-closed creates a “democratic deficit” between domestic and international venues that activists respond to by making use predominantly through domestic politics and protest against closed international organizations. Taken together with arguments drawing on closed-open and closed-closed configurations of political opportunity structures these literatures answer all but one

combination, open-open. To an extent this study investigates the reverse of the democratic deficit; where democratic institutions at home are less open and responsive than those abroad, but are not repressive.

Table 7.1 Extended Internationalization Patterns in the IR Literature

		<i>Domestic Political Opportunity Structures (POS)</i>	
		Open	Closed
<i>International POS</i>	Open	Frame and Network Effects Challenges to Democracy Trap Uncertainty of Persistent Issues Obligation & Activism Norms	“Boomerang” Pattern of Activism and/or Resource Hunting from Domestic Activists and NGOs
	Closed	“Democratic Deficit” Primarily Domestic Protests Target International Institutions Domestically	Human Rights Agenda Struggles or Failed Mobilization

The overarching goal of this project is to begin to understand the behavior of domestic organizations who face the combination of open-open, or democracy at home and easily accessible international institutions. The overwhelming expectation of literature drawing on relative openness of political opportunity structure combinations is that in the case of open-open there will be little internationally-oriented mobilization by domestic activists. Sikkink makes this explicit in a short case study of Argentina where she argues that activists will use international venues sparingly while focusing most of their efforts in domestic venues (Sikkink 2003), but does not develop this argument further. This project takes a close look across three highly democratic and wealthy states

and considers several dozen domestic groups who face the open-open configuration and do choose to engage international venues in their activism, and some who make international venues a major portion of their efforts such as groups involved with networks like the US Human Rights Network and the *Forum Menschenrechte*. Among the panoply of civil society organizations in highly democratic states any group making use of international venues represents an outlier or deviant case. This project asks why some NGOs out of the many in these states become deviant cases, what leads them to international institutions. Why do these groups expend time and effort that bypasses democratic institutions in their home states?

Why Domestic NGOs in Democracies Use the UPR

Groups who occupy the open-open combination of political opportunity structures make use of international institutions through a combination of two types of influences, preconditions and *post hoc* explanations. The two major preconditions identified here are the lowering of costs to reporting to UN forums and the adoption of the human rights framework by an NGO. Preconditions such as the creation of cheaply accessible international venues, or the easing of rules by which NGOs can access international forums, make the cost of targeting these institutions lower for domestic NGOs, especially highly local rather than national organizations. As detailed in Chapter 2, the trend in international institutions is towards lowering barriers to access and participation and the UPR is among the lowest of cost international venues. The proliferation of human rights treaties has created a myriad of venues that local NGOs can target (Bayefsky 2000; Bayefsky 2003). Though any given NGO does not control the degree to which

international organizations are permeable to activists, the collective efforts of human rights and other activists has contributed to the development of increased access to international organizations (Clark, Friedman, and Hochstetler 1998; Korey 1998; Quataert 2009). The second precondition which steers particular NGOs to use international forums is the accumulation of past experiences and choices a domestic organization has made. Principally, this project has singled out the adoption of a human rights framework as a nearly necessary condition for choosing to report to the UPR. Taken together these preconditions define one international context, easily accessible international forums, and one group-level determinant which steer a subset of a democracy's domestic NGOs towards internationalizing – or in this project reporting to the UPR.

Preconditions

This project finds that highly accessible international institutions is an important precondition explaining why some domestic NGOs in highly democratic states easily choose to internationalize their efforts. Low-cost access to international human rights mechanisms such as the UPR or treaty review bodies makes the expansion of domestic activism to international bodies a fairly uncontroversial decision within NGOs. NGOs need not have any particular status with the UN in order to be involved and this allows local or smaller domestic NGOs to repurpose and repackage much of the advocacy research they already have without an arduous additional task of applying for “consultative status” with the UN. This precondition means that a wide range of domestic NGOs are able to make use of the UPR, as is evidenced by the fact that at least two of the

NGOs interviewed were essentially single-person organizations and several others were small resource-limited groups. The organizations interviewed in this project all agree that UPR reporting is not an overly heavy burden on their resources, so opting to be engaged with the UPR during the first round of reviews was not a narrow process of careful cost-versus-benefit decision making.

The degree of resource pressure that the UPR places on an organization does scale to the size and whether the group is larger and highly professionalized or smaller, local, and staffed by activists who are not necessarily professional activists. Where groups have professional staffs and have produced similar “reports” for domestic venues or other international reviews, the production of a UPR report requires minimal additional resources and does not represent much of a burden or produce large opportunity costs such as dropping other forms of activism. For some more local groups facing general resource pressures the UPR does require more effort, but as this project has argued, these groups still choose to engage in reporting in response to their perceptions of the political opportunities and environment they face.

The other major precondition is the adoption of a human rights framework for activism. This project argues that by adopting a human rights framework the networks of organizations that an NGO works within alters the information available to activists. Those groups working on issues as “human rights violations” are likely to have linked up with other groups making use of this framework for reasons of being likeminded, through association at conferences or training, or through formal activist networks. Because human rights’ is inextricably linked to international institutions such as the United Nations and has long been an internationalized movement, many of the venues for human

rights activism are located within international forums such as the UPR and UN treaty bodies. Local groups already using a human rights frame are more likely to be made aware of opportunities for pressing their issues within these international institutions because of the nature of the information shared within the networks of activists they communicate and coordinate with.

