Studying Human Rights

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Preface and acknowledgements

This book has been inspired by a series of key events throughout my own academic career as a political scientist. My undergraduate studies at the University of Pennsylvania from 1984 to 1988 were dominated by a focus on Latin America when South America was dominated by prolonged periods of military authoritarian rule (most notably Argentina, Brazil, Chile, Paraguay, and Uruguay) and Central America was undergoing extreme and violent civil conflict, which had been coupled with US interventionism either on the side of governments fighting Communist subversion (as in El Salvador and Honduras) or supporting anti-Communist movements seeking to overthrow their governments (as in the case of the Contras in Nicaragua). It was also a time when students were mobilizing on campus against the University's hierarchy to disinvest in South Africa to protest against the human rights abuses being committed under the auspices of the apartheid system. These political developments and events had grave consequences for the human rights of thousands of innocent people and had a politicizing effect on me throughout my studies at Penn. While pursuing an MA in Latin Studies at Georgetown University between 1988 and 1990, my student job in the library's audio-visual department found me being asked to reproduce photos for the Presidential Commission investigating the murder of six Jesuit priests, their cook, and her daughter on the morning of 16 November 1989 at the Central American University in El Salvador. Again, my shock and moral outrage at and abhorrence of these acts continued to motivate my academic studies and solidified my commitment to the promotion and protection of human rights.

My pursuit of a further master's degree (Boulder) and PhD (Essex) in political science was driven in part by a quest to explain and understand how such events take place through the application of the tools of the social sciences. My time at Boulder provided an excellent background in the philosophy, paradigms, theories, and methods of the social sciences, while my time at Essex has fortified my understanding of the field of human rights and how political science can make a difference to their promotion and protection. Having taught on the various human rights options and core courses that make up the MA in the Theory and Practice of Human Rights, and after having developed the Undergraduate Programme in Human Rights, I have seen how the same quest for explanation and understanding has over the years motivated countless students who have come to Essex and gone on to work in the field of human rights. My own research agenda has been framed around general discussions of social scientific methods as applied to politics (Landman 2002, 2003); questions of human rights measurement, impact assessment and evaluation of human rights NGOs, cross-national comparison, and the political science of human rights (Landman 2002, 2004, 2005a; Landman and Häusermann 2003; Landman and Abraham 2004); and a specific set of systematic inquiries on the variable protection over time and across space of citizenship rights (Foweraker and Landman 1997) and human rights (Landman 2005b).

Studying Human Rights ties together these different strands from my personal experiences and my professional work as a political scientist of human rights and offers students, scholars and practitioners a framework for analysing human rights problems from a non-legal perspective. It draws on key theories and methods from the social sciences to develop a framework for the systematic study of human rights problems. It argues that solