

2 The terrain of human rights

The previous chapter identified the current scope of human rights, which comprises civil, political, economic, social, cultural, and solidarity rights, along with their associated positive and negative dimensions. This delineation of rights categories and dimensions was followed by a brief descriptive account and portrayal of the extant international law and regional systems for the promotion and protection of human rights from which a full list of rights can be 'read' from the various articles of the various human rights instruments. In building on this general mapping of the extant scope of human rights to be protected, this chapter outlines the main actors, organizations, and institutions whose actions, structures, and behaviour may have a direct or indirect impact on human rights. Direct impact involves either (or both) the significant capacity or (and) the legal obligation to protect human rights, while indirect impact may come from those organizations and actors whose activities are not self-consciously concerned with the protection of human rights, but owing to their significance as an actor may have rights implications. Such impacts may be positive or negative, which may vary across these different actors and may vary across different periods of time. Actors that were conceived as antithetical to the protection of human rights may over time emerge as essential to their protection, while those seen as essential to rights protection may become less so. In order to understand better these different actors, organizations, institutions and the ways in which we can conceive of their having a relationship with the promotion and protection of human rights, the chapter groups them into their respective organizational fields.

Human rights organizational fields

An 'organizational field' is a set of organizations that in the aggregate 'constitute a recognized area of institutional life', which begin in any issue area as 'displaying a considerable diversity, approach and form . . . [but experience] . . . an inexorable push towards homogenization' (Di Maggio and Powell 1983: 148). There are countless such organizational fields in the world and there are many organizational fields relevant to the promotion and protection of human rights, which have experienced varying degrees of homogenization since the creation of the United Nations system. These different organizational fields can be divided across two primary dimensions: (1) level of activity and (2) the sphere of activity. The first dimension simply concerns whether the organization or actor operates primarily at the domestic or international level. Current debates in comparative political science and international relations surrounding this distinction argue that many actors inhabit both realms (see Putnam 1988, 1993; Gourevitch 2002), and the scholarship on the transmission of human rights norms is precisely concerned with those actors who

transcend these two levels to bring about positive changes in the protection of human rights (see Keck and Sikkink 1998; Risse, Ropp and Sikkink 1999; Hawkins 2002, 2004; Risse 2002; Landman 2005a). Nevertheless, the distinction between the domestic and international levels is useful for social scientific analysis and mirrors the distinction made in law between international and 'municipal' levels (Malanczuk 1997: 63–74; Brownlie 2003: 31–56).

The second dimension is the distinction between the public and private, while within the private dimension there is further division between those actors and organizations that operate 'for profit' (i.e. firms) and those that operate 'not for profit' (charities, relief agencies, non-governmental organizations). As in the distinction between the international and domestic levels of activity, there are some organizations that play both a public and private role in the field of human rights. For example, many non-governmental organizations are more akin to public service delivery organizations in the absence of significant state capacity to deliver such services. They receive public funds and then redistribute them through their activities within the countries in which they operate. In this sense by performing 'statutory functions for government in a semi-independent way' they are 'quasi-autonomous non-governmental organizations' (or quangos; see Jones *et al.* 1998: 321), and they are present at the international and domestic levels within developed and developing countries alike. The further distinction between for-profit and not-for-profit private actors and organizations is useful since these different organizations may have different interests and therefore different impacts on human rights.

The combination of these different dimensions produces the 2×3 matrix depicted in Table 2.1, which shows the different levels of the activity, the different spheres of activity and the six organizational fields that result. The six cells in the table list examples found in each type of organizational field, including (1) public international organizations, (2) private not-for-profit international organizations, (3) private for-profit international organizations, (4) public domestic organizations, (5) private not-for-profit domestic organizations, and (6) private for-profit domestic organizations. Each of these different fields, their relevance to human rights, and the degree to which there has been any convergence in their activities are discussed in turn.

Public international organizations

The large proportion of human rights literature on the study of human rights has focused on the key role that has been or can potentially be played by public international organizations (Cell I). Indeed the moral outrage at the atrocities committed by Nazi Germany in part explain the founding of the United Nations system since the promotion and protection of human rights was seen as something that should come 'from above' to control the activities of unsavoury states. The organizations that make up this category are normally referred to as 'international governmental organizations' (IGOs), since they have been founded on some formal agreement between and among governments, and member states supply personnel who occupy various roles within the organizational hierarchy. The number of IGOs to which states are members has proliferated over the years, where the largest number of members in IGOs are found in Europe, followed by North America, the Middle East and North Africa, and Latin America (see Figure 2.1). But there are still relatively few IGOs that have a significant relationship to the promotion and protection of human rights. Among these there are truly international organizations with global reach (e.g. United Nations, World Bank, IMF, and WTO),

Table 2.1 The organizational fields of human rights

Sphere of activity	
Public	Private
Primary levels of activity	
International	Domestic
<p>I</p> <p>International governmental organizations (IGOs):</p> <ul style="list-style-type: none"> United Nations (UN) European Union (EU) Council of Europe (CoE) Organization for Security and Cooperation in Europe (OSCE) North Atlantic Treaty Organization (NATO) Organization of American States (OAS) African Union (AU) International Criminal Court (ICC) Organization of Petroleum Exporting Countries (OPEC) Organization for Economic Cooperation and Development (OECD) International Bank for Reconstruction and Development (IBRD) International Monetary Fund (IMF) World Trade Organization (WTO) 	<p>Not for profit</p> <p>II</p> <p>International non-governmental organizations (INGOs):</p> <ul style="list-style-type: none"> Amnesty International Anti-Slavery International Article 19 Human Rights First Human Rights Watch International Federation of Human Rights Leagues International Service for Human Rights Minority Rights Group Penal Reform International World Organization Against Torture <p>Transnational advocacy networks (TANs)</p>
	<p>For profit</p> <p>III</p> <p>Multinational corporations (MNCs):</p> <ul style="list-style-type: none"> Shell Nike Reebok British Petroleum Mitsubishi Mitsui Siemens Du Pont General Motors Sumitomo Ford Motor Toyota Exxon <p>Commercial banks and securities firms:</p> <ul style="list-style-type: none"> Citicorp Merrill Lynch JP Morgan Morgan Stanley UBS Investment Bank
<p>IV</p> <p>Independent nation-state governments</p> <p>Sub-national governments (state, municipal, local)</p> <p>Public schools</p>	<p>V</p> <p>Non-governmental organizations (NGOs)</p> <p>Civil society organizations (CSOs)</p> <p>Social movement organizations (SMOs)</p> <p>Warlords/guerrilla movements/ 'uncivil' movements/death squads</p>
	<p>VI</p> <p>Domestic business firms</p> <p>Commercial banks</p> <p>Private schools</p> <p>Private armies/mercenary firms</p>