Groups working with other human rights organizations share information with each other about human rights-oriented opportunities. Those opportunities, by virtue of human rights being tied to international organizations since their inception, often involve reporting to international venues. All of the organizations interviewed for this project work explicitly within a human rights framework and each suggested in various ways that they learned of the UPR as a new forum for their country's record to be critiqued in through the networks of groups they work with or from prior experience using international institutions.

There are two major ways that groups come to adopt human rights as a frame for their work: via group-level determinants such as debate and discussion or training in human rights law by members, and via structural shifts in the global human rights agenda where activists find their issue area absorbed into human rights norms and treaties. The latter often coincides with domestic groups having been actively involved with efforts to place their issue onto the global human rights agenda through the creation of an international treaty or declaration. Disability and indigenous rights activists particularly found success over the last two decades in creating international human rights mechanisms that address their issues. Making use of new human rights mechanisms once built was an unquestioned "next step" for these NGOs.

Group discussions and professional or personal experiences leading to the adoption of human rights frames is in evidence in the cases of some smaller US NGOs. Several groups indicated that discussions among their colleagues about how their groups should advocate led to the choice of the human rights framework. The source of familiarity with human rights norms varied, but legal training or past professional experiences are two common ways group members gained knowledge of how human rights might provide a way to understand grievances as well as a way to advocate for change.

Working within a human rights frame has consequences for the domestic groups in this study and more generally. International human rights' rise during the latter half of the 20th Century saw a dense network of activists grow up around the idea of rights rooted in a belief in inherent human dignity and more specifically the growing international treaty law codifying these norms and beliefs (Eckel and Moyn 2014). Activist networks facilitate the quick spread of information among members including information about how to advocate within international forums (Sikkink 1993; Tarrow 2005). NGOs find out about new venues such as the UPR via information flows within the network of organizations they are closely associated with. Human rights activists in each country case for this project were linked to other groups working within a human rights framework and many discovered the UPR through the grapevine of network members. Naturally, prior to deciding to make use of the UPR or an international venue for activism a group needs to be made aware of that opportunity.

Explanations Among NGOs Using the UPR

Laid atop structural conditions of open international forums and network effects of working within a human rights frame is the specific reasoning local NGOs have to making use of the UPR. Where preconditions are met and NGOs have low cost access to international forums, or have adopted a human rights framework, groups subsequently develop their choice to submit reports to international human rights reviews which they explain retrospectively in different ways. Activists typically do not have the luxury of knowing the precise means-to-ends calculation for a given form of contention or advocacy. Instead the activists in this study display a willingness to decide to make use of new low cost international opportunities without much debate at all. That is, groups often decide to make use of venues like the UPR prior to any form of lengthy decision process. Many groups, especially those in Canada and the USA, heard of the UPR as a new opportunity and decided to report to it and subsequently applied an explanation for how an opportunity like an international review can deliver tangible benefits to their activism.

This project has been careful to distinguish post-hoc rationalizing from the implication that these activists and NGOs do not know what they are doing. In fact, most have a sophisticated understanding of the issues they advocate on and how change has come about in past efforts. However, human rights violations in democratic states are often the residual outcome of governments failing to respond to the needs of political minorities. Put more simply, democracies often fail to live up to human rights norms where there is not a majority of people willing to be concerned with the issue causing the violation or where courts lack the legal tools to address the issue. This creates persistent violations which, from the perspectives of activists, do not have a clear and easily

identifiable path to redress. Because of the uncertainty surrounding these persistent issues NGOs are willing to make use of new opportunities and subsequently overlay reasons for how and why the new opportunity can contribute to compliance or why using the new opportunity is appropriate.

Activists display two forms of “explanations”: obligatory or normative rationales, and strategic rationales. The strategic rationales above concerning how NGO frame adoption and the perception of domestic political opportunities lead activists to add international forums as a venue for contention do not take into account the norms of activism or feelings of obligation that also serve to justify the decision to internationalize human rights issues. Activists in this study also report that they feel obligated to bring the plight of those facing human rights violations in democracy to the world stage. “Telling the world” is important for activists in some cases because there is an element of justice in having others know about the struggles of those facing human rights violations. Among local US activists at the UPR this feeling of obligation was particularly common. This suggests that while some groups take a tactical view of how the UPR and international forums can contribute to redress, other groups have the parallel goal of spreading the voices of those they feel democracies have forgotten or ignored. As with strategic rationales these normative rationales are often overlaid after the decision to participate has already been made. Diving towards a new opportunity to contest human rights violations and subsequently rationalizing it as yet another means to amplify the voices of those facing human rights violations is consistent with this project’s argument that the decision to make use of the UPR is far from a strictly “rational” decision process. It is also consistent with the argument that NGOs and activists know very well what they

are doing when they are making use of new venues like the UPR, but that there is a willingness to decide to use them prior to settling on exactly to what purpose something like the UPR can be put.

Finally, strategic and normative rationales are not mutually exclusive, in fact they often coexist. If rationalizing a decision after one has made it is an effort in sense-making as I have contended, then there is no reason that NGOs should be deciding due to either strategy or the pull of norms. “Explanations” are more about how one understands the decision they have already made than it is about the making of the decision. Further, there is no single strategy NGOs pursue via the UPR. Hence, drawing on multiple forms of explanations, be they normative or strategic, is unsurprising. Overall the NGOs in this project display the complexity of how groups facing intractable human rights violations are willing to grab new opportunities as they are presented and they display the multifaceted ways that political actors justify those decisions as organizations and as individuals.

Limitations

This research and its conclusions have a few limitations that should be addressed so as to provide clarity for how large the claims are and to offer suggestions for future research on this question. Methods were selected for the identification of pathways that political actors follow to rare or previously theoretically inexplicable behaviors. This focus on inexplicable “clusters” (King, Keohane, and Verba 1994) allows for the generation of new theoretical propositions for why the cases were not previously explicable. However, this means that the logic of any causal argument made in the project

does not sit atop a strictly comparative method drawing on the use of other correlates to eliminate rival explanations and to zero in on possible causal effects. To the degree that this project makes causal claims those claims overwhelmingly rest upon the recollections of why specific actions were taken by the activists interviewed. Without a means to cross reference each activists' recollection, their causal stories were aggregated so as to show meaningful patterns across cases.

This project only considers evidence from domestic NGOs who do decide to engage the UPR by submitting reports. By selecting on a particular value on the dependent variable this project follows those who suggest that focusing empirical evidence on understanding a single outcome on the dependent variable is useful "if little is known about a given outcome..." (Collier 1995, 465). Because the literature on human rights has focused heavily on explaining their impacts on repressive regimes, and more recently has focused on transitional regimes, little attention has been paid to domestic NGOs from democratic states making use of international forums. The decision to concentrate the evidence on the positive cases of internationalization allows for consideration of a more diverse set of NGOs, something that should allow for a more thorough identification of the multiple pathways to the dependent variable (Goertz 2008, 11). Considering evidence from large and small NGOs, as well as from NGOs working on a range of domestic human rights issues, should increase confidence that the pathways which lead groups to use the UPR identified in this project are not unique to the NGOs considered here. Further, by drawing on NGOs from several highly democratic states this project is able to derive its conclusions in three national contexts.

This project has relied heavily on the cognition and views of activists involved in decision making within human rights organizations. It has done so predicated on the belief that actors generally do understand the motives and forces which lead them to make decisions in different institutional environments and political conditions. Their views have not been presented here as gospel. As is evidenced by this project's argument that groups engage in a great deal of *post hoc* rationalization for why reporting to the UPR is a reasonable strategy, I have endeavored to see beyond mere descriptions offered by activists and to find commonalities among many of them. Hopefully this has rendered the larger phenomenon of domestic NGOs bypassing democracy and using the international forums more intelligible to political scientists and other observers.

Extensions

Several extensions of this work are readily apparent and fall into two main types of extensions of this project. First, subsequent research should move beyond the identification of the pathways which lead NGOs from democratic states to advocate their issues within international forums and test for causal effects on compliance based on this form of advocacy. This project has developed an answer as to why, from the perspective of local NGOs, is the choice to internationalize their advocacy a reasonable one. One of the rationalizations groups offer for making use of international forums is because reporting to forums like the UPR is politically expedient, helps garner international pressure for redress in domestic politics, and that the resulting reports from a venue like the UPR help gain domestic public attention to human rights concerns. However, this project does not make a systematic test nor claim that reporting to the UPR "works" to

push democratic states to comply with their international obligations or even domestic law. The most natural extension of this work is to test for a causal effect of reporting to international forums by NGOs. This is no easy task, however, as the existing measures of human rights conditions such as the Political Terror Scale or the CIRI dataset offer too little variation among highly democratic states. Further, the aggregate reporting from most democratic states is still a small amount of overall civil society pressure in a given state. Therefore isolating the unique effect of internationalizing issues via forums like the UPR will be challenging. Careful comparative case studies should be the starting point for such tests.

This work also suggests that activists within human rights organizations make decisions on the basis of the perceived political opportunities presented to them in domestic politics and on the basis of the consequences of working within a human rights framework of activism. Where activists have come to believe a state will not respond to domestic pressure, even if ‘democratic,’ those activists respond the same way as activists do in repressive states to being blocked from participation. If true, this suggests several questions for future research beyond democratic states. In transitional states moving from a repressive regime to democracy there may be a strong overhang of suspicion towards how responsive government is or will be towards activist pressure. Activist venue choice, if based on history and perception, may lag behind how open and responsive domestic actually are. This may have an effect on how engaged civil society will be with international forums and human rights mechanisms even as the government democratizes. Where activists experience a repression “hangover” in their perception of government accessibility and responsiveness they may be more likely to advocate for

their issues within international forums. Such advocacy may disproportionately entangle these governments within international pressure for compliance when compared to transitioning states that lack as severe a record of repression. Whether that entangling bolsters a successful transition to democracy by helping to use foreign obligations to “lock in” democratic gains (Moravcsik 1995) or if it is causally irrelevant is a worthwhile question for future work.

Future research should also endeavor to compare similar non-reporting groups and reporting groups so as to bolster the credibility of what causes NGOs in democracies to pursue forums like the UPR in their activism. Further, extending this work beyond WEOG states and the wealthy democracies in the West should also contribute to the generalizability of the conclusions drawn here.

Conclusion

As of this writing it is not difficult to open the news and find whole issue areas such as indigenous rights that are institutionally and persistently ignored by democratic processes. The victimization of women on indigenous peoples’ land has gone unpunished or ignored in both the US and Canada (Fee 2014; Wahlquist 2016). It is not difficult to see how bubbling xenophobia in Germany against refugees from Syria will lead to violations of the human rights of those fleeing war. Or how tensions in Germany over reported “refugee” victimization of women have accidentally exposed the degree to which police tend to ignore women’s reports of sexual assault there (Richards 2016). Democracy has spectacularly failed to protect the citizens of Flint, Michigan who – under an appointed “manager” for their city – have been denied both participation in local

government and also have been denied safe drinking water, with horrific results including juvenile lead poisoning and suspected fatal outbreaks of disease (Wang 2015).

Democracies have, and are likely to continue to have, significant and persistent areas in which they fail to live up to human rights norms and treaties.

The gap between compliance with human rights obligations and reality in democratic states may not be as large in scope and as persistent as the gaps in transitional regimes or in autocratic states, however, that does not mean that by scratching the surface to look within democracies one will not find significant and systematic violations of human rights (Bob 2010a). This project has partly relaxed the view that national-level political opportunity structures drive both mobilization for human rights (Simmons 2009) and the venue choices that activists make for their activism (Keck and Sikkink 1998). There are patterned reasons for why activists in highly democratic states choose to incorporate international review bodies, or forums, into part of their activism. Reliance on explanations of national-level political opportunity structures has led the literature on human rights and on transnational activism to ignore the reasons why local activists in democratic states choose to internationalize human rights struggles. Prior work predicts very little reason for activists from democracies to choose to report to a venue like the UPR. Theoretical attention to the perceptions of political opportunity structures among activists renders the phenomenon of NGOs in highly democratic states using distant international forums less puzzling.

Activists also select venues for activism on the basis of the environments they work within, how they understand their activism, and because of the political benefits of some venues over others. Working as a “human rights” organization has a tendency to

pull NGOs towards the types of forums built to listen to grievances in terms of human rights violations. NGOs also network with similar groups and thus they are more likely to be made aware of new low cost, human rights-based, opportunities for them to pressure their government. Among those opportunities are forums like the UPR.

Finally, activists operate in an environment fraught with uncertainty over what form of activism will lead to compliance from their government. If a democratic state has persistently failed to address a human rights concern it indicates that activism within domestic venues for redress is unlikely to lead to compliance. Based upon this uncertainty some activists choose an “all of the above” strategy of pressing for compliance in all venues possible, so long as the barriers to using a venue are not burdensome. Even if there is not always a clear path from making use of the UPR or similar international review body to state compliance at the time of choosing to use them, activists can and do explain their use by identifying productive contributions those venues make to their efforts. Not knowing exactly which route through which political change and justice will come about does not dissuade activists from being willing to find new paths for progress. International forums are but one of many new paths activists have both forged and traveled since the emergence of international human rights.

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APPENDIX

APPENDIX

NGO Sampling Frames

Table A.1: Domestically-Based NGOs Engaged in First Round of UPR Review of US, Germany, and Canada¹³³

Group Name	UN Group Abbreviation	Country
American Bar Association	ABA	USA
Accountability Council	AC	USA
American Civil Liberties Union	ACLU	USA
All For Reparations and Emancipation	AFRE	USA
Advocates for Human Rights	AHR	USA
American Indians Rights and Resources Organization	AIRRO	USA
Tribal Council of the Akiak Native Community	ANC	USA
The Becket Fund for Religious Liberty	Becket Fund	USA
Center for Economic and Social Rights	CESR	USA
Catholic Family & Human Rights Institute	C-FAM	USA
The Council for Global Equality	CGE	USA
Center for Human Rights and Global Justice	CHRGJ	USA
Haudenosaunee Confederacy Grand Council	HGCG	USA
Charity and Security Network	CSN	USA
Citizens United for Rehabilitation of Errants	CURE	USA
The Diné Homeowners & Communities Association	DHCA	USA
Disability Rights Education and Defense Fund	DREDF	USA
The Dui Hua Foundation	Dui Hua	USA
Earth Rights International	Earth Rights	USA
Episcopal Diocese of Maine	EDM	USA
EMF Sensitivity.org	EMF	USA
EPOCH-USA	EPOCH	USA
Four Freedoms Forum	FFF	USA
Farm Labor Organizing Committee and Oxfam, USA	FLOC-OX	USA
First Peoples Human Rights Coalition	FPHRC	USA
Global Justice Center	GJC	USA

¹³³ Reports for first cycle and large portions of second cycle of the UPR are available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>. Group list compiled by finding the sponsoring or submitting group per the UN's database. Thus, this list does not include every NGO that may have participated in a coalition report. This list, further, includes NGOs that define their mandates as "international" but are located in the US, Canada, or Germany. Annex II reflects the population used for sampling and are only domestically based groups with largely domestic mandates and issues, including those participating in joint submissions.

Nation of Hawaii	HAWAII	USA
The Heritage Foundation	Heritage	USA
Human Rights Advocates	HRA	USA
Human Rights Alert	HRAAlert	USA
Human Rights First	HRF	USA
Human Rights Watch	HRW	USA
International Center for Transitional Justice	ICTJ	USA
International Human Rights Law Society	IHRLS	USA
International Indian Treaty Council	IITC	USA
Ithaca rights	ITHACA	USA
Just Detention International	JDI	USA
Lutheran Immigration and Refugee Service	LIRS	USA
Leonard Peltier Defense Offense Committee	LPDOC	USA
Meiklejohn Civil Liberties Institute	MCLI	USA
Maria Iñamagua Campaign for Justice	MICJ	USA
Native American Church of the Ghost Dancers	NAGC	USA
National Advocates for Pregnant Women	NAPW	USA
The Navajo Nation Department of Justice	NAVAJO	USA
National Conference of Black Lawyers	NCBL	USA
The National Indian Youth Council	NIYC	USA
Navajo Nation Human Rights Commission	NNHRC	USA
West Virginia National Organization for Women	NOW	USA
National Whistleblowers Center	NWC	USA
Organizations Associating for the Kind of Change America Really Needs	OAK	USA
PEN American Center	PEN	USA
Physicians for Human Rights	PHR	USA
The Rachel Corrie Foundation for Peace and Justice	RCF	USA
Refugees International	RI	USA
Studies Center of Human Rights and Democracy	SCHRD	USA
Southeast Indigenous Peoples' Center	SIPC	USA
The 5-11 Campaign	511	USA
The Women's Institute for Leadership Development for Human Rights	WILD	USA
Worldrights	WR	USA
Yamasi People	YAMASI	USA
At-sik-hata Nation of Yamassee Moors	YAMASSEE	USA
Athabasca Chipewyan First Nation, Fort Chipewyan	ACFN	Canada
Action Canada for Population and Development	ACPD	Canada
Assembly of First Nations	AFN	Canada
Canadian HIV/AIDS Legal Network	AIDSLAW	Canada
Assemblée des Premières Nations du Québec et du Labrador	APNQL	Canada
Council of Canadians with Disabilities	CCD	Canada
Charter Committee on Poverty Issues	CCPI	Canada
Canadian Coalition for Peace and Justice	CCPJ	Canada

