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Chapter 7

Human Rights International NGOs

A Critical Evaluation

Makau Mutua

The human rights movement can be seen in variety of guises. It can be seen as a movement for international justice or as a cultural project for “civilizing savage” cultures. In this chapter, I discuss a part of that movement as a crusade for a political project. International nongovernmental human rights organizations (INGOs), the small and elite collection of human rights groups based in the most powerful cultural and political capitals of the West, have arguably been the most influential component of the human rights movement. They have led the promotion and “universalization” of human rights norms, even though the formal creation and promotion of human rights law is carried out by collections of states—the so-called international community—acting in concert and separately within and outside the ambit of the United Nations. Indeed, INGOs have been the human rights movement’s prime engine of growth. INGOs seek to enforce the application of human rights norms internationally, particularly toward repressive states in the South, in areas formerly colonized by the West. In this chapter, I call INGOs conventional doctrinalists because they are marked by a heavy and almost exclusive reliance on positive law in treaties and other sources of international law.

INGOs are ideological analogues, both in theory and in method, of the traditional civil rights organizations that preceded them in the West. The American Civil Liberties Union (ACLU), one of the most influential civil rights organizations in the United States, is a classic example of a Western civil rights organization.¹ Two other equally important domestic civil rights organizations in the United States are the National Association for the Advancement of Colored People (NAACP)² and the NAACP Legal Defense and Educational Fund (LDF).³ Although these organizations are called civil rights groups by Americans, they are in reality human rights organizations. The historical origin of the distinction between a “civil rights” group and a “human rights” group in the United States remains unclear. The primary difference is that Western human rights groups focus on abusive practices and traditions in what they see as relatively repressive, “backward” foreign countries and cultures, while the agenda of civil rights groups concentrates on domestic issues. Thus, although groups such as Human Rights

Watch publish reports on human rights abuses in the United States, the focus of their activity is the human rights problems or abuses of other countries.

The half-dozen leading human rights organizations, the prototypical conventional doctrinalists, have arisen in the West over the last half century with the express intent of promoting certain basic Western liberal values—now dubbed human rights—throughout the world, especially the non-Western world. These INGOs were the brainchildren of prominent Western civil rights advocates, lawyers, and private citizens.

The International League for the Rights of Man, now the International League for Human Rights (ILHR), is the oldest such organization, founded in New York in 1942.⁴ At various times it has focused on victims of torture, religious intolerance, the rights of human rights monitors at its affiliates abroad, the reunification of Eastern Europeans with relatives in the West during the Cold War, and the human rights treaty state reporting system within the United Nations, and it even got interested in anticolonial struggles in Africa and Asia.⁵ Roger Baldwin, the founder of the ACLU, also founded the ILHR.⁶ The ILHR itself was responsible for establishing in New York the Lawyers Committee for International Human Rights, now known as the Lawyers Committee for Human Rights (LCHR), another of the more important Western INGOs, in 1975. The LCHR claims to promote the human rights standards contained in the International Bill of Rights.⁷ The New York-based Human Rights Watch, discussed in earlier chapters, has developed into the most dominant American INGO working to expose violations of basic liberal freedoms. The last major American INGO is the Washington D.C.-based International Human Rights Law Group, which was established by the Procedural Aspects of International Law Institute, a private American organization that explores issues in international law.⁸ Some American domestic civil rights NGOs are acutely aware of their pioneering role in the creation of similar organizations abroad.⁹ Until recently, and to a large extent even today, none of these American INGOs focused on human rights issues in the United States, except to seek the reform of U.S. foreign policy and American compliance with aspects of refugee law.¹⁰

The two other leading INGOs are located in Europe, in the United Kingdom and Switzerland. The Geneva-based International Commission of Jurists (ICJ) was “founded in 1952 to promote the ‘rule of law’¹¹ throughout the world.”¹² The ICJ has been accused of being a tool of the West in the Cold War, spending considerable resources exposing the failures of Soviet bloc and one-party states.¹³ Today, however, it is regarded as a bona fide INGO, concerned with rule of law questions in the South and other issues, as discussed in Chapter 5.

Lastly, the London-based Amnesty International (AI), the most powerful human rights INGO, is today synonymous with the human rights movement and has inspired the creation of many similar human rights groups around the world. It was launched by Peter Benenson, a British lawyer, writing in the May 28, 1961, issues of the *Observer* and *Le Monde*. Benenson’s article, “Forgotten Prisoners,” urged moral outrage and appeals for amnesty for individuals who were imprisoned, tortured, or executed because of their political opinions or religion.¹⁴ The recipient of the 1977 Nobel Peace Prize,

AI claims that its object is “to contribute to the observance throughout the world of human rights as set out in the Universal Declaration of Human Rights” through campaigns to free prisoners of conscience; to ensure fair trials within a reasonable time for political prisoners; to abolish the death penalty, torture, and other cruel treatment of prisoners; and to end extrajudicial executions and disappearances. In the last few years, AI has done substantial work in the West, including exposés of police brutality and the application of the death penalty in the United States.