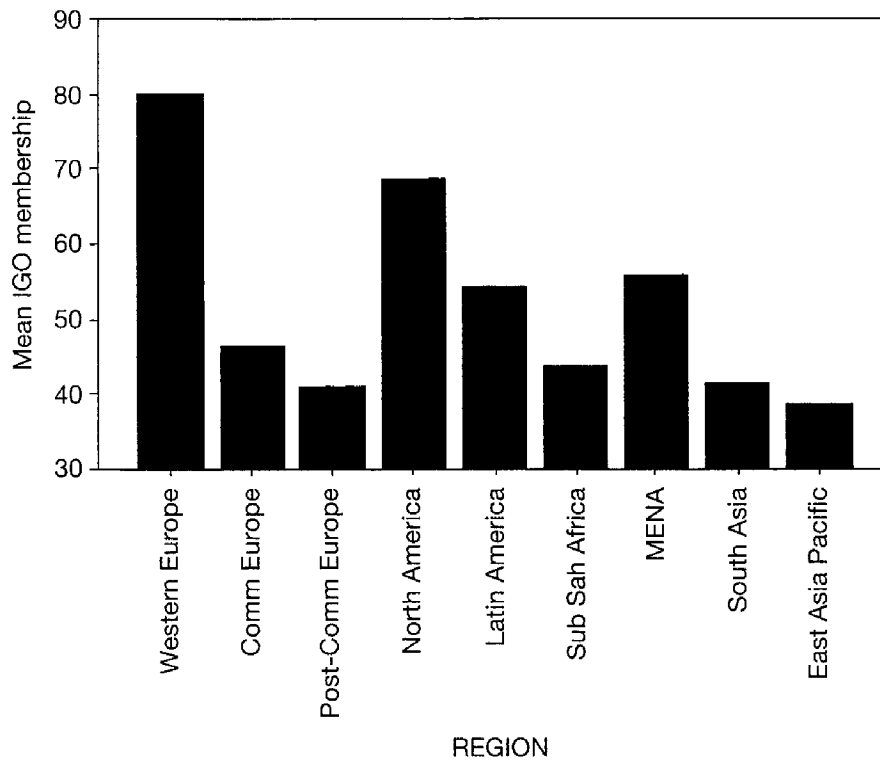


Figure 2.1 Number of IGOs in which states are a member by region, 1976–2000.

Source: Landman (2005c).

regional organizations with a global remit for many of their activities (e.g. European Union, OSCE), regional organizations with limited scope for their activities (e.g. NATO, Organization of American States, African Union), and economically defined organizations with a global scope for (or global impact of) their activities (e.g. OECD, OPEC).

While the United Nations system has been seen as the main protagonist in the struggle for the promotion and protection of human rights, many other IGOs are increasingly being seen as either having an important role in human rights or as having an obligation to uphold human rights standards in their activities. In the early years after its establishment, the human rights sections of the United Nations were dedicated to human rights while its development agencies, such as the World Bank and the IMF, pursued development objectives within strict economic parameters. These agencies initially perceived the promotion and protection of human rights as ‘political’ and therefore outside their domain; however, the turn towards concerns over ‘good governance’ and ‘rights-based’ approaches to development has increasingly seen human rights entering the planning and policy formation for development objectives and programmes (World Bank 1992; Lawyers Committee for Human Rights 1993; Gillies 1993; Weiss 2000; UNOHCHR 2002). This was due in part to the realization that structures of governance had an impact on development and that neo-liberal structural adjustment programmes (see below) were having an adverse effect on the poor. Such a change in focus brought law (and international lawyers) back into the field of development and economics (and economists) back into the field of human rights, where there have been attempts to mainstream human rights within the WTO and trade agreements, poverty reduction strategies, and general development and technical assistance programmes.

Thus, across the UN system there has been a certain convergence of policies with a human rights focus, and even though the different agencies perform different functions, they are increasingly guided by similar commitments to the promotion and protection of human rights. At the regional level, public international organizations have formed that in part mirror those at the global level, with accompanying hierarchies, institutions, and mechanisms for the promotion and protection of human rights. The European system has the most developed jurisprudence with respect to human rights and active institutions in the form of the European Commission of Human Rights and the European Court of Human Rights. Like the European system, the Inter-American system also has a Human Rights Commission and a Court, while both have been in active practice for a shorter period of time than their European counterparts (Harris 1998: 1–29; Forsythe 2000: 132). The African Union has a Commission for Human and People's Rights, and in January 2004 established an African Human Rights Court based on the 1998 protocol to the 1981 African Charter (Mutua 2001; Forsythe 2000: 135). The structure, function, and purpose of these human rights organizations are much like those at the global level as they seek to implement human rights norms at the regional level, while the economically defined IGOs (e.g. OECD, OPEC) have not yet mainstreamed human rights.