Canadian Coalition for the Rights of Children	CCRC	Canada
Canadian Centre for Victims of Torture	CCVT	Canada
Canadians for Choice	CFC	Canada
Citizens for Public Justice	CPJ	Canada
Centre for Research-Action on Race Relations	CRARR	Canada
Canada Research Chair in International Migration Law	CRCIML	Canada
Disability Rights Promotion International Canada	DRPI	Canada
Egale Canada	Egale	Canada
Feminist Alliance for International Action	FAFIA	Canada
The First Nations Summit	FNS	Canada
International Civil Liberties Monitoring Group Coalition	ICLMG	Canada
Independent Living Canada	ILC	Canada
Indigenous Network on Economies and Trade	INET	Canada
Justice for Mohamed Harkat Committee	JMHC	Canada
Canadian Ecumenical Justice Initiatives	KAIROS	Canada
Land Claims Agreements Coalition	LCAC	Canada
Ligue des Droits et Libertés	LDL	Canada
Lubicon Lake Indian Nation	LLIN	Canada
Lawyer's Rights Watch Canada	LRWC	Canada
Mouvement d'éducation populaire et d'action communautaire du Québec	MEPACQ	Canada
National Union of Public and General Employees	NUPGE	Canada
Native Women's Association of Canada	NWAC	Canada
PEN Canada	PEN	Canada
Pivot Legal Society	PLS	Canada
RightOnCanada	ROC	Canada
The Wellesley Institute	WI	Canada
The Cape Mudge Band Council	WWKN	Canada
Federal Association of Child Rearing Support	AFET	Germany
Children's Charity of German	CCG	Germany
Federal Association of Single Mothers and Fathers	FASMF	Germany
Federal Association of Unaccompanied Minor Refugees	FAUMR	Germany
German Association for Children in Hospital (AKIK)	GACH	Germany
German Children's Aid; Kindernothilfe	GCA	Germany
Naturfreundejugend Deutschland	KND	Germany
Physicians in Social Responsibility (German Section)	PSR	Germany
Pressure Group for Maintenance and Family Rights Inc.	PGMFR	Germany
Workinggroup Refugee Children within the Centres for Refugees and Torture Survivors in Germany	WRCCRTG	Germany
Fourth World Germany	ATD	Germany
Aktion Courage	AC	Germany
Bundesverband unbegleiteter minderjähriger Flüchtlinge	BUMF	Germany
Bundesweite AG der Psychosozialen Zentren für Flüchtlinge und Folteropfer	BAFF	Germany
Frauenhandel und Gewalt an Frauen im Migrationsprozess	KOK	Germany
Deutscher Frauenrat	DF	Germany

Diakonisches Werk der Evangelischen Kirche in Deutschland (Stuttgart)	DWEKD	Germany
Germanwatch	GW	Germany
Gesellschaft zum Schutz von Bürgerrecht und Menschenwürde	GBM	Germany
Gustav-HeinemannInitiative	GHI	Germany
Human Rights Watch Germany	HRWG	Germany
International Physicians for the Prevention of Nuclear War German Section / refugio Munich	IPPNW	Germany
Lesben und Schwulenverband in Deutschland	LSVD	Germany
Kindernothilfe	KL	Germany
Peace Brigades International (Germany)	PBI	Germany
Physicians in Social Responsibility German Sektion	PSR	Germany
Vereinte Evangelische Mission	VEM	Germany
Women's International League for Peace and Freedom German Section	WILPF	Germany
Amnesty International Germany	AIG	Germany
Campaign Transexuality and Human Rights, Germany	CTHR	Germany
German Nationwide Activist Coordination Group Combating Trafficking in Women and Violence Against Women in the Process of Migration	KOK2	Germany
League for Children's Rights	LCR	Germany

Table A.2: Domestic NGOs Engaged in First Round of UPR Review of US, Germany, and Canada Including Disaggregated Joint Submissions¹³⁴

Group Name	Group Abbreviation	Country
US Human Rights Network	USHRN	USA
American Bar Association	ABA	USA
Accountability Councell	AC	USA
American Civil Liberties Union	ACLU	USA
All For Reparations and Emancipation	AFRE	USA
Advocates for Human Rights	AHR	USA
American Indians Rights and Resources Organization	AIRRO	USA
Tribal Council of the Akiak Native Community	ANC	USA
The Becket Fund for Religious Liberty	Becket Fund	USA
The Best Practices Policy Project	TBPPP	USA
Center for Economic and Social Rights	CESR	USA
Catholic Family & Human Rights Institute	C-FAM	USA
The Council for Global Equality	CGE	USA

¹³⁴ This list reflects both the listed sponsoring groups from Appendix I, but also expands beyond the main sponsoring group sending the report to the UPR and identifies the signatory and endorsing groups in reports, as well as Joint Submissions in which a coalition of organizations works in concert and collectively sends a submission to the UPR. This expanded list reflects the sampling frame for this study with the exception of explicitly international human rights groups that happen only to have their headquarters in the country under review as explained in the opening chapter.