Social Support and Political Bias

Some structural factors provide evidence of the ideological orientation of INGOs. They concern the sources of their moral, financial, and social support. The founding fathers of major INGOs—they have all been white males—were Westerners who either worked on or had an interest in domestic civil and political rights issues; they sought the reform of governmental laws, policies, and processes to bring about compliance with American and European conceptions of liberal democracy and equal protection. Although the founders of the INGOs did not explicitly state their “mission” as a crusade for the globalization of these values, they nevertheless crafted organizational mandates that promoted liberal ideals and norms. In any case, the key international human rights instruments such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) pierced the sovereign veil for the purposes of protecting and promoting human rights. The mandates of INGOs are lifted, almost verbatim, from such instruments. AI also deploys jurisprudential arguments developed in the context of Western liberal democracy to cast the death penalty as the “ultimate form of cruel, inhuman and degrading punishment.”¹⁵

The pool for the social support of INGOs has therefore come from the private, nongovernmental, and civil society segments of the industrial democracies: prominent lawyers, academics at leading universities, the business and entertainment elite, and other professionals. In the United States, these circles are drawn from the liberal establishment; the overwhelming majority vote for and support the Democratic Party and its politics and are opposed to the Republican Party. The board of directors of Human Rights Watch, for example, counts among its members such luminaries as Robert Bernstein, formerly the top executive at Random House; Robert Joffe, the managing partner at Cravath, Swaine and Moore; Jack Greenberg, the former director-counsel at LDF and professor of law at Columbia University; and Alice Henkin, an important human rights advocate and spouse of the acclaimed professor of international law Louis Henkin. The board of directors of the Lawyers Committee for Human Rights includes its chair, Norman Dorsen, the prominent New York University law professor, former ACLU president, and First Amendment expert; Louis Henkin; Sigourney Weaver, the actress; Kerry Kennedy Cuomo, the founder of the Robert F. Kennedy Memorial Center for Human Rights, named for her father; Marvin Frankel, formerly the chairman of the board and a named partner in a major New York City law firm; and Tom Bernstein, the committee’s

president, a senior business executive, and son of Robert Bernstein. The board of directors of the International Human Rights Law Group is composed of similar personalities. These boards are predominantly white and male and almost completely American; some, such as those of the Lawyers Committee or HRW, typically have one or several African Americans or a member of another nonwhite minority.

The boards of the European-based INGOs, the ICJ and AI, tend to differ, somewhat, from American INGOs, although they too are dominated by Westerners, Western-trained academics, professionals, and policy makers, or non-Westerners whose worldview is predominantly Western. Thus, even these Asians and Africans—who, though nonwhite, nevertheless “think white” or “European”—champion, usually uncritically, the universalization of the human rights corpus and liberal democracy. In 1997, for example, the seven members of the executive committee of the ICJ included a British lawyer, a Dutch law professor, a Peruvian (a Westerner), and four establishment figures from India, Ghana, Cape Verde, and Jordan. The non-Westerners in the group were prominent legal professionals steeped in either the common law or the civil law traditions. AI’s International Executive Committee, its principal policy-making organ, is arguably more global looking—it includes a number of members from the South—although it too has historically been dominated by Westerners.¹⁶ The staffs of all the major INGOs, including AI’s headquarters in London, are similarly dominated by Westerners, although both AI and the ICJ now have African heads.¹⁷ The selection of the boards and staffs of INGOs seems designed to guard against individuals, even if they are Westerners, who may question the utility or appropriateness of the conventional doctrinalist approach. This vetting perpetuates their narrow mandates and contradicts the implied and stated norms of diversity and equality, the *raison d’être* for the existence of these organizations.¹⁸

The relationship between social, financial, and other material support provides further evidence of the political character of INGOs. Except for AI, which relies heavily on membership dues, most INGOs are funded by a combination of foundation grants, private donations, corporations, businesses, and governments. While most do not accept government funds, some, among them the ICJ and the International Human Rights Law Group, have accepted financial support from governmental sources such as the United States Agency for International Development (USAID) and its Canadian and Nordic counterparts.¹⁹ Those who reject government funds cite concerns for their independence of action and thought. It seems fair to conclude that to be considered for acceptance financial support must come from an industrial democracy with a commitment to promoting human rights abroad; presumably, support from Saudi Arabia or the Democratic Republic of the Congo, clearly authoritarian states, would be unacceptable.