Private international 'not-for-profit' organizations

The second great set of protagonists and 'prime engine of growth' (Mutua 2001: 151) in the struggle for human rights has been the multitude of international non-governmental organizations (INGOs) whose primary purpose and function are to promote human rights. Currently, these organizations represent a subset of about 250 organizations (Smith, Pagnucco and Lopez 1998) from the total number of INGOs, which has grown from just over 300 in the mid-1970s to well over 700 by the turn of the century (see Figure 2.2). While INGOs in the human rights field do not have the same legal authority as the UN agencies, their activities predate the establishment of the UN and the UN Declaration (e.g. Anti-Slavery International was founded in 1839, the International Federation of Human Rights Leagues was founded in 1922, and the International League of Human Rights was founded in 1942), and have become increasingly important in the evolution of human rights protection ever since, effectively 'transforming the words of the Declaration from a standard into reality' (Korey 1998: 2). Human rights INGOs such as Amnesty International and Human Rights Watch have been instrumental in developing systems for monitoring human rights abuses throughout the world and alerting the public to such practices in an effort to stop them. In addition to monitoring and alerting, typical INGO activities include setting international standards for existing and new sets of human rights; contributing to the international human rights agenda through interaction and consultation with relevant personnel and institutions in IGOs with a mandate to protect human rights (see above); building capacity, training, and service delivery for domestic NGOs in the struggle for human rights; and conducting research, publishing findings, and issuing handbooks and manuals on specialized human rights issue areas (see Welch 2001b: 1–13; Landman and Abraham 2004).

The mandates for INGOs laying out their main aims and objectives vary from very broad aims to promote and protect all human rights found in the Universal Declaration of Human Rights (e.g. the International Federation of Human Rights Leagues), to the struggle for better protection of a discrete set of human rights, such as freedom from servitude (Anti-Slavery International) or freedom of expression and freedom

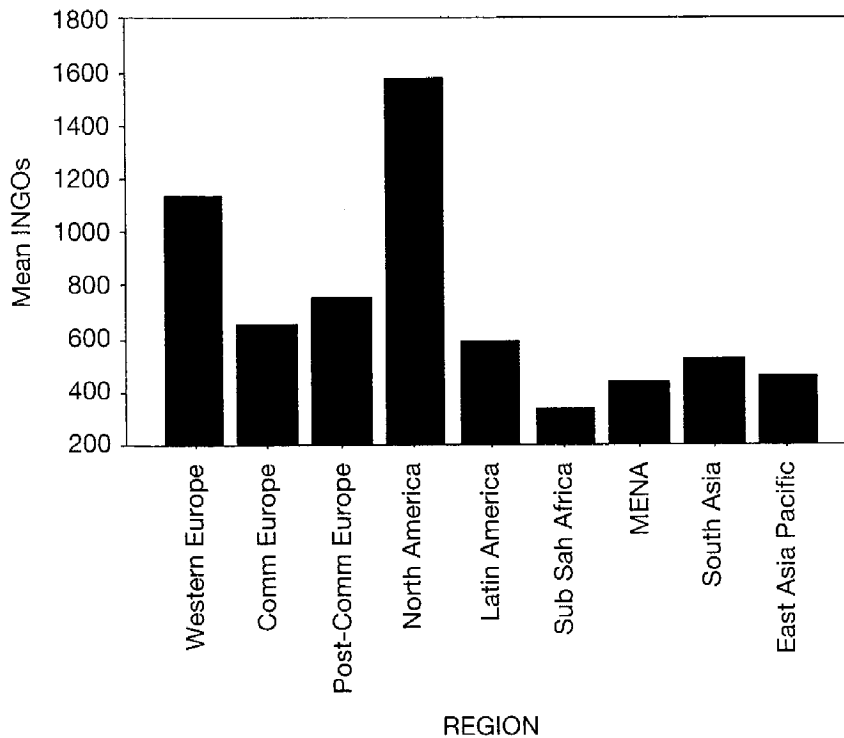


Figure 2.2 Number of INGOs with office registration in states by region, 1976–2000.

Source: Landman (2005c).

of information (e.g. Article 19). INGOs receive funding from a variety of sources, including international donor agencies (charitable trusts and research councils), foreign governments (e.g. Sweden, Denmark, Canada, and the Netherlands are prominent human rights donor governments), private contributions from members and philanthropists, and interest earned on investments. A typical INGO will have ‘core’ funding for the day-to-day running of long-term activities (e.g. legal clinics and publications) and for meeting particular needs in the short term (e.g. urgent appeals for victims, media appearances, etc.) and ‘project’ funding for specific projects that fall under the general programme activities (see Landman and Abraham 2004). They also seek to diversify their funding base to maintain their overall autonomy and reduce their dependency on one donor, and some have an official policy not to accept government funds (Mutua 2001: 154).

INGOs can vary in size from a handful of people in one office to one hundred full-time staff working in the offices of their international secretariats (usually London, New York, Washington, and Geneva), while their organizational structure can vary from highly centralized and hierarchical structures to loose federated and decentralized structures. INGOs also have different ways of managing their partnerships with other INGOs and domestic NGOs, where some organizations assume a leading role while others maintain more equal partnerships. The main INGOs listed in Table 2.1 have consultative status with the Economic and Social Council within the United Nations, which allows them to participate in key meetings of the United Nations, such as the annual meeting of the United Nations Commission for Human Rights, and UN meetings in New York.

There are many ways in which INGOs and their activities have become more homogenized since the early years of their formation and appearance on the international stage.