Center for Human Rights and Global Justice	CHRGJ	USA
Haudenosaunee Confederacy Grand Council	HGCG	USA
Charity and Security Network	CSN	USA
Citizens United for Rehabilitation of Errants	CURE	USA
The Homeowners & Communities Association	DHCA	USA
Disability Rights Education and Defense Fund	DREDF	USA
The Dui Hua Foundation	Dui Hua	USA
Earth Rights International	Earth Rights	USA
Episcopal Diocese of Maine	EDM	USA
EMF Sensitivity.org	EMF	USA
EPOCH-USA	EPOCH	USA
Four Freedoms Forum	FFF	USA
Farm Labor Organizing Committee and Oxfam, USA	FLOC-OX	USA
First Peoples Human Rights Coalition	FPHRC	USA
Global Justice Center	GJC	USA
Nation of Hawaii	HAWAII	USA
The Heritage Foundation	Heritage	USA
Human Rights Advocates	HRA	USA
Human Rights Alert	HRAalert	USA
Human Rights First	HRF	USA
Human Rights Watch	HRW	USA
Immigration Equality	IE	USA
International Center for Transitional Justice	ICTJ	USA
International Human Rights Law Society	IHRLS	USA
International Indian Treaty Council	IITC	USA
Ithaca rights	ITHACA	USA
Just Detention International	JDI	USA
The Koani Foundation	KF	USA
Lutheran Immigration and Refugee Service	LIRS	USA
Leonard Peltier Defense Offense Committee	LPDOC	USA
Meiklejohn Civil Liberties Institute	MCLI	USA
Maria I-amagua Campaign for Justice	MICJ	USA
Midwest Coalition for Human Rights	MWCFHR	USA
Native American Church of the Ghost Dancers	NAGC	USA
National Advocates for Pregnant Women	NAPW	USA
National Coalition for LGBT Health	NCFLGBTH	USA
The Navajo Nation Department of Justice	NAVAJO	USA
National Conference of Black Lawyers	NCBL	USA
The National Indian Youth Council	NIYC	USA
Navajo Nation Human Rights Commission	NNHRC	USA
West Virginia National Organization for Women	NOW	USA
National Whistleblowers Center	NWC	USA
Organizations Associating for the Kind of Change America Really Needs	OAK	USA
PEN American Center	PEN	USA

Physicians for Human Rights	PHR	USA
The Rachel Corrie Foundation for Peace and Justice	RCF	USA
Refugees International	RI	USA
Sexuality Information and Education Council of the United States	SIECUS	USA
Studies Center of Human Rights and Democracy	SCHRD	USA
Southeast Indigenous Peoples Center	SIPC	USA
The 5-11 Campaign	511	USA
The Women's Institute for Leadership Development for Human Rights	WILD	USA
Worldrights	WR	USA
Yamasi People	YAMASI	USA
At-sik-hata Nation of Yamassee Moors	YAMASSEE	USA
	US-HR Network JS	
African-American Ministers in Action	Doc 1	USA
Black Leadership Forum		USA
The National Coalition on Black Civic Participation		USA
Public Counsel		USA
Rainbow Push Coalition		USA
	US-HR Network JS	
CERD Task Force	Doc 2	USA
Women's HIV Collaborative		USA
Women of Color United		USA
Atlanta Public Sector Alliance		USA
Malcolm X Grassroots Movement		USA
	US-HR Network JS	
Campaign for the Fair Sentencing of Youth	Doc 3	USA
Drug Policy Alliance		USA
Justice Now		USA
The Sentencing Project		USA
	US-HR Network JS	
Death Penalty Focus	Doc 4	USA
Southern Center for Human Rights		USA
The Equal Justice Initiative		USA
	US-HR Network JS	
ADAPT	Doc 5	USA
Center for the Human Rights of Users and Survivors of Psychiatry		USA
Stop Forced "Mental Health" Treatment		USA
Not Dead Yet		USA
Self Advocates Becoming Empowered		USA
	US-HR Network JS	
NESRI - National Economic & Social Rights Initiative	Doc 6	USA
CADRE	CADRE	USA
Coalition of Immokalee Workers		USA
Montana Human Rights Network		USA
Picture the Homeless		USA
Poverty Initiative		USA
United Workers, Baltimore		USA
Vermont Workers' Center		USA