The value of the board of directors is critical for groups that rely on private funding. Those networks and associations signify an INGOs’s reputation and acceptability by political and business elites. In the past decade, some INGOs, especially those based in the United States, have devised a fund-raising gimmick. At an annual dinner they

present an award to a noted activist from a repressive country in the South or to a Westerner with superstar quality, such as Senator Edward Kennedy or George Soros, the philanthropist, and invite well-to-do, if not wealthy, citizens, corporations, law firms, and foundations to “buy a table,” a euphemism by which it is meant an invitee purchases the right to the dinner by reserving a table for a certain number of guests for a substantial donation. This tapestry of social and business ties, drawn from leading Americans who believe in liberal values and their internationalization through the human rights regime, underlines the agenda of INGOs.²⁰

Mandates of INGOs

Substantively, conventional doctrinalists stress a narrow range of civil and political rights, as is reflected by the mandates of leading INGOs like Amnesty International and Human Rights Watch. Throughout the Cold War period, INGOs concentrated their attention on the exposure of violations of what they deemed “core” rights in Soviet bloc countries, Africa, Asia, and Latin America. In a reflection of this ideological bias, INGOs mirrored the position of the industrial democracies and generally assumed an unsympathetic and, at times, hostile posture towards calls for the expansion of their mandates to include economic and social rights.²¹

In the last few years since the collapse of the Soviet bloc, however, several INGOs have started to talk about the “indivisibility” of rights; a few now talk about their belief in the equality of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), although their rhetoric has not been matched by action and practice. Many, in particular Human Rights Watch, for a long time remained hostile, however, to the recognition of economic and social rights as rights. HRW, which considered such rights violations “misfortunes,” instead advanced its own nebulous interpretation of “indivisible human rights,” which related civil and political rights to survival, subsistence, and poverty, “assertions” of good that it did not explicitly call rights.²² It argued that subsistence and survival are dependent on civil and political rights, especially those related to democratic accountability.²³ According to this view, civil and political rights belong to the first rank because the realization of other sets of concerns or rights, however they are termed, depend on them.²⁴

In September 1996, however, Human Rights Watch abandoned its long-standing opposition to the advocacy of economic and social rights.²⁵ It passed a highly restrictive and qualified policy—effective January 1997—to investigate, document, and promote compliance with the ICESCR. Under the terms of the new policy, HRW’s work on the ICESCR will be limited to two situations: where protection of the ICESCR right is “necessary to remedy a substantial violation of an ICCPR right,” and where “the violation of an ICESCR right is the direct and immediate product of a substantial violation of an ICCPR right.” Furthermore, HRW will intervene to protect ICESCR rights only where the violation is a “direct product of state action, whether by commission or omission”;

where the “principle applied in articulating an ICESCR right is one of general applicability”; and where “there is a clear, reasonable and practical remedy that HRW can advocate to address the ICESCR violation.”

While an important step by HRW, this policy statement can be seen as a continuation of the history of skepticism toward economic and social rights HRW has long demonstrated; it sees economic and social rights only as an appendage of civil and political rights. Its construction seems to condition ICESCR rights on ICCPR rights—in other words, economic and social rights do not exist outside the realm of civil and political rights. Thus, one interpretation of the HRW policy could be that civil and political rights are the fundamental, primary rights without which other rights are less meaningful and unattainable. The policy also continues HRW’s stress on state-related violations, an orientation that does not place emphasis on important violators, such as businesses and international corporations. What is important about the policy, however, is the commitment by the largest and most influential American INGO to begin advocacy of economic and social rights. No other major INGO has gone that far in its practical work. Experimental for the first year, the policy now appears to be part of HRW’s mandate, although it remains marginal to its work.²⁶

Steiner has described the character of INGOs succinctly:

The term “First World” NGOs both signifies an organization’s geographical base and typifies certain kinds of mandates, functions, and ideological orientations. It describes such related characteristics as a concentration on civil and political rights, a commitment to fair (due) process, an individualistic rather than group or community orientation in rights advocacy, and a belief in a pluralist society functioning within a framework of rules impartially applied to protect individuals against state interference. *In a nutshell, “First World” NGOs means those committed to traditional Western liberal values associated with the origins of the human rights movement.* Many of these NGOs work exclusively within their home countries, but the “First World” category also includes most of the powerful international NGOs that investigate events primarily in the Third World.²⁷