First, most INGOs engage in similar sets of activities across the broad spectrum of human rights issues, including monitoring, standard setting, advocacy, training, publications, and capacity building. Second, the proliferation of human rights INGOs has meant an increasingly competitive funding environment where organizations have had to become more professionalized and more accountable to their donors. They must have strategic plans, published financial accounts, measurable objectives, and 'deliverables' that can demonstrate their effectiveness to donors (Welch 2001b: 13; Landman and Abraham 2004). Third, and related to the second point, INGOs have diversified the range of human rights topics they address such that those organizations traditionally engaged in work on civil and political rights are branching out into work on economic and social rights (e.g. International Commission of Jurists, Amnesty International, and Human Rights Watch), those INGOs that were more 'developmental' are mainstreaming human rights into their work (e.g. Oxfam and Care), those that initially were primarily human rights organizations have adopted work programmes that include service delivery (e.g. Penal Reform International), and new INGOs have been established that are primarily dedicated to economic and social rights, such as the FoodFirst Information and Action Network (FIAN) (Scott 2001; Hamm 2001: 169).

Finally, networks of INGOs at the international level work with networks of NGOs at the domestic level (see below) and have formed so-called 'transnational advocacy networks' (TANs) in an effort to change the human rights practices of particularly unsavoury states (Keck and Sikkink 1998; Risse, Ropp and Sikkink 1999; Risse 2002). While the overall impact of such networks and INGOs is difficult to assess (see Chapter 8; Cingranelli and Richards 2001; Landman and Abraham 2004), a comparative political science study of human rights NGO networks in eleven countries examines the degree to which these advocacy networks alert IGOs about human rights situations, which in turn put pressure on states to change their practices (Risse, Ropp and Sikkink 1999). The study argues that INGOs are able to link monitoring and reporting activities taking place at the grassroots level to the advocacy strategies at the international level, whose institutions apply pressure on offending states to change their behaviour. This change in behaviour ranges from a minimal 'tactical' concession to the full internalization and institutionalization of a human rights culture. While this relationship between INGOs, domestic NGOs, IGOs, and individual states is examined in only eleven countries with a limited set of inferences (see Landman 2003: 209–213; 2005a), the study represents a social scientific analysis of the possible positive impact that INGOs can have on the promotion and protection of human rights.

Despite the general optimism surrounding human rights INGOs for promoting and protecting human rights, critical perspectives on their formation, bases of support, mandates, and strategies focus on their essentially Western, legal, and universalizing ideologies. The base of social and political support for the major human rights INGOs has come from the associates of their white male 'founding fathers' located in the 'private, nongovernmental, and civil society segments of the industrial democracies', including 'lawyers, academics at leading universities, the business and entertainment elite, and other professionals' (Mutua 2001: 153). And despite a new focus on economic and social rights, INGOs have traditionally focused on legal solutions to the promotion and protection of civil and political rights (Mutua 2001), while many continue to pursue pro-Western and anti-Southern policy strategies. The deep divisions between and among INGOs with respect to focus and strategy were made starkly apparent at the 2001 World Conference against Racism.

Private international 'for-profit' organizations

The group of organizations in Cell III in Table 2.1 comprise both multinational corporations (MNCs) and commercial banks and securities firms. Unlike the organizations in Cell II, neither type of organization in Cell III has been seen as a protagonist in the struggle for the promotion and protection of human rights, but their activities have had direct and indirect impacts on human rights that make them an important organizational field for this volume. Multinational corporations typically have their headquarters in one of the industrialized democracies and have a significant presence in the global South through direct investment in a variety of industries, including large-scale extractive industries for minerals and raw materials (e.g. oil, gas, gold, copper, and bauxite); end-assembly and manufacturing of consumer durables for export (e.g. CD players, stereos, cars, washing machines); textiles, clothing, and shoes; cosmetics, toiletries, soaps, and cleaning supplies (e.g. Procter and Gamble); and production and distribution of fresh produce for supermarkets in the North. MNCs thus vary greatly in the types of activities they carry out and the types of goods they produce, which makes their impact on human rights issues vary greatly.

The territorial and financial expansion of multinational corporations involved in manufacturing since the 1960s has been 'pushed' by a drive to the bottom within competitive global markets for cheaper and cheaper production processes, as well as access to raw materials, and 'pulled' by developing countries in need of foreign capital to fuel processes of industrialization. Extractive MNCs may have long-lasting relationships with host countries and may form new ones in the event that new sources of raw materials for extraction have been identified. MNCs in manufacturing seek to reduce their marginal costs by 'farming out' the final assembly of goods in countries that have a cheap and abundant labour supply and then re-importing at a tax discount the assembled goods for consumption in the North. Developing countries wanting to break their dependency on the export of primary goods have often undergone processes of import-substitution industrialization (ISI) and export-oriented industrialization (EOI) both of which require substantial inward investment partly financed by multinational capital (see Moran 1985, 1998; Brohman 1996: 35–80; Todaro 1997: 534–545), the nature of which is highly diversified across different MNCs and different business sectors.

Arguments within the development community have raged about the positive and negative impact of MNCs and direct foreign investment. Developmental economists see great benefits to direct foreign investment, including an improvement in a country's balance of payments by contributing to its savings and foreign exchange reserves and by raising government revenue in the form of taxes; enhancing management expertise through the relocation of business executives to the recipient country; increasing demand for labour through helping to fuel the process of industrialization; and transferring technology developed within the core economies to the peripheral economies. Economic arguments against the presence of MNCs include the fact that they widen income gaps in recipient countries through concentrations of income to a small proportion of the population; a decrease in domestic savings and investment through preferential treatment of particular MNCs by recipient governments; a weakening of the current account (i.e. the difference between imports and exports) as new dependencies develop for the importation of intermediate goods; less tax revenue owing to concessionary rates offered by recipient countries; and exclusive control over privileged company knowledge and the transfer of technology that is inappropriate to the skill base of the available labour supply in the recipient country (see Todaro 1997: 537–543).

In addition to these economic arguments, human rights organizations and activists have added a series of objections to the presence of MNCs in developing countries on normative grounds that are linked to the different kinds of activities and production processes carried out by different firms. Their objections include the presence of MNCs in countries responsible for gross violations of human rights (e.g. oil companies in Myanmar/Burma); their disregard for international labour standards and worker's rights (e.g. the famous cases of Nike, Reebok, and Levi Strauss); their infringement of intellectual property rights in the development of drugs and pharmaceuticals; their role in displacing indigenous communities to gain access to raw materials; their disregard for local customs in trying to develop markets for their products (e.g. the Nestlé baby formula scandals); and their negative impact on the environment. MNCs have been the subject of large 'name and shame' campaigns and boycotts of particular products, the production of which the human rights community has linked to infringements and violations of human rights.

The second set of international 'for-profit' organizations in Table 2.1 are the large commercial banks and securities firms that lend capital to developing countries in need of inward investment and/or invest in stocks, bonds, and notes (known as 'portfolio investment'), which fuels financial speculation. The private loans are a direct transfer of money to the developing countries on which there is charged some kind of interest rate (fixed or variable). After the 1973 oil crisis, European and North American commercial banks were awash in so-called 'petrodollars' invested by oil-producing countries. Commercial banks at this time were bullish about the prospects of earning profits through lending money to developing countries. The petrodollars were thus lent to developing countries at highly concessionary rates, both in terms of long maturity rates and low variable interest rates pegged at a few percentage points above the global lending rate. The subsequent oil and interest rate crisis in 1979 meant that debt servicing on the principal loaned to developing countries grew exponentially to the point that in 1982, Mexico, Brazil, Argentina, and Chile could no longer afford to pay their international debt obligations.

The 'debt crisis' ensued, as international strategies were developed to address the repercussions of sovereign countries effectively going bankrupt. One solution (see above) was for the World Bank to become a 'lender of last resort' and extend loans to cover debt servicing while imposing new conditions (structural adjustment and macro-stabilization) for reforming the recipient country's economy. Other responses included the development of a secondary debt market, where investors bought debt from those countries in crisis; 'debt-for-equity swaps' where investors traded equity in the indebted country for assets; 'debt-for-nature' swaps, where investors bought debt in exchange for protected environmental conservation sites within the indebted country; and debt reduction strategies that sought debt forgiveness on the basis that many debts would simply never be repaid. Of these different strategies, the IMF- and World Bank-inspired structural adjustment programmes (SAPs) and macro-stabilization policies have received the most attention from human rights groups who argue that their imposition has increased income disparities, increased poverty, weakened domestic demand, reduced public expenditure on the provision of healthcare, education, and welfare, and led to overall increase in societal polarization (see Brohman 1996: 132–168; see also Stiglitz 2002).

Portfolio investment is completely different from commercial lending and consists of the foreign purchase of assets and equity, which are then traded on markets for financial gain. Such investment can be beneficial to a developing country since it raises the value

of domestic firms and contributes to overall economic growth. For the private firms investing in a developing country, or 'emerging market', annual returns on investment can be particularly high (as much as 40% in some countries), but these markets also tend to be highly volatile, where speculative capital can flee a country as quickly as it has entered it. For example, in 1994, Mexico experienced a collapse in the value of the peso, which was propped up through an emergency rescue package from the Clinton Administration. But while the package stabilized the Mexican economy in the short run, investors dumped their assets at a loss and took their investments elsewhere. In this way, speculative investment of this kind can be a benefit to developing countries if they have a solid economic base, but a serious liability if they do not, since investors can remove capital quickly from a vulnerable market (see Todaro 1997: 543–545).

While the activities, functions, services, and products of MNCs, banks, and securities firms are different, they are not completely separate since consortia of banks and securities firms may back an investment package and business opportunity carried out by an MNC in a developing country. Within the discrete sub-sectors of this general organizational field there has been some homogenization as similar sets of firms offer similar sets of products and services, and carry out similar sets of activities within different contexts. In addition, across many MNCs, oligopolies have formed where fewer and fewer firms dominate a particular business sector, thus reducing the number of MNCs that may have an impact on human rights in any given country. Human rights organizations have argued that the sheer size, power, and potential impact of private firms on human rights make them a legitimate focus for advocacy and change. Indeed, the annual turnover of the top twenty MNCs is much higher than the annual GDP of most countries, even those in the developed world (see Forsythe 2000: 192–193). For firms operating in countries notorious for committing gross human rights violations, human rights arguments focus on the moral obligations of these firms that are in a position to protect human rights, a position that does not necessarily affect their ability to function and earn profits (Sorell 2004). Even in countries where there are not gross violations, a human rights perspective focuses on the vulnerability and powerlessness of ordinary people to have any control over their socio-economic fortunes, and the ways in which MNC operations and policies can help alleviate the worst forms of their negative externalities.

Given the size and power of MNCs, some human rights NGOs have adopted an antagonistic approach that draws a distinct line of demarcation between their realm and that of the private firm. Such a position has led to the name-and-shame campaigns and direct-action campaigns against firms across the extractive, textile, manufacturing, and pharmaceutical sectors. Another approach has been to engage constructively with firms to explore the ways in which so-called 'corporate social responsibility' can be enhanced, a process that improves the firm's public image, while at the same time addressing important human rights concerns. Measures including 'voluntary codes of conduct', human rights 'audits', and formal commitments of firms to uphold human rights found in the Universal Declaration have all sought to mainstream human rights into the concerns of big business. Both the antagonistic and engaging approaches have sought to increase the overall accountability of firms that moves beyond the shareholders to include all the relevant stakeholders (McBarnet 2004: 63).

Public domestic organizations

The essential public domestic organization for consideration in this volume is what has been called the 'modern' or 'nation' state, which under the current international law of human rights remains the primary agent for promoting and protecting human rights. The history of the modern state argues that states emerged through the amalgamation of smaller administrative units (usually feudal) and were combined with some notion of national identity. The primary function of this early state form was to raise revenue to run and maintain a standing army, while over time state functions have become more diversified and have permeated many aspects of modern life (Bendix 1964, 1978; Mann 1993; Münkler 2005: 32–50). The sociology of the modern state holds that it is 'human community that (successfully) claims the *monopoly of the legitimate use of physical force within a given territory*' (Weber 1991: 78, emphasis in the original). The political economy of the modern state holds that such monopoly of legitimate use of force is essential for economic prosperity, since it provides a secure environment (in particular the protection of property rights) in which to carry out productive economic activities (Gray 1998; Drazen 2000; Bates 2001; Jessop 2002). But such a conception is also important for human rights since it contains a minimum requirement of *legitimacy* and rules out *other sources of violence* that may threaten its integrity, both of which have been essential for the emergence of 'old' and 'new' democracies throughout the 19th and 20th centuries (Rueschemeyer, Stephens and Stephens 1992: 63–69; Linz and Stepan 1996: 16–37). The political sociology of citizenship rights argues that rights claims develop throughout processes of state formation and nation building as new sectors of the population seek inclusion. This account includes a 'top-down' explanation for the expansion of rights protected by the state and a 'bottom-up' explanation for the expansion of rights demanded by mobilizing groups (see Marshall 1963; Barbalet 1988; Foweraker and Landman 1997). Finally, the development of international law is based on the twin assumptions of state sovereignty and non-intervention, most notably embodied in the 1648 Treaty of Westphalia, while international relations has long grounded its inquiry on the strategic interaction of states, which have been conceived in the realist tradition as 'unitary rational actors' at the global level of analysis (see Chapter 3; Morgenthau 1961; Krasner 1999; Donnelly 2000; Snidal 2002).

It is no surprise then that states and their ability to protect (and violate) human rights are at the centre of the international law of human rights and have featured in a large proportion of research, policy, and advocacy in the field of human rights. Human rights treaties are international multilateral agreements that oblige their individual states parties to uphold a common set of human rights norms. While the international 'regime' of human rights is still relatively weak (Donnelly 1986, 2003), the full implementation of human rights protections is the onus of individual states, while scholarship and advocacy focus on what states are and are not doing to achieve the full implementation of human rights. Some have claimed that the process of globalization that emerged in accelerated fashion since the expansion of multinational economic activities of the 1960s has begun to undermine the centrality of states in the global system, while the overall effects of globalization on human rights is a highly contested area of social scientific research (see e.g. Meyer 1996, 1999a, 1999b; Li and Reuveny 2003). But many academics and practitioners have argued that state authority has not diminished with globalization, and certainly since the September 11 terrorist attacks in the United States, there has been a reassertion of state authority and control over the lives of individuals (citizens and non-citizens) who are still in many ways bound to the territorially defined independent nation

state in which they reside (see e.g. Booth and Dunne 2002; Gray 2002; Strawson 2002). For example, significant anti-terror legislation has been passed in many countries in the world that allows states to curb the rights of those suspected of terrorism, and that represents significant derogation from international human rights commitments that had already been undertaken.

The state thus remains the central actor in the world of human rights and it is the organization that carries the primary responsibility for protecting and defending human rights, as well as the key actor that denies rights (Foweraker and Landman 1997). While states vary in size, history, power and other features, they do perform approximately the same set of functions across the world. Thus, we may speak of a certain functional homogenization of state organization that has emerged in the modern era, but states are not monolithic organizations. Rather, they comprise different branches (executive, legislative, and judicial), separate ministries (interior, justice, treasury, defence, social security, education), and can be divided between national and sub-national level institutions, all of which have a bearing on the promotion and protection of human rights. For example, there are numerous institutional explanations for the precariousness of rights protection, such as the presence of strong executives and weak judiciaries, powerful provincial governments within federal systems, under-resourced police, justice, and prison systems, and *de facto* discrimination in health, education, and social service departments. Other social science arguments have looked at the state more holistically and have tried to determine whether its degree of 'relative autonomy' *vis-à-vis* strong social and political groupings in society is related to the promotion and protection of human rights. This has been particularly so in those areas of the world characterized by the presence of strong patron–client networks (as in Latin America), neo-patrimonialism, and 'predatory' states (as in many parts of Africa). Moreover, there is considerable attention given to so-called 'failed' states, where there is the absence (or partial absence) of legitimate monopoly over the use of force in a given territory, such as Burundi, Angola, Sudan, and Colombia. Failed states have had tragic consequences for security, development, and the protection of human rights (see e.g. Rotberg 2004).

Private 'not-for-profit' organizations

Like their counterparts at the international level, there are countless non-governmental organizations at the domestic level that work directly and indirectly for the promotion and protection of human rights. They vary in form, size, and function with regard to their connection and impact on human rights, including developmental work, legal advocacy and aid, and human rights documentation and monitoring. They vary in the degree to which they work with partner organizations at the international level (both IGOs and INGOs) and the degree to which they are willing to work with the various organs of their own domestic states. Some NGOs form larger alliances with INGOs (see above), or work with IGOs on particular projects at the grassroots level, while at the same time having different strategies for working closely with domestic states or remaining relatively autonomous from them. It has thus far been nearly impossible to document or count the number of such NGOs throughout the world, since their formation, amalgamation, and dissolution is frequent and constantly shifting. Moreover, the continued maintenance of NGOs is often a function of the availability of international funds for particular and/or fashionable issues, the state of freedom within the given country, and the relative success or failure of their activities. NGOs can form and dissolve around particular issues, can be

shut down by states through repressive measures, and may disappear for having achieved their aims as much as for not having achieved their aims.