The Poverty and Race Research Action Council	US-HR Network JS Doc 7	USA
Bay Area Environmental Health Collaborative	US-HR Network JS Doc 8	USA
Center for Community Action and Environmental Justice		USA
Beyond Shelter	US-HR Network JS Doc 10	USA
Community Voices Heard		USA
Metro Atlanta Task Force on Homelessness		USA
National Alliance of HUD Tenants		USA
The National Center on Family Homelessness		USA
National Coalition for the Homeless		USA
Women Organized to Respond to Life-threatening Disease		USA
U.S. Positive Women's Network		USA
National Health Care for the Homeless Council		USA
Advocates for Environmental Human Rights	US-HR Network JS Doc 11	USA
Athabasca Chipewyan First Nation, Fort Chipewyan	ACFN	Canada
Action Canada for Population and Development	ACPD	Canada
Assembly of First Nations	AFN	Canada
Canadian HIV/AIDS Legal Network	AIDSLAW	Canada
Assemble des Premieres Nations du Quebec et du Labrador	APNQL	Canada
Council of Canadians with Disabilities	CCD	Canada
Charter Committee on Poverty Issues	CCPI	Canada
Canadian Coalition for Peace and Justice	CCPJ	Canada
Canadian Coalition for the Rights of Children	CCRC	Canada
Canadian Centre for Victims of Torture	CCVT	Canada
Canadians for Choice	CFC	Canada
Citizens for Public Justice	CPJ	Canada
Centre for Research-Action on Race Relations	CRARR	Canada
Canada Research Chair in International Migration Law	CRCIML	Canada
Disability Rights Promotion International Canada	DRPI	Canada
Egale Canada	Egale	Canada
Feminist Alliance for International Action	FAFIA	Canada
The First Nations Summit	FNS	Canada
International Civil Liberties Monitoring Group Coalition	ICLMG	Canada
Independent Living Canada	ILC	Canada
Indigenous Network on Economies and Trade	INET	Canada
Justice for Mohamed Harkat Committee	JMHC	Canada
Canadian Ecumenical Justice Initiatives	KAIROS	Canada
Land Claims Agreements Coalition	LCAC	Canada
Ligue des droits et libertés	LDL	Canada
Lubicon Lake Indian Nation	LLIN	Canada
Lawyer's Rights Watch Canada	LRWC	Canada
Mouvement d'Éducation populaire et d'action communautaire du Québec	MEPACQ	Canada

National Union of Public and General Employees	NUPGE	Canada
Native Women's Association of Canada	NWAC	Canada
PEN Canada	PEN	Canada
Pivot Legal Society	PLS	Canada
RightOnCanada	ROC	Canada
The Wellesley Institute	WI	Canada
JS6 British Columbia Universal Periodic Review Coalition		
The Poverty and Human Rights Centre	PHRC	Canada
Aboriginal Women's Action Network	AWAN	Canada
Coalition of Child Care Advocates of BC	CCCA	Canada
Hospital Employees Union	HEU	Canada
Justice for Girls	JFG	Canada
Vancouver Committee for Domestic Workers and Caregivers Rights	VCDWCR	Canada
Vancouver Rape Relief and Shelter	VRRS	Canada
The Cape Mudge Band Council	WWKN	Canada
Federal Association of Child Rearing Support	AFET	Germany
Children's Charity of German	CCG	Germany
Federal Association of Single Mothers and Fathers	FASMF	Germany
Federal Association of Unaccompanied Minor Refugees	FAUMR	Germany
German Association for Children in Hospital (AKIK)	GACH	Germany
German Children's Aid; Kindernothilfe	GCA	Germany
Naturfreundejugend Deutschland	KND	Germany
Physicians in Social Responsibility (German Section)	PSR	Germany
Pressure Group for Maintenance and Family Rights Inc.	PGMFR	Germany
Working group Refugee Children within the Centres for Refugees and Torture Survivors in Germany	WRCCRTG	Germany
Fourth World Germany	ATD	Germany
Aktion Courage	AC	Germany
Bundesverband unbegleiteter minderjähriger Flüchtlinge	BUMF	Germany
Bundesweite AG der Psychosozialen Zentren für Flüchtlinge und Folteropfer	BAFF	Germany
Frauenhandel und Gewalt an Frauen im Migrationsprozess	KOK	Germany
Deutscher Frauenrat	DF	Germany
Diakonisches Werk der Evangelischen Kirche in Deutschland (Stuttgart)	DWEKD	Germany
Germanwatch	GW	Germany
Gesellschaft zum Schutz von Bürgerrecht und Menschenwürde	GBM	Germany
Gustav-HeinemannInitiative	GHI	Germany
Human Rights Watch Germany	HRWG	Germany
International Physicians for the Prevention of Nuclear War	IPPNW	Germany
German Section / refugio Munich	RM	Germany
Lesben und Schwulenverband in Deutschland	LSVD	Germany
Kindernothilfe	KL	Germany
Peace Brigades International (Germany)	PBI	Germany
Physicians in Social Responsibility German Sektion	PSR	Germany
Vereinte Evangelische Mission	VEM	Germany

Women's International League for Peace and Freedom German Section	WILPF	Germany
Amnesty International Germany	AIG	Germany
Campaign Transexuality and Human Rights	CTHR	Germany
German Nationwide Activist Coordination Group Combating Trafficking in Women and Violence Against Women in the Process of Migration	KOK2	Germany
League for Children's Rights	LCR	Germany

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M.A. Webster University, Department of History, Politics, and International Relations 2006

Thesis: *Intellectuals, International Relations Theory, and Change in the International System: Anglo-American League Societies and the League of Nations*

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Academic Positions

08/2016-present **Visiting Assistant Professor**, Purdue University, Department of Political Science

08/2014- 2016 **Instructor**, Eastern Illinois University, Department of Political Science

- 09/2014- 2016 **Graduate Faculty**, Eastern Illinois University, Department of Political Science
- 10/2012-06/2014 **Junior Research Fellow**, Free University Berlin, Germany
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- 2010, 2012-2013 **Research Assistant**, Purdue University, Department of Political Science
- 08/2007-05/2012 **Instructor/ Teaching Assistant**, Purdue University, Department of Political Science
- 06/2011- 07/2011 **Visiting Scholar**, Technical University Braunschweig, Germany
Institute of Social Sciences
- 06/2006 - 06/2007 **Instructor**, Allied College, Saint Louis