Traditionally, the work of INGOs has typically involved investigation,²⁸ reporting,²⁹ and advocacy.³⁰ Investigation usually takes place in a Third World country, while reporting and advocacy aim at reforming policies of industrial democracies and intergovernmental agencies to trigger bilateral and multilateral action against the repressive state. Some INGOs now go beyond this denunciatory framework and work to foster and strengthen processes and institutions—rule of law, laws and constitutions, judiciaries, legislatures, and electoral machineries—that ensure the protection of civil and political rights.³¹ Although the ideological commitment of these INGOs seems clear through their mandates and work, they nevertheless cast themselves as nonideological. For example, Amnesty International refused to condemn apartheid as a political system or to adopt Nelson Mandela, the century’s most prominent prisoner, as a prisoner of conscience. They perceive themselves as politically neutral modern-day abolitionists whose only purpose is to identify “evil” and root it out. Steiner again notes that “although committed to civil-political rights and in this sense taking clear moral and political posi-

tions, First World NGOs prefer to characterize themselves as above the play of partisan politics and political parties, and in this sense as apolitical. . . . Their primary self-image is that of monitors, objective investigators applying the consensual norms of the human rights movement to the facts found. They are defenders of legality."³²

Thus, although INGOs are "political" organizations that work to vindicate political and moral principles that shape the basic characteristics of a state, they consciously present themselves as disinterested in the political character of a state. When HRW asserts that it "addresses the human rights practices of governments of all political stripes, of all geopolitical alignments, and of all ethnic and religious persuasions," it is anticipating charges that it is pro-Western, procapitalist, and unsympathetic to Islamic and other non-Western religious and political traditions. The first two charges could have been fatal to a group's credibility at the height of the Cold War. In reality, however, INGOs have been highly partial: their work has historically concentrated on those countries that have not attained the stable and functioning democracies of the West, the standard for liberal democracy. Target states have included the Soviet bloc and virtually the entire South, where undemocratic or repressive one-party states and military dictatorships have thrived.

The content of the work of INGOs reveals their partiality as well. The typical INGO report is a catalogue of abuses committed by a government against liberal values. As Steiner notes, "given the ideological commitments of these NGOs, their investigative work naturally concentrates on matters such as governmental abuses of rights to personal security, discrimination, and basic political rights. By habit or established practice, NGOs' reports stress the nature and number of violations, rather than explore the socioeconomic and other factors that underlie them."³³

Reports further document the abridgement of the freedoms of speech and association, violations of due process, and various forms of discrimination. Many INGOs fear that explaining why abuses occur may justify them or give credence to the claims of some governments that civil and political rights violations take place because of underdevelopment. Such an argument, if accepted, would destroy the abolitionists' mission by delaying, perhaps indefinitely, the urgency of complying with human rights standards. Abolitionists fear that this argument would allow governments to continue repressive policies while escaping their obligations under human rights law. INGOs thus demand the immediate protection and respect of civil and political rights regardless of the level of development of the offending state. By taking cover behind the international human rights instruments, INGOs are able to fight for liberal values without appearing partisan, biased, or ideological.

Law Versus Politics

Conventional doctrinalists also perpetuate the appearance of objectivity by explicitly distinguishing themselves from agencies, communities, and government programs that promote democracy and democratization. The democracy and human rights commu-

nities see themselves in different lights.³⁴ The first is made up of individuals and institutions devoted to “democracy assistance programs” abroad, while the second is primarily composed of INGOs. The human rights community has created a law-versus-politics dichotomy through which it presents itself as the guardian of international law, in this case human rights law, as opposed to the promoter of the more elusive concept of democracy, which it sees as a political ideology.³⁵ A complex web of reasons, motivations, and contradictions permeates this distinction.

The seeds of the dichotomy are related to the attempt by the human rights community not to side with the two protagonists of the Cold War, and in particular Ronald Reagan’s crusade against communism and his efforts to pave the way for democracy and free markets across the globe. The human rights community, whose activists and leaders are mostly Democrats or sympathetic to the Democratic Party, in the case of the United States, or Social Democrats and Labor Party sympathizers in Europe—liberals or those to the left of center in Western political jargon—viewed with alarm Reagan’s and Margaret Thatcher’s push for free markets and support for any pro-Western government, notwithstanding its human rights record. This hostility was exacerbated by the Reagan administration’s attempts to reverse the rhetorical prominence that the Carter administration had given to human rights in American foreign policy. Although INGOs delighted in Reagan’s opposition to communist rule within the Soviet bloc—their own human rights reports on Soviet bloc countries were scathing—they sought “impartiality” and a “principled” use by the administration of human rights as a tool of foreign policy. INGOs also feared that “democracy programs” would focus only on elections without entrenching basic civil and political rights.³⁶ In addition, INGOs believed that the focus on democracy blurred the focus on violators and dulled the clarity of physical violations of rights.

The differentiation between democratic and free-market crusades and human rights had another advantage: Western governments and human rights groups could play “good cop, bad cop” roles in the spread of Western liberal values. While the West in bilateral agreements and projects opened up previously closed or repressive one-party societies to markets and “encouraged” democratization, human rights groups would be unrelenting in their assault on the same government for violating civil and political rights. Ordinarily, staffs of INGOs consulted extensively with the State Department or relevant foreign ministry, Western diplomats³⁷ in the “repressive” state, and elements of the United Nations charged with human rights oversight, such as the Commission on Human Rights, the Committee Against Torture, and the Human Rights Committee.

Other factors indicate the commitment of INGOs to liberal democracy as a political project. At least one American NGO, the Lawyers Committee for Civil Rights Under Law, a domestic NGO with an INGO dimension, expressly linked the survival of its international operations to the “attainment” of democracy by, for example, shutting down its Southern Africa Project after the 1994 South African elections. Some INGO reports explicitly lament the failure of democratic reform.³⁸ They defend and seek to immortalize prodemocracy activists in repressive states.³⁹ At least one former leader of

an INGO recognizes that the distinction made between democracy and human rights is a facade:

This determination to establish impartiality in the face of human rights violations under different political systems led Amnesty International to shun the rhetorical identification of human rights with democracy. But in fact the struggle against violations, committed mostly by undemocratic authoritarian governments, was closely bound up with the struggle for democracy. Thousands of prisoners of conscience for whom Amnesty International worked in its first three decades were political activists challenging the denial of their rights to freedom of expression and association.⁴⁰

Conclusion

In the past decade, some INGOs have started seeking the deployment of the resources of other institutions, in addition to those of the United Nations, in their advocacy for liberal values. The Lawyers Committee for Human Rights, for example, has instituted a project that explores ways of encouraging international financial institutions such as the World Bank to build human rights concerns into their policies.⁴¹ Perhaps INGOs should openly acknowledge the inescapable and intrinsic linkage between human rights and democracy, a fact consciously recognized by quasi-governmental agencies in the North.⁴²

The facade of neutrality, the fiction that INGOs do not seek the establishment of a particular political system, in this case, a liberal democracy, must be abandoned immediately. No one should be expected to believe that the scheme of rights promoted by INGOs does not seek to replicate a vision of society based on the industrial democracies of the North. Only after openly conceding that INGOs indeed have a specific political agenda can discussions be had about the wisdom, problems, and implications for the advocacy of such values. And only then can conversations about the postliberal society start in earnest.

Notes

1. Initially founded in 1920 to advocate the rights of conscientious objectors, the ACLU sees itself as the "guardian of the Bill of Rights which guarantees fundamental civil liberties to all of us." These rights include the freedoms of speech, press, and religion (First Amendment); freedom from abuses by the police, domestic spying, and other illegal intelligence activities (Fourth Amendment); equal treatment and fair play (Fifth Amendment); fair trial (Sixth Amendment); prohibition against cruel and unusual punishment (Eighth Amendment); and privacy and personal autonomy (Fourth, Fifth, and Ninth Amendments). See Laurie S. Wiseberg and Hazel Sirett, eds., *North American Human Rights Directory* (Garrett Park, Md.: Garrett Park Press, 1984), p. 19.

2. The NAACP, the oldest U.S. civil rights organization, was founded in 1909 to seek equal treatment—the removal of racial discrimination in areas such as voting, employment, housing, business, courts, and transportation—for African Americans through peaceful reform. See *ibid.*, p. 161.

3. Although today the LDF and the NAACP are separate legal entities, the LDF was founded in 1939 as the legal arm of the NAACP. It has initiated legal action in courts to challenge discrimi-

nation and promote equality in schools, jobs, the electoral system, land use, and other services and areas. *Ibid.*, p. 159.

4. See Wiseberg and Sirett, eds., *North American Human Rights Directory*, p. 135.

5. *Ibid.* The ILHR was also involved, albeit paternalistically, in anticolonial struggles in Africa and Asia, particularly in South-West Africa, now Namibia. See William Korey, *NGOs and the Universal Declaration of Human Rights: "A Curious Grapevine"* (New York: St. Martin's Press, 1998), p. 101.

6. See Rita McWilliams, "Who Watched Americas Watch?" *National Interest* 19 (1990), pp. 45, 53. Jerome Shestack, a prominent American lawyer who long served as the president of the ILHR and is the organization's current honorary chair, was replaced in May 1996 by Scott Horton, a partner in a New York law firm. Telephone interview with the ILHR, September 13, 1996.

7. On the mandate of the LCHR, see Lawyers Committee for Human Rights, *Critique: Review of the Department of State Country Reports on Human Rights Practices for 1990* (New York: Lawyers Committee for Human Rights, 1991), back leaf.

8. See Wiseberg and Sirett, eds., *North American Human Rights Directory*, p. 133. The institute itself was established in 1965 and has devoted considerable resources to the promotion of the idea of human rights. Richard Lillich, its former president, is a professor of law at the University of Virginia School of Law and one of the leading writers on human rights.

9. At a 1992 LDF symposium of public interest law NGOs from around the world, Julius Chambers, then director-counsel of the LDF, recalled how Thurgood Marshall, his most celebrated predecessor, had in 1959 helped write the Kenya Constitution, and had helped to endow it with doctrines of due process, equality, and justice. Chambers also remembered how Jack Greenberg, another predecessor, had laid the groundwork for the Legal Resource Centre of South Africa, one of that country's leading public interest law firms under apartheid. Instructively, he noted that he did not view the symposium "primarily as an occasion for the LDF to *teach* others." See National Association for the Advancement of Colored People Legal Defense and Educational Fund, *Public Interest Law around the World: Report of a Symposium held at Columbia University in May 1991 with Descriptions of Participating Legal Organizations from Twenty Countries* (New York: Columbia Human Rights Law Review, 1992), p. 1; emphasis added. Noting the progress made in establishing human rights NGOs around the world and arguing for the removal of restrictions on NGOs to allow them to operate more freely, see also Lawyers Committee for Human Rights, *The Establishment of the Right of Non-Governmental Groups to Operate* (New York: Lawyers Committee for Human Rights, 1993).

10. American INGOs argue, with some justification, that there is a glut of civil rights organizations addressing civil (human) rights problems in the United States. They therefore see little purpose in duplicating the excellent work of local NGOs. This posture is self-defeating in several respects. First, charges of "imperialism" undercut the effectiveness of American INGOs, even with some of their kindred spirits in the South and the former Soviet bloc. Secondly, domestic American NGOs remain unaware of the uses of the international rights regime and the solidarity of advocates elsewhere, facts which conspired to delay the ratification by the United States of major international human rights treaties. The absence of domestic U.S. NGOs from the international human rights movement served, among other things, to delegitimize the movement in the eyes of other cultures. Nevertheless, in a rare effort, Human Rights Watch and the ACLU in 1993 produced a report on human rights abuses in the United States. See Human Rights Watch and American Civil Liberties Union, *Human Rights Violations in the United States* (New York: Human Rights Watch and American Civil Liberties Union, 1993). Two things were unusual about the effort: first, that an American INGO produced a human rights report on the United States, and second, that it did so in collaboration with a domestic American NGO. In a rare call, Dorothy Thomas, formerly the director of the Human Rights Watch Women's Project, urged the use of international human rights norms in protecting human rights in the United States. Dorothy Q. Thomas, "Advancing Rights Protection in the United States: An Internationalized Advocacy Strategy," *Harvard Human Rights Journal* 9 (1996), pp. 15–26. Amnesty International also launched an extensive campaign on human rights in the United States in 1998.

11. This term is commonly understood to describe a state that is accountable to the governed through the application of fair and just laws enforced by an independent and impartial judiciary.

See Andrea J. Hanneman, "Independence and Group Rights in the Baltics: A Double Minority Problem," *Virginia Journal of International Law* 35 (1995), pp. 485, 523: "The extent to which a society protects human rights in general and minority rights in particular has been called the 'litmus test of liberty and the rule of law'"; citing Ralf Dahrendorf, "Minority Rights and Minority Rule," in Ben Whitaker, ed., *Minorities: A Question of Human Rights?* (New York: Pergamon Press, 1984), p. 79. For a history of the ICJ, see Howard B. Tolley, Jr., *Global Advocates for Human Rights: The International Commission of Jurists* (Philadelphia: University of Pennsylvania Press, 1994).

12. Laurie S. Wiseberg and Hazel Sirett, eds., *Human Rights Directory: Western Europe* (Washington, D.C.: Human Rights Internet, 1982), p. 216.

13. See Issa G. Shivji, *The Concept of Human Rights in Africa* (London: Codesria, 1989), p. 34. At its inception, the ICJ was funded in part by covert CIA funds. "It followed an essentially American set of priorities in its early years, then expanded and became less politically partial." Claude E. Welch, Jr., *Protecting Human Rights in Africa: Roles and Strategies of Non-Governmental Organizations* (Philadelphia: University of Pennsylvania Press, 1995), p. 163.

14. See Ian Martin, *The New World Order: Opportunity or Threat for Human Rights?* (Cambridge, Mass.: Harvard Law School Human Rights Program, 1993), pp. 4–5. From 1986 to 1992, Martin was the secretary-general of Amnesty International. Benenson's article accompanied photos of six political prisoners: three were imprisoned in Romania, Hungary, and Czechoslovakia; the other three were a Greek communist and unionist imprisoned in Greece, an Angolan doctor and poet incarcerated by the Portuguese colonial rulers in Angola, and the Rev. Ashton Jones, an American who had repeatedly been beaten and jailed in Louisiana and Texas for advocating the civil rights of black Americans. *Ibid.* Although AI now focuses most of its attention on Africa, Central America, and South America, the trigger for its creation was, ironically, the official conduct of Soviet bloc and Western governments, including the United States.