In addition to NGOs, there are a number of other not-for-profit organizations that may have an impact on human rights, including that broad set of 'civil society organizations' and social movement organizations, which are largely voluntary, pursue stated aims and objectives through recruiting and mobilizing members, and maintain various degrees of autonomy from the state and from political and economic society. Such organizations can include social clubs, guilds, popular economic organizations, church groups, charities, self-help organizations, soup kitchens, food cooperatives, women's collectives, indigenous groups and movements among many others. The vast body of social scientific research on social movements analyses the emergence, trajectory, and impact of social mobilization, which oftentimes comprise these groups, in terms of their ability to change dominant discourses, set public policy agendas, influence positive legislation within the issue area, and bring about lasting changes in the political system, whether it be a liberalizing authoritarian regime, consolidating democracy, or mature democracy (see e.g. Piven and Cloward 1977; Tarrow 1989; 1994; Dalton and Kuechler 1990; Foweraker 1995; Banaszak 1996; McAdam, McCarthy and Zald 1996; Foweraker and Landman 1997; Della Porta and Diani 1999; Landman 2000b, 2003).

Many of the individuals, groups, and movements within civil society that work in the area of human rights have become known as 'human rights defenders' (HRDs). There are several definitions of human rights defenders, which in many ways can affect the degree to which they attract attention, become targeted by groups and organizations that oppose their activities, and become part of international systems for monitoring and reporting. The 1998 Declaration on Human Rights Defenders does not define HRDs *per se*, but Article 1 stipulates that,

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

This article in the declaration means that any individual or group can be a human rights defender, while the subsequent articles stipulate what rights protections ought to be in place in order for such individuals and groups to carry out work on human rights. Frontline, an Irish human rights NGO, defines a human rights defender as 'a person who works, non-violently, for any or all of the rights enshrined in the Universal Declaration of Human Rights'. The International Federation of Human Rights Leagues (FIDH) and the World Organisation Against Torture (OMCT), which jointly run the Observatory for Human Rights Defenders provide a slightly more cumbersome definition of HRDs that focuses on their victimization:

Each person victim or risking to be a victim of reprisals, harassment or violations, due to his compromise exercised individually or in association with others, in conformity with international instruments of protection of human rights, in favour of the promotion and realization of rights recognized by the Universal Declaration of Human Rights and guaranteed by several international instruments.

(FIDH-OMCT 2003: 274)

Even this more victim-centred definition leaves open the possibility of many different actors qualifying as HRDs. Nevertheless, the nascent monitoring and advocacy systems

in place try to record and follow up on those actors who have suffered violations precisely because they have been outspoken in their work on behalf of human rights in particular domestic political contexts. Figure 2.3 shows the total number of abuses committed against such HRDs across over sixty countries for the 1997–2003 period, including arbitrary detention, threats and harassment, and summary execution. The data are from coded narrative accounts of abuse against HRDs collected by the joint FIDH-OMCT Observatory for human rights using a modified version of the ‘who did what to whom’ data model popular in truth commissions (see Chapter 5 and Ball, Spierer and Spierer 2000, Landman 2005d; Landmann 2006).

But not all civil society organizations and social movements are inherently ‘good’. Indeed, many forms of oppressive discourses, exclusionary politics, and violent behaviour that have grave consequences for human rights emerge from organizations and groups within civil society. Such ‘uncivil’ movements engage in violence against other social movements and democratic governments through kidnapping, murder, destruction of property, coups, and coup attempts. They seek to eliminate competition from their adversaries, and expand political power for an exclusive sector of the population. Like ‘civil’ social movements, they use identity and symbolic politics and unconventional political strategies, and they straddle the divide between societal autonomy and integration by participating in the political system through existing forms of interest inter-mediation (Payne 2000: 3). Unlike civil movements, they engage in violent political action against their government or adversaries within civil society (Payne 2000: 220–221). Since they target adversaries in civil society and ultimately seek power within political institutions, such movements represent pathologies of both civil society and democracy. Unlike their civil counterparts that broadly support the idea of democracy, but seek to deepen it or transform it, uncivil movements threaten democratic stability and erode civil society, particularly in countries where both are relatively weak.

Examples of uncivil movements in Latin America include paramilitary organizations in Colombia and Argentina, the Shining Path in Peru, the Rural Democratic Union (UDR) in Brazil, the National Republican Alliance (ARENA) in El Salvador, the counter-revolutionaries (Contras) in Nicaragua, the Revolutionary Front for the Advancement and Progress of Haiti (FRAPH), and the Bolívar Revolutionary Movement (MBR-200) in Venezuela. In other parts of the world, such movements include guerrilla organizations and movements (e.g. Nepal, Sri Lanka, the Philippines, and Chechnya), warlords (e.g. Somalia), and terrorist organizations in the Middle East, all of which have had grave consequences for human rights, and in particular children’s rights (see Kaldor 1999; Münkler 2005). While these and other related organizations are primarily interested in power and provoking political instability and less interested in profit *per se*, there are yet other locally based organizations responsible for human rights violations that have other motivations for their actions. For example, in Latin America communal groups and popular organizations, in a perverse form of (re)claiming their sense of citizenship and providing local security in the absence of state capacity engage in vigilantism against local criminals, practices that include public lynching and other extra-judicial killings (see Speed and Reyes 2002; Goldstein 2003, 2004). Throughout many tribal organizations and local communal groups in Africa, ritual killings are part of daily life, where women often find themselves the target of local custom, which requires sacrifices to rid the community of illness.