Fellowships, Honors, & Grants

- 2016 EIU College of Sciences Student Advisory Board Outstanding Faculty Award
- 2016 Purdue Institute for Civic Communication Teaching Fellowship
- 2015 *Nominated for* EIU College of Sciences Student Advisory Board Outstanding Faculty Award
- 2013-2014 Ludwig Kruhe Doctoral Fellowship
- 2013-2014 Purdue Research Foundation Research Grant
- 2012-2013 German Academic Exchange Service (DAAD) Research Grant
- 2012 Purdue DEAL Grant, with Jonathan Beever & Jacob Kuhn
- 06/2011 Summer Grant, Technical University Braunschweig, Germany
- 06/2008 Purdue Research Foundation Summer Research Grant
- 2007-2013 Graduate Assistantship in Purdue Department of Political Science (competitive)
- 3rd Quarter 2007 Instructor of the Quarter, Allied College

Research

Peer Reviewed Publications

- Clark, Ann Marie & **Paul Danyi**. 2014. "The International Human Rights Movement." In *Handbook of Political Citizenship and Social Movements*. Ed. Hein-Anton van der Heijden. Edward Elgar Publishing. 440-463.

Conference Presentations

- 2016 *Do Treaty Ratification Fights Matter for Compliance?* Midwest Political Science Association Annual Conference

- 06/2014 *Democracy, Activism, and Civil Society Engagement with International Human Rights Institutions*. ISA Human Rights Joint Conference, Istanbul, Turkey
- 04/2013 *Who Punishes Bystanders? The Role of Transnational Human Rights Groups in Establishing and Maintaining International Metanorms*. Midwest Political Science Association Annual Conference (with Robert Kulzick)
- 04/2012 *The Division of NGO Labor in the United Nations' Universal Periodic Review*. Midwest Political Science Association Annual Conference
- 11/2011 *Reason to Reframe: The Use of International Human Rights in Consolidated Democracies*. International Studies Association – Midwest Chapter
- 04/2011 *A Domestic Force of International Norms: Testing the Case of International Election Monitoring*. Midwest Political Science Association Annual Conference
- 04/2010 *From IMBY to NIMBY: The Siting of Airports in the United States in the Twentieth Century*. Midwest Political Science Association Annual Conference, (with Katie Cahill)

Additional Scholarly Presentations

- 12/16/2013 *International Human Rights Appeals from Democracies: The Cases of US & Canadian NGOs' Venue Choices*. Presented to Faculty and Students at Technische Universität Braunschweig, Germany
- 11/2013 *Bypassing Democracy: Why Domestic Human Rights NGOs in Stable Democracies Appeal to International Forums (US Cases)*. Purdue University Department of Political Science's PIRCAT workshop series
- 07/12/2011 *Mobilization for Human Rights in Advanced Democracies*. Presented to Faculty and Students at Technische Universität Braunschweig, Germany

Research Experience

- Fall 2013 *The International Human Rights Movement*.
Research Assistant to Prof. Ann Marie Clark
- Summer 2012 *Zero to Three Project*
Research Group Leader to the Purdue Military Family Research Institute
- Summer 2012 & Summer 2010 *States and Sex Equality: Why Do Governments Promote Women's Rights*.
Research Assistant to Prof. Mala Htun & Prof. Laurel Weldon

Fall 2010 *Information Effects and Human Rights Data: Is the Good News about Increased Human Rights Information Bad News for Human Rights Measures?*
 Research Assistant to Prof. Kathryn Sikkink & Prof. Ann Marie Clark

Additional Research

Fall 2014 EIU's Campus Facilitator for the Inter-Campus Consortium for SoTL project *Developing Civic Skills through Student Organizations: Civil Society on Campus*

Additional Conference Participation

04/2015 Discussant, *Human Rights Posters*, Midwest Political Science Association

06/2014 Chair and Discussant, *Technology and Human Rights*, ISA Human Rights Joint Conference, Kadir Has University, Istanbul, Turkey

04/27-04/28/2012 Chair and Moderator, *The Fracking Industry: Protest and Reply*, Indiana University-Purdue Fort Wayne's Human Rights Institute of the Center for Applied Ethics Conference on "The Crisis of American Democracy"

10/30-10/31/2010 Amnesty International Midwest Regional Conference, Detroit, MI

04/2010 Discussant and Chair, *Citizen and Stakeholder Participation in Environmental Policy Making*, Midwest Political Science Association Annual Meeting

Teaching

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European Politics and Governments	Spring 2015
Comparative Institutional Analysis [Graduate]	Spring 2015
Introduction to International Relations	Fall 2014
Introduction to Comparative Politics	Fall 2014, S2015
Political Analysis & Methods	Fall 2014, F2015

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Graduate Instructor

Governments of the World	Fall 2015
Introduction to International Relations	Summer 2009, F15
Introduction to Public Policy	Fall 2009, S2010
Introduction to American Government	Spring 2011

Teaching Assistant

Introduction to International Relations	Spring 2012
Political Science Methodology	Five Terms '07-'10
Project IMPACT: Washington DC from the Inside Out	May 2011
<i>Summer course in Washington DC</i>	
<i>[Teaching Assistant to Ambassador Carolyn Curriel]</i>	

Professional Memberships and Service

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 Amnesty International ETSU Co-President

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