15. *Ibid.*, p. 21. In addition, AI attacks the "arbitrary and irrevocable nature of the death penalty," its use as a "tool of political repression," and its disproportionate imposition on "the poor and the powerless." It disagrees with the argument that the death penalty has a deterrent effect on crime. *Ibid.*

16. See Henry J. Steiner, *Diverse Partners: Non-Governmental Organizations in the Human Rights Movement: The Report of a Retreat of Human Rights Activists* (Cambridge, Mass.: Harvard Law School Human Rights Program and Human Rights Internet, 1991), pp. 61–64.

17. *Ibid.* Pierre Sané, a Senegalese, became AI's first non-European secretary-general in October 1992. Adama Dieng, also a Senegalese, became the secretary-general of the ICJ in 1991. Although both AI and the ICJ accepted non-Western heads, the choices were more "safe" and less radical than they initially appeared. Sané came from the International Development Research Centre, a Canadian development aid organization, for which he had worked since 1978. Dieng was working for the ICJ before his appointment. Both were nationals of Senegal, with a reputation in the West as a stable formal democracy, and one of the most Francophilic countries in Africa.

18. When INGOs engage Southerners, it is ordinarily for area-specific responsibilities, usually their native region. For example, Africa Watch, the division of Human Rights Watch that addresses sub-Saharan African human rights problems, has been headed by Africans since its founding in 1988. Similarly, Americas Watch has been headed by Latin Americans virtually since its inception in 1981. This author, an African, was in 1989–91 the director of the Africa Project at the Lawyers Committee for Human Rights, having succeeded Rakiya Omaar, another African. This ghettoization—conscious or not—seeks to legitimize the organization in the particular region while retaining its commitment to Western liberal values. It also pigeonholes non-Westerners as capable of addressing issues in only their native region and incapable of dealing with questions from other regions. In effect, these hiring patterns leave the impression that only Westerners have the ability to develop a universal outlook.

19. In 1993 this author led a USAID-funded "rule of law" study mission to Ethiopia for the International Human Rights Law Group and wrote a report on the mission's findings. International Human Rights Law Group, *Ethiopia in Transition*.

20. In 1986, for example, the Lawyers Committee for Human Rights honored President Cora-

zon Aquino of the Philippines for “her achievement in leading the people of her nation to peacefully reclaim democracy.” See Lawyers Committee for Human Rights, *Tenth Anniversary Annual Report* (New York: Lawyers Committee for Human Rights, 1988). In 1987, it honored Robert Bernstein, senior executive at Random House and the founder of Human Rights Watch. NBC news anchor Tom Brokaw was the master of ceremonies at the 600-guest event which attracted prominent businessmen and lawyers. *Ibid.*

21. See Aryeh Neier, “Human Rights,” in Joel Krieger, William A. Joseph, James A. Paul, et al., eds., *The Oxford Companion to Politics of the World* (New York: Oxford University Press, 1993), pp. 401, 403.

22. See Human Rights Watch, *Indivisible Rights: The Relationship of Political and Civil Rights to Survival, Subsistence and Poverty* (New York: Human Rights Watch, 1992). In 1993, Neier, the former executive director of HRW, expressed his opposition to the deployment of rights rhetoric to economic and social concerns: “When it comes to the question of what are called economic rights, I’m on the side of the spectrum which feels that the attempt to describe economic concerns as rights is misguided. I think that when one expresses this opinion, it is often thought that one is denigrating the significance of economic misery and inequities. I would like not to be accused of that. I regard economic equity and economic misery as matters of enormous significance. I just don’t think that it’s useful to define them in terms of rights.” Aryeh Neier, “Remarks to East Asian Legal Studies & Human Rights Program Symposium, Harvard Law School, May 8, 1993,” in *Human Rights and Foreign Policy: A Symposium* (Cambridge, Mass.: Harvard Law School Human Rights Program, 1994), p. 16. For a critique of NGOs and their restrictive mandates, see James Gathii and Celestine Nyamu, “Note, Reflections on United States-based Human Rights NGOs’ Work on Africa,” *Harvard Human Rights Journal* 9 (1996), p. 291.