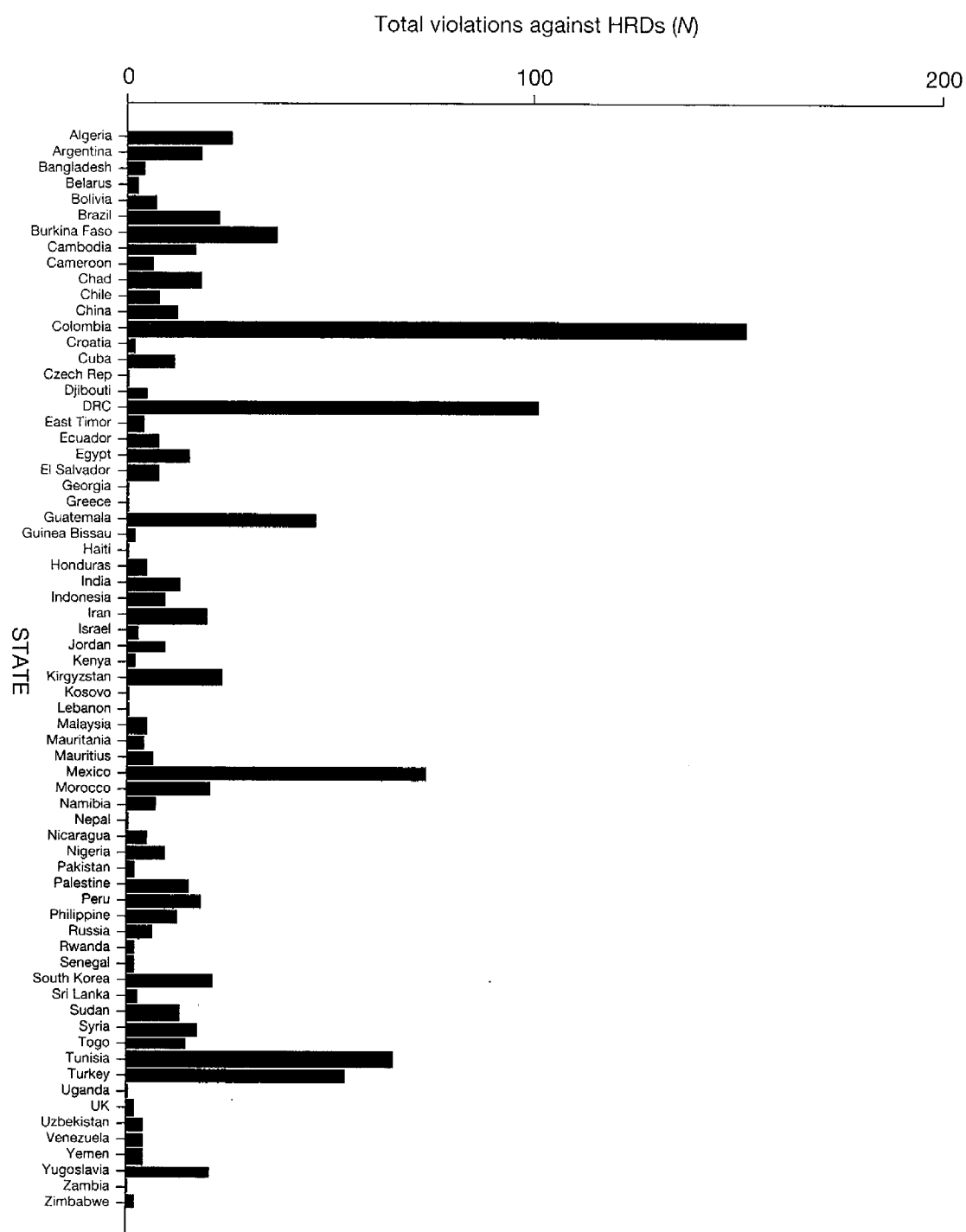


Figure 2.3 Total violations against HRDs, 1997–2000.

Source: FIDH-OMCT, 1997–2003.

Private 'for-profit' organizations

The final organizational field to be considered here is that set of private for-profit organizations, including small and large businesses, banks, and private schools. Like their international counterparts (MNCs), domestic private businesses and banks may not have an explicit relationship with human rights, but their corporate practices from human resource management down to the shop floor may have rights implications, including forms of gender, racial, and ethnic discrimination; infringement of worker's rights; and practices that may have health and welfare implications. In addition, like the public counterparts, private schools have a significant role to play in the area of human rights, although they will be less bound by rules on freedom of religion, dress codes, and discrimination. But they may want to exercise their own voluntary codes of conduct and act in ways that are consistent with domestic equal opportunities legislation and other socially responsible practices. In addition to these legal organizations, private armies and firms of mercenaries carry out violent activities for profit in many parts of the world in a trend that has seen the increasing commercialization of war, a process partly driven by the structural inequalities associated with patterns of uneven development in much of the global South (see Münkler 2005: 17–22).

The complex terrain of human rights

This overview of organizational fields at the domestic and international levels of analysis has shown that the overall *terrain* of human rights is exceedingly complex and comprises a great diversity of actors, organizations, and institutions that can have a variety of different positive and negative impacts on human rights. While there have been some homogenizing tendencies in each of the organizational fields, a good social scientist needs to understand the significant remaining differences between and among the organizations that comprise these different fields and not to homogenize them into monolithic 'us' and 'them' typologies. Indeed, it is precisely within the grey areas that a social science of human rights can begin to contribute to our understanding of the different ways in which the elements within these organizational fields are related to the promotion of human rights. Moreover, a social science of human rights also needs to examine the different ways in which elements from these different fields interact with one another and how the relative power relations between such fields affects the ways in which human rights will be protected or violated. But specifying these relationships and power balances, and the ways in which they affect human rights requires theoretical underpinnings and consideration of methodologies that are designed to provide systematic analysis and meaningful answers to significant human rights problems and puzzles. It is to these questions that the next two chapters turn.

Suggestions for further reading

- Boli, J. and Thomas, G. (eds) (1999) *Constructing World Culture*, Stanford, CA: Stanford University Press.
- Forsythe, D. P. (2000) *Human Rights in International Relations*, Cambridge: Cambridge University Press.
- Korey, W. (1998) *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine*, London: Palgrave.

- Risse, T., Ropp, S. C. and Sikkink, K. (1999) *The Power of Human Rights: International Norms and Domestic Change*, Cambridge: Cambridge University Press.
- Welch, S. (ed.) (2000) *NGOs and Human Rights: Promise and Performance*, Philadelphia: University of Pennsylvania Press.