

Statistical Methods for Human Rights

Jana Asher · David Banks · Fritz J. Scheuren
Editors

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 Springer

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Graciela Mellibovsky Saidler was a 29-year-old Argentine government economist. In 1976, she produced a statistical study on conditions in the slums of Buenos Aires which was so deeply embarrassing to the military dictatorship that it was publicly singled out by the Junta leader, General Jorge Videla, as an example of the infiltration of subversives into the government. Shortly afterwards, on September 25, 1976, she “disappeared.” In 1984, her father, Santiago, wrote a letter to the American Statistical Association, asking its help in determining her fate. In response, the ASA posted advertisements in Argentine newspapers offering a reward for information on her whereabouts. A few weeks later, the ASA received a letter from a former “death squad” member, Antonio Francisco Valdez, who claimed knowledge of her death. The ASA, in conjunction with the Committee on Scientific Freedom and Responsibility of the American Association for the Advancement of Science (AAAS), sent investigators to Buenos Aires to interview Valdez who, at the time, was imprisoned for

ordinary criminal charges. He gave a statement in which he confessed, in chilling graphic detail, to torturing and killing Graciela, referring to her as the “beautiful Jewess.” He also demanded an exorbitant sum of money to disclose the location of her grave. A few weeks later, he escaped and, after murdering his wife, was killed in a shoot-out with police.

More than three decades later, the ultimate fate of Graciela, like those of thousands of other Argentine desaparecidos, remains unknown. Her aging parents, Santiago and Matilde, have never given up their search for her.

It is fitting that this work, devoted to the use of statistics in the investigation of human rights violations, be dedicated to Graciela, who gave her life to bring truth through numbers.

Foreword

I was particularly pleased and honored when Jana Asher, David Banks, and Fritz Scheuren asked me to write some lines as a foreword to an uncommon compilation of papers dealing with all aspects of statistics in the service of Human Rights and Democracy.

No surprise if a large majority of contributors to this book are from the United States: as recalled by Tom Jabine and Doug Samuelson (see Chapter 9), as far back as 1982, the American Statistical Association transformed into a standing committee an Ad Hoc Committee on Scientific Freedom and Human Rights, created after Carlos Noriega and Graciela Mellibovski disappeared and, in all probability, were executed by the military regime in Argentina in the late 1970s. Of course, defending statisticians in peril is just one aspect of the work statisticians have to do to promote and develop an evidence-based assessment of human rights implementation.

As Tom and Doug also related in Chapter 9, it was not so easy to raise this concern at the level of the International Statistical Institute (ISI), which refused in 1985 to have a meeting on “Statistics, Statisticians and Human Rights” in the official scientific program of the ISI Centenary Session. At that time, it also refused to create a committee to review ISI’s policies on human rights. Contributed papers were, nevertheless, presented and an informal open meeting was organized.

Years after the events I have just recalled, when I served as the President of the ISI, its International Association for Official Statistics (IAOS) section organized, in Montreux (Switzerland) in September 2000, its biennial international conference on the topic “Statistics, Development and Human Rights.” More than 500 professional statisticians, governmental officials, policy analysts, and human rights practitioners attended. The Montreux conference was undoubtedly a major step in developing a broad approach to the issues at stake for the statistical community, and in Chapter 8 Jan Robert Suesser and Raul Suarez de Miguel describe a project that is a direct outcome of that conference.

This book—edited by Jana, David, and Fritz—is a welcome occasion to deal with many of the problems yet to be fully addressed. One of the most important of those problems is to demonstrate that it is possible to use statistical methods to measure human rights violations, included in the most extreme situations as genocides or large-scale conflicts (and moreover to contribute to update the definition of a genocide from a legal point of view) as explained in several chapters of the present book, for instance (a) Mary Gray and Sharon Marek in Chapter 2 devoted to genocides;

(b) Clyde Collins Snow et al. about the Guatemala civil war (1977–1986) in Chapter 5; (c) Romesh Silva and Patrick Ball in Chapter 6 devoted to the measurement of killings and disappearances in the long 15-year conflict in Timor-Leste.

Chapters 2, 5, and 6 are all applied illustrations of the methods presented by Herbert and Louise Spierer in their fundamental textbook *Data Analysis for Monitoring Human Rights* edited in 1993 by the American Association on the Advancement of Science (AAAS) and the network HURIDOCs (Human Rights Information and Documentation Systems). Building nicely on the work of Spierers are the conceptual models and other sophisticated statistical methods permitting in-depth analysis aiming at better understanding Human Rights violations as described in Chapter 4 by Jorge Luis Romeu.

Among the first users of such statistical applications are the judicial systems of many countries that now recognize the value of scientific evidence, including statistical analysis of data. In Chapter 10, Herbert Spierer and William Seltzer describe their experiences as experts in cases submitted to the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda created by the United Nations Security Council; in their chapter, they recall that one of the first use of evidence based on quantitative data analysis was made during the Nuremberg Trial after World War II.

While these developments are dramatically needed to strengthen the values on which our societies rely on, it was important not to limit such a compilation on Statistics and Human Rights only to the problem of Human Rights violations. For years, international organizations have stressed the necessity to collect, analyze, and disseminate reliable figures in the field of human rights implementation taken in their broader definitions (including social, economic, and environmental rights), democratic processes, and governance improvement.

In the spirit of the declaration¹ of Amartya Sen, Dean of Trinity College, Cambridge, UK, and Nobel Prize Laureate (2000), there are many statistical compilations now of positive achievements in human rights. Among these are those of the UNDP (with the Human Development Reports produced yearly produced since 1991), the World Bank (with its programs on Public Sector Governance, Millennium Development Goals, or Anti-Corruption), and the OECD (with its projects on both Public Governance and Management, and Sustainable Development). Certainly

¹ “It’s impossible to reach a sustainable growth only by the means of an economic growth, but Human Development and respect of Human Rights and Democratic Rights, as well as the improvement of Governance are as well important!

Bold new approaches are needed to achieve universal realisation of human rights in the 21st century—adapted to the opportunities and realities of the era of globalisation, to its new global actors and to its new global rules. . . . Every country needs to strengthen its social arrangements for securing human freedoms—with norms, institutions, legal frameworks and an enabling economic environment. . . . Legislation alone is not sufficient. Poverty eradication is not only a development goal—it’s a central challenge for human rights in the 21st century. . . . Information and statistics are a powerful tool for creating a culture of accountability and for realising human rights. Activists, lawyers, statisticians and development specialists need to work together with communities. The goal: to generate information and evidence that can break down barriers of disbelief and mobilise changes in policy and behaviour.”

these organizations are active and important actors and they are to be commended for increasing the visibility of actions in that direction.

The Metagora project, which is presented in Chapter 8 by Raul Suarez de Miguel and Jan Robert Suesser, plays an original and interesting role in addition to all these other initiatives, mainly because of its bottom-up approach which completes and enriches the top-down approach that characterizes the work done by most international actors. The lecturers of this book will certainly be enthralled by the description of the pilot projects realized often in a difficult and sensitive environment. They will also be interested by the use of statistical methods for estimating casualties from wars presented by Beth Osborne Daponte in the Chapter 3 or the survey on Afghan refugee camps related by James Bell et al. in Chapter 7. Another application is proposed in Chapter 13 in the presentation by William Seltzer and Margo Anderson of the use—and misuses—of population data systems to target vulnerable subgroups and individuals; their discussion proposes important ethical issues and guidelines to governmental statistical agencies and the statistical profession more generally when they work within such systems.

Last but not least, the perspective offered by David Banks and Yasmin Said in Chapter 11 on New Issues in Human Rights Statistics is of great importance: they stress that a traditional conception of human rights which is focusing only on their civil and political aspect is not sufficient. For many actors in society, social and economical rights are fundamental. We find an echo to their concerns with the Millennium Development Indicators and Poverty Reduction Strategic Frameworks which are also tools at the service of human rights. In the Chapter 12, David J. Fitch et al. precisely present some statistical problems and remarks linked with the practical implementation of Millennium Development Goals.

I do not doubt that the lecturers of this book will find many incentives to think about the issues which are presented through all the valuable experiences compiled here and will be inspired by reading them, much as I was.

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Part I
Statistical Thinking on Human
Rights Topics

Chapter 1

Introduction

Jana Asher

The world of international human rights law, practice, and policy is complex, and the role that statistical analysis plays within such a world is difficult to understand without some background knowledge as to what a human right is, how human rights law has evolved over time, and the different players that lead to the realization of that law. Additionally, the distinction between humanitarian and human rights emergencies is sometimes a subtle one, and humanitarian and human rights law and practice can overlap. This chapter introduces those concepts in order to enlighten the statistician or social scientist as to the role of quantitative measurement in human rights advocacy and enforcement.

This chapter begins in Section 1.1 with a brief definition of human rights. Section 1.2 gives an introduction to the history of the “modern” human rights movement—that is, the development of human rights law and protocol since World War II. Section 1.3 describes how nongovernmental organizations (NGOs) are placed in the human rights community. In Sections 1.4 and 1.5, the traditional role of statisticians in that community is highlighted and a history of human right violations data analysis projects is presented in two parts: first the history of the quantitative analysis of coded qualitative data is explored, and then the development of random sample survey methods within the developing world, in general, and for human rights violations data, in specific, is outlined. The chapter concludes in Section 1.6 with a discussion of the potential roles of statisticians in the human rights community of the future and a discussion of the structure of the remainder of this book.

1.1 Human Rights

The exact nature of human rights has been debated for millennia and is still a topic of debate today. There is, however, a current “working” definition of human rights that can be derived from existing international treaties and conventions. The creation of those treaties will be discussed in Section 1.2; here we note that existing international human rights treaties outline *civil and political rights* such as

- freedom of speech
- freedom of assembly

- freedom from slavery
- freedom from torture
- the right to a fair trial¹

and *economic, social, and cultural rights* such as

- equal wages for work of equal value without discrimination on the basis of gender
- time for rest and leisure and reasonable limitation on working hours
- the right to social security
- the right to free, compulsory elementary education
- the right to physical and mental health
- the right to participate in the cultural life of the community.²

Human rights abuses, then, are violations of international human rights law perpetrated by governments or organized regimes. In the case of civil and political rights, such abuses can include mass killings and disappearances, physical assault, torture, forced displacement, sexual assault, and unlawful detention. In the case of economic, social, and cultural rights, abuses are more difficult to pinpoint, but can include the seizing or destruction of property, forced/unpaid labor, the withholding of emergency food and/or medical relief, a culture of impunity for discrimination in the workplace on the basis of race, ethnicity, or gender, or corruption in a governmental entity which causes funding for education or social security to “disappear.”

In order for human rights to be universally attainable, international human rights conventions and treaties and national human rights law must be enforceable via a *policing body* and a *working court system*, so that human rights abuses potentially can be prevented and perpetrators of human rights abuses can be apprehended, tried, and punished. Although the international governmental system has been moving toward the creation of such a system for enforcing international human rights law, that process is far from complete as is shown in Section 1.2.

1.1.1 Human Rights and Humanitarian Law and Advocacy

A point of confusion is the relationship between human rights law and advocacy and humanitarian law and advocacy. International humanitarian law is specific to the treatment of soldiers and civilians during times of war. The main legal documents that define international humanitarian law are the Geneva Conventions,³ which outline fundamental rights of captured and/or injured combatants and civilians within

¹ See the International Bill of Human Rights for the text of the primary international human rights treaties related to civil and political rights (www.ohchr.org/english/law/index.htm, accessed May 3, 2007).

² See the International Bill of Human Rights for the text of the primary international human rights treaties related to economic, social, and cultural rights (www.ohchr.org/english/law/index.htm, accessed May 3, 2007).

³ See “Humanitarian Law” at www.ohchr.org/english/law/index.htm (accessed May 3, 2007).

war zones. Humanitarian advocacy most often takes the form of humanitarian aid or relief and can include the provision of food, water, medicine, shelter, and durable goods to victims of natural disasters (such as famines, earthquakes, tsunamis, and droughts) or man-made disasters (such as wars).

International human rights law is applicable both during times of peace and also during times of war, and concerns itself with the general behavior of governments instead of the specific behavior of military units and/or commanders. Human rights advocacy involves fact-finding on human rights abuses, advocacy for specific victims of abuse, and application of pressure on governments to cease abuse.

International humanitarian and human rights law may intersect—such as in the prosecution of government officials for war crimes. The same situation can represent both a humanitarian and a human rights crisis—for example, refugees fleeing a war zone—and therefore might require both humanitarian and human rights advocacy. Because this book is concerned with human rights specifically, humanitarian law and advocacy will be discussed only when pertinent to human rights law and advocacy.

1.2 A Brief History of Modern Human Rights Law and Practice

Mass human rights abuses were certainly not unheard of prior to World War II, even in the twentieth century. The Turkish genocide of Armenians during World War I (ICTJ 2003, Werful 1934), the Japanese Military's Nanking Massacre within China in December 1937—February 1938 (Yang 1999), and the Red Terror of Vladimir Lenin in Russia (Applebaum 2003) all illustrate that mass human rights abuses were a known phenomenon in the early 1900s. The international legal mechanisms in existence at the time, however, did not provide for either the prevention of mass atrocities or the prosecution of those who instigated them.

There were two clear reasons. First, the validity of *universal* human rights was not established. Legally, a right is a right because it is sanctioned and enforced by a state or inter-state organization—but an international treaty related to human rights had not yet been created.⁴ Second, the *sovereignty* of the state—or the state's right to self-governance and freedom from international intervention in its affairs (Reisman 1990)—was considered inviolate. Looked at from another angle, the belief was that any existing international law applied to states only, not individuals, and that individuals were a domestic concern (McDougal and Bebr 1964). That had long been a strong belief; even in the face of overwhelming human rights abuses perpetrated by a state against its own citizens, such as the examples given above, outside states traditionally had been reluctant to interfere. The concept of sovereignty, although still strong, has been challenged most in the last 15 years, as we will see in this chapter.

⁴ The Geneva Conventions are an example of Humanitarian Law, and thus technically are not human rights treaties.

The world's first attempt at an international organization of cooperation—the League of Nations—lasted only the span of the time period between the two world wars, failing, in the words of Das 1947, because “the nations and their leaders failed to maintain what was right and just, and their opportunism and national selfishness” won over cooperation (p. 53). As a result, it wasn't until after World War II—with the development of the United Nations—that human rights entered the international political arena in a meaningful way.

1.2.1 The United Nations

World War II saw a human rights crisis of unprecedented scale; approximately eleven million people had been killed by the Nazi party in its quest for a perfect “Aryan race.” Approximately six million of those people were Jews, and millions of additional soldiers were killed fighting that war (Green 1998). The Allied leaders, desiring to avoid a repeat of the bloodshed of that war, agreed that a new international organization that would serve as an arena for inter-state disputes and insure stability was needed in the post-war era. The efforts to create such an organization were spurred on by the US President Franklin Delano Roosevelt. During two meetings held in 1944 between the allied powers—well before the war had ended—Roosevelt led efforts to both begin what would become the charter of the United Nations and also establish the International Monetary Fund and the World Bank (Glendon 2001, p. 4). The allied partners met again in February of 1945, and their efforts bore fruit in the April–June 1945 San Francisco conference that would mark the beginning of the United Nations as an international body. Unfortunately, President Roosevelt died just one week prior to the beginning of that conference (Glendon 2001, p. 8).

Although Roosevelt's initial concept of the United Nations included a strong focus on human rights issues, this focus had faded in the pre-San Francisco meetings of the allied forces. Negotiations during and around the conference, however, led to the inclusion of human rights language in the UN Charter. First, US nongovernmental organizations exerted pressure on the US to make human rights a priority for the new organization, and the U.S. State Department, in response, championed the inclusion of a Human Rights Commission within the UN Charter. Second, many of the smaller countries attending the conference—including several Latin American countries—pushed strongly for human rights to be more prominently mentioned in the UN Charter. When the first pictures of concentration camps were released to the delegates at the convention on May 8, 1945, support for human rights goals within the United Nations grew. The end result was strong language in the preamble of the charter related to human rights:

to reaffirm our faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small... (Glendon 2001, p. 18)

Additionally, Chapter 1 of the charter pledges the member states to work within the United Nations to promote human rights and fundamental freedoms.

While the inclusion of human rights language in the UN Charter was a positive step for those seeking to ensure human rights, it was a shaky one at best. It was one thing to declare intent, and another thing altogether to act on that intent; the United Nations Charter has no provision for enforcement of its goals (Stettinius 1946). However, an almost immediate victory for human rights ensued in November of that year, 1945, when trials of the leaders of the Axis forces of World War II commenced in Nuremberg. While some may argue that these trials served only as an example of victor's justice, others point out the amazing achievement of the existence of these trials at all. As Bass (2000) points out,

If Nuremberg was not created out of perfect goodwill, it was still far better than anything else that has been done at the end of a major war. The pressures on the Allies to choose summary execution were enormous, but they resisted in the name of domestic liberal decencies. . . . In the end, America and Britain managed to produce something extraordinary. We have created nothing to compare with it since (p. 205).

At the end of 1945, worn out by two world wars, the world awaited the formation of the UN Commission on Human Rights, to see what would happen next.

1.2.2 Creation of the Universal Declaration of Human Rights and the Convention on the Prevention and Punishment of the Crime of Genocide

The period of solid progress, between the creation of the United Nations in 1945 through about 1954, was one in which human rights norms were defined and basic charters and treaties were drafted (Forsythe 1985). During that time period, two major human rights documents were created and accepted by the United Nations: the Universal Declaration of Human Rights and the Convention on the Prevention and Punishment of the Crime of Genocide.

The United Nations held its first General Assembly in January of 1946. In a bold move, the United States sent the late president's wife, Eleanor Roosevelt, as a delegate to that meeting. She proved herself an able spokesperson and diplomat, so much so that she was invited to be on the committee created by the United Nations to make recommendations as to the form and function of the Commission on Human Rights. At the Committee's meeting in April–May of 1946, she was elected its chair. While the committee made only two recommendations—that there should be an international bill of human rights and that the Commission members should be appointed by the UN on the basis of individual qualifications rather than state allegiance—it was successful enough that the first Commission on Human Rights met for the first time in January of 1947 (Glendon 2001, pp. 21–32). Again Eleanor Roosevelt was chosen to serve as its chair (Whiteman 1968). Out of that initial meeting sprang a sub-committee, led by Eleanor Roosevelt as well, that would draft the Universal Declaration of Human Rights. Through her able leadership and political skill, Eleanor Roosevelt successfully led the committee to the creation of a document that was adopted by the General Assembly of the United Nations on

December 10, 1948. The enormity of her achievement cannot be understated; in spite of the political tensions of the time, not one member of the United Nations voted against the declaration, and only eight members abstained (Nolde 1953).

During the same time as the development of the Universal Declaration of Human Rights, a different, separate treaty was being developed within the United Nations. Its inspiration stems from the experiences and intellectual work of one man—a Jewish lawyer from Poland named Raphael Lemkin (Keck and Sikkink 1998, p. 83). Lemkin was the scholar who created the word “genocide”—a combination of the Greek word for race, *genos*, and the Latin word for killing, *cide* (Gutman and Rieff 1999). Lemkin was convinced prior to World War II that the fate of the Armenians in Turkey during his boyhood would be repeated for the Jews. Sadly, while working on the staff of the chief prosecutor of the US at the Nuremberg trials, he learned that 49 of his family members had perished in horrific circumstances under the Nazi regime. After this, he lobbied heavily at the United Nations for a convention on genocide and contributed greatly to the concepts embodied in the final wording of the convention. On December 9, 1948—one day before the acceptance of the Universal Declaration of Human Rights—the United Nations approved the Convention on the Prevention and Punishment of the Crime of Genocide unanimously (Keck and Sikkink 1998, pp. 87–88).

Additional conventions and treaties were approved later, notably on issues such as prostitution (1949), refugees (1951), women (1953), stateless people (1953), and slavery (1953, 1956) (Forsythe 2000, p. 43). These must have been heady times for the members of the United Nations as basic rules were established and ratified. But as Kunz (1949) points out, “That human rights are enumerated in a constitution is no proof in itself that they exist (p. 320).” The very same countries that were ratifying conventions were breaking them within the sovereignty of their own territories. The period of enforcement of these norms had not yet come.

1.2.3 More Conventions and the Beginning of Action

The early to mid-1950s did not mark the end of the creation of conventions and human rights norms. Scholars and philosophers continued to debate the nature of human rights as the UN continued to refine its own definitions, through yet more conventions. Two of these conventions warrant discussion, as they can be considered the “culmination” of the UN’s “standard-setting” work: the Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights, both approved by the General Assembly in 1966 (Donnelly 1981). These covenants served two purposes. First, while the Universal Declaration of Human Rights was extremely significant in the arena of international politics, it did not constitute international law, while the Covenants of 1966 did (Sohn 1979). Additionally, these two Covenants translate the principles given in the Universal Declaration into “precise legal language with detailed elaborations of exceptions, limitations, and restrictions” (Fischer 1977, p. 45). Second, the fact that rights were categorized and split into two different covenants—Civil and Political on the one hand, and Economic, Social,

and Cultural on the other—reflected a belief that the first type of rights only required negative action (e.g., to not torture citizens) and was more enforceable, while the second type of rights required positive action (e.g., to provide food for starving citizens). This distinction among human rights has not been universally accepted—for example, see Shue (1996)—but it is pervasive enough to be worth noting.

The 1966 Conventions were not ratified as quickly as the earlier human rights initiatives. As Robertson (1999) points out, it took 10 more years for enough states to ratify the conventions so that they could come into force. And between the acceptance of the Universal Declaration of Human Rights in 1948 and 1960, the United Nations Human Rights Commission had been forced to turn a blind eye on mass human rights abuses of states, instead focusing its efforts on paperwork. This lack of action on the part of the UN finally came to an end in the 1960s, when South Africa withdrew its membership. At last there was a state against which action could be taken with little to no political ramifications. By 1967, the General Assembly of the United Nations was calling for economic sanctions against South Africa, and the Human Rights Commission was ordered to study patterns of consistent human rights violations, as exemplified in South Africa (Robertson 1999 and Schwelb 1970). While the powers of the Human Rights Commission were limited to the study of state reports and the delivery of comments to the UN Security Council (Fischer 1982), this still represented a movement away from drafting of conventions and treaties to making those legal instruments actionable realities.

More evidence of the move toward action by the UN came in April and May 1968, with the creation of the Proclamation of Teheran at the International Conference on Human Rights held in Teheran (Schwelb 1970). The proclamation served as a reaffirmation by member states of their commitment to the full realization of not only political and civil rights, but economic and social rights as well, that is rights to food, water, health, and education (Donnelly 1981).

In the meantime, reports of gross violations of human rights outside of the South Africa example were not put on the agenda at the United Nations, or were addressed rather unevenly (Donnelly 1988). Why? First, as Bilder points out in his 1964 paper, at that time there were not “generally applicable and systematic international procedures or institutional machinery for actually receiving and investigating complaints of specific violations of human rights and taking appropriate steps to remedy them (p. 731).” Second, as discussed before, a strong undercurrent in international relations for millennia had been that of the sovereignty of the state and the principle of nonintervention. In fact, statements of state sovereignty had formed part of the UN Charter. As Donnelly (1986) argues, while the human rights norms established by covenants and treaties were international norms, the implementation of these norms was the sole responsibility of the state. The reason is that the principle of nonintervention in the state is a protective one; as pointed out in Slater and Nardin (1986), “the nonintervention principle sustains values such as national independence, diversity, and mutual restraint that are fundamental to international order (p. 86).” Even local leagues of nations, such as the Organization of American States, wrestled with the issue of nonintervention when facing the clear abuses by its members of their citizens (Ball 1961). Third, as pointed out by Henkin 1965,

Political and economic revolution, domestic instability, international tension, [the] Cold War—these have inhibited the growth of human rights in many parts of the world. Inevitably, these same forces shaped the United Nations and guided its politics and programs and its human rights activities no less than its other preoccupations (p. 510).

In other words, the world was in an unsteady state, and the political alliances and issues of the world carried into the workings of the United Nations, making it hard to achieve goals that went beyond noble words.

The forces at work fueling human rights abuses during this time were not just totalitarian governments—in fact, Mitchell and McCormick (1988) demonstrate that all governments of this time period committed at least some human rights abuses. But the worst state offenders were often aided and abetted by the foreign policy of the more democratic nations. For example, the international policy of the United States toward Central American countries throughout the 1970s and 1980s, including the provision of military aid to totalitarian regimes, led to mass human rights abuses, massacres, and potential genocide (see Danner 1994, Kaye 1997, Poe and Meernick 1995, and Porpora 1990). Indeed, the achievement or lack of human rights by the government of a developing state appears to have played little role in decisions by the U.S. State Department as to the allocation of aid to that state, and the reception of aid seems to have done little to improve the human rights record of that state (Carleton and Stohl 1987, McCormick and Mitchell 1988, Regan 1995).⁵ Forsythe (1990) goes so far as to label the period from 1953 to 1974 as one of “neglect” of human rights concerns by the US government, and the period from 1981 to 1988 (Reagan’s presidency) as one of “exceptionalism”, where the US felt that it stood as an example of human rights and that international standards were of no interest. Neier (1989) and Poe (1992) are not as pessimistic as Forsythe (1990) as to the intentions of the Reagan administration, supporting the claim that increased US foreign aid was linked to decreased evidence of human rights abuses and pointing out that toward the end of his presidency Reagan’s administration felt promoting international human rights was a major goal, albeit one that it applied inconsistently depending on its political agenda.

1.2.4 Truth Commissions, Tribunals, and Sovereignty

As the 1990s began, two trends—one positive and one positively frightening—converged to alter the landscape of human rights international law and practice. The first was a continuation of a small movement toward commissions created with the sole intent of determining the truth of what happened during a totalitarian regime. While the first of such commissions formed in 1971, in Uganda, and by the end of the 1980s, three such commissions had created reports, the crystallization of the concept of a “Truth and Reconciliation Commission” (TRC) did not occur until

⁵ There is an exception: according to Poe (1992), Jimmy Carter’s administration (1977–1981) made aid-allocation decisions based on human rights records of recipient states.

1991, with the formation of the Chile TRC. The concept of the TRC was further refined during the creation of the South African TRC in 1995, and the era of the modern TRC began (Hayner 2001, Gibsson and Gouws 1999).

Unfortunately, the proliferation of TRCs (over 20 at last count) reflects the more frightening trend apparent in the 1990s—that of massive levels of human rights violations in multiple countries. The international community was shocked to learn of camps much like the concentration camps of the Holocaust in existence in Bosnia in 1991. The situation in Yugoslavia over the next 9 years—including genocides, ethnic cleansings, massacres, and the forced migration of tens of thousands of people—led directly to the creation of the first international criminal tribunal since the Nuremberg trials, the International Criminal Tribunal for the Former Yugoslavia. Meanwhile, in Africa, trouble was brewing in Rwanda—trouble that culminated in the massacre of 800,000 Tutsi in April of 1994. Again, the United Nations responded by forming another criminal tribunal—in this case, the International Criminal Tribunal for Rwanda.⁶ In other countries, crimes were uncovered that were equally horrific, such as in the genocide of East Timor (Jardine 1999, Silva and Ball 2006, Chapter 6) and the massive and brutal human rights abuses in Sierra Leone (Conibere et al. 2004), leading to the formation of special courts by the UN and member states in both these countries to try and convict the worst of the perpetrators.

The call to action in the cases of Yugoslavia, Rwanda, and other countries owes its roots to sentiment that had been building in the international community over a number of years. McDougal et al. (1969) points out that “Deprivations of human rights visited upon one individual or group are increasingly perceived to be a personal deprivation for any observer and a potential threat to all freedom. Indeed, the knowledge is now pervasive that no people can really be secure in basic rights unless all peoples are secure (p. 237).” However, the initial United Nations responses in both Yugoslavia and Rwanda—the deployment of “peacekeepers” by the UN Security Council to prevent mass human rights abuses—were met with derision when those peacekeepers stood by while thousands of citizens were massacred in front of them. Nation states that had contributed soldiers to the peacekeeping forces were still not ready to forfeit their lives in the interference in another state’s issues (Barnett 1997). In contrast, the tribunals and special courts offered the real option of punishment for the offenders, even if the offenses were not stopped in the first place. The era of international policing of nation states’ human rights practices had begun, albeit shakily.

The United Nations’ movement toward action in the case of massive internal human rights was not limited to (failed) direct intervention in conflict and the creation of courts for trying the leaders of rogue states. In El Salvador and Guatemala, a UN delegation brokered human rights agreements with the two governments that included peace-building missions of UN staff as observers (Burgerman 2000). In other parts of the world, economic sanctions were used as a UN-sponsored form of international condemnation; Iraq after its invasion of Kuwait and mass slaughter of

⁶ See Bass (2000), Gourevitch (1998), Neuffer (2001), and Sudetic (1998) for more details on what happened in the former Yugoslavia and Rwanda.

Kurds serve as one example (Forsythe 1998, Mayall 1991). And in Kosovo in 1999, direct NATO bombing helped end Milošević control over Yugoslavia.

In spite of these advances for human rights abuse prevention and punishment, the situation was far from satisfactory. Not all human rights crises have been treated equally, as can be seen in the case of Chechnya (Cornell 1999) and China (Forsythe 1998). Important to note is that while mediation and individual cases of human rights abuses fell under the auspices of the Human Rights Committee and other similar committees of the UN, the UN Security Council controlled all peacekeeping or military actions taken by the UN (Alston 1983, Donnelly 1983). Therefore, international politics—most notably, in the structure of the UN Security Council—still determined which situations merited the peacekeeping attention of the UN, and which situations could be ignored. Such is the situation today, and such will be the situation as long as five countries on the Security Council—the United States, Russia, China, France, and England—have the individual power to veto any action of that council.

1.2.5 International Human Rights Law and Practice Today

Today, the United Nations' human rights machinery has grown to include multiple individuals, committees, and offices, coordinated by the Office of the High Commissioner for Human Rights (OHCHR). The UN Commission on Human Rights was replaced in 2006 by a UN Human Rights Council, which works with the support of the OHCHR. OHCHR also works closely with multiple United Nations programs and committees—including the United Nations Development Programme, the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization, the United Nations Population Fund, the United Nations Development Fund for Women, the Division for the Advancement of Women of the Secretariat, the Department of Peacekeeping Operations, the United Nations Staff College, and the Office of the United Nations High Commissioner for Refugees—to advance human rights in all UN activities. UN bodies that do not work directly with OHCHR but are concerned with human rights include the United Nations General Assembly, the Third Committee of the General Assembly, the Economic and Social Council, the International Court of Justice, and the International Criminal Tribunals for the Former Yugoslavia and Rwanda.⁷

Current UN policies on and protections of civil and political rights are moving more and more toward intervention and punishment. The trial of Slobodan Milošević at the Hague sent the warning out to potential human rights abusers that even their status as ex-leaders of countries would not protect them from international justice, and an international mechanism for punishing human rights offenders recently has been created via the International Criminal Court. As noted previously,

⁷ For more information on the complex network of bodies that comprise the United Nations' human rights system, please see www.ohchr.org (accessed May 3, 2007).

however, a matching international policing body does not yet exist, as the UN peacekeepers are deployed only at the request of the UN Security Council.

While some analysts consider the recent movement toward international justice a positive step, others still worry about the loss of sovereignty. As Semb (2000) points out, once the policy of nonintervention is softened, the border between “acceptable” interference and “political” maneuvering may become blurred, as, arguably, appears to have been the case in the US invasion of Iraq in 2003.

Regarding extradition, Dugard and Wyngaert (1998) point out that extradition to particular states might involve human rights abuses of the person extradited, especially in the case when the extradition is to a country that still practices the death penalty. As such, requests for the extradition of even the worst of the war criminals must be handled carefully (USCIRF 2005). And as Watkin (2004) points out, in the ever more complicated world reaction to terrorism, current humanitarian law may be outdated, and care must be taken to ensure that accountability for the deadly use of combat follows a norm based on human rights.

The UN policies and action on economic, social, and cultural rights have developed more slowly. In recent years, initiatives such as the Millennium Development Goals have begun to address the right to food, health, and education via development initiatives. The international human rights community at large has begun to approach development via a rights-based framework, and current projects and collaborations in that community—including multiple UN initiatives—are tackling the difficult task of developing indicators of such economic, social, and cultural rights (a task to which statisticians should endeavor to contribute).

In summary, when we consider the progress made in the understanding and realization of human rights—from the formation of the United Nations, to the creation of human rights covenants and treaties, to action against states that violate those treaties—we have come a long, long way in the span of a single lifetime. However, the abuses still occurring in the world today and the inequities experienced in access to food, education, employment, and health in developing countries show us how the next lifetime must be spent.

1.3 Nongovernmental Organizations

In our discussion so far about the history of human rights in the international arena, we have focused our attention on the actions of national and international governing bodies. This is not by accident; by definition, the worst of the possible human rights-related crimes—genocide, crimes of war, and crimes against humanity—can only be committed by governments, individuals acting under the authority of governments such as the Janjaweed in Darfur (Hagan and Palloni 2006, Human Rights Watch 2005), or organized regimes that may not have achieved recognized state status in the eyes of the international community, such as the Revolutionary United Front in Sierra Leone (Conibere et al. 2004). For this reason, an individual not associated with a government may be guilty of mass murder or racially motivated crimes, but she/he cannot be found guilty of genocide. Additionally, tribunals and