23. See Human Rights Watch, *Indivisible Rights*, pp. vi–vii. One of the most coherent rationalizations of the opposition to economic and social rights was expressed in a meeting of American INGOs: “One participant felt strongly that it would be detrimental for U.S. human rights NGOs to espouse the idea of economic, social and cultural rights. Although they refer to important issues, they concern distributive justice rather than corrective justice, like civil and political rights. But distributive justice is a matter of policy, rather than principles; and human rights NGOs must deal with principles, not policies. Otherwise, their credibility will be damaged. Supporting economic demands will only undermine the ability of NGOs to promote civil and political rights, which are indispensable.” M. Rodriguez Bustelo and Philip Alston, unpublished report of a conference held at Arden House, 1986, p. 26; quoted in Philip Alston, “U.S. Ratification of the Covenant on Economic, Social and Cultural Rights: The Need for an Entirely New Strategy,” *American Journal of International Law* 84 (1990), p. 390, n. 107. The credibility of American INGOs to which the speaker referred was unlikely to be credibility among those whose economic and social rights are denied. It seems fair to suppose that the concern here was the reputation of NGOs with the governments of industrial democracies and the elites who support the INGO community.

24. Human Rights Watch, *Indivisible Rights*, pp. vi–vii.

25. Human Rights Watch, “Human Rights Watch’s Proposed Interim Policy on Economic, Social, and Cultural Rights,” internal document, September 30, 1996. All quotations in this paragraph are from this document.

26. *Ibid.* HRW has been reluctant to expand this mandate to cover more ICESCR rights for a number of reasons, including the lack of adequate human resources. Kenneth Roth, executive director, Human Rights Watch, telephone interview with author October 8, 1996. See generally, Human Rights Watch, *Human Rights Watch World Report 1999* (New York: Human Rights Watch, 1999).

27. Steiner, *Diverse Partners*, p. 19; emphasis added.

28. An investigation, known as human rights fact-finding mission, is conducted by the staffs of INGOs who typically spend anywhere from several days to a number of weeks in a Third World country interviewing victims of repression, government officials, local activists, local media, and academics. See, generally, Diane F. Orentlicher, “Bearing Witness: The Art and Science of Human Rights Fact-Finding,” *Harvard Human Rights Journal* 3 (1990), p. 83.

29. Reporting involves compiling data and information from the fact-finding mission and cor-

relating them to human rights standards to bring out discrepancies and disseminating the results through reports or other media. This method is also called "shaming" because it spotlights the offending state to the international community. See, e.g., Lawyers Committee for Human Rights, *Zimbabwe: Wages of War: A Report on Human Rights* (New York: Lawyers Committee for Human Rights, 1986); Human Rights Watch, *World Report 1995*.

30. This includes lobbying governments and international institutions to use their leverage to alleviate violations.

31. For example, according to its statute, Amnesty International works to "promote as appears appropriate the adoption of constitutions, conventions, treaties and other measures which guarantee the rights contained in the provisions referred to in Article 1 hereof." Amnesty International, *Report*, appendix 2, p. 333. The International Human Rights Law Group undertakes rule of law assessments which aim at identifying institutional weaknesses and proposing structural reforms. See, generally, International Human Rights Law Group, *Ethiopia in Transition*.

32. Steiner, *Diverse Partners*, p. 19.

33. *Ibid.*

34. For a comprehensive journalistic account of the differences between the two communities, see Thomas Carothers, "Democracy and Human Rights: Policy Allies or Rivals?" *Washington Quarterly* 17 (1994), p. 109.

35. *Ibid.*, p. 111.

36. See Lawyers Committee for Human Rights, *United States Draft Human Rights Action Plan*, p. 4.

37. Meetings at the request of INGOs with State Department officials responsible for policies in particular countries are indispensable to INGOs, whose clout often comes from their association with rich and powerful Western states. Ordinarily, INGO fact-finding missions also meet with Western diplomats to raise concerns and seek inside information about political issues in the country.

38. See, e.g., Amnesty International USA, *Zaire: Violence Against Democracy* (New York: Amnesty International USA, 1993), p. 23; Africa Watch, *Zaire: Two Years Without a Transition* (Washington, D.C.: Africa Watch, 1992), pp. 45-46.

39. The Robert F. Kennedy Memorial Center for Human Rights, for example, has often given its annual award to prodemocracy activists, including Gibson Kamau Kuria of Kenya, a leading figure in the struggle to end repressive one-party rule by introducing multiparty democracy in his country. See Robert F. Kennedy Memorial Center for Human Rights, *Justice Enjoined: The State of the Judiciary in Kenya* (Washington, D.C.: Robert F. Kennedy Memorial Center for Human Rights, 1992); Makau Mutua, *Confronting the Past: Accountability for Human Rights Violations in Malawi* (Washington, D.C.: Robert F. Kennedy Memorial Center for Human Rights, 1994).

40. Martin, *The New World Order*, p. 6.

41. See Lawyers Committee for Human Rights, *The World Bank: Governance and Human Rights* (New York: Lawyers Committee for Human Rights, 1993), pp. 2-3.

42. David Gillies, *Human Rights, Democracy and "Good Governance": Stretching the World Bank's Policy Frontiers* (Montreal: International Centre for Human Rights and Democratic Development, 1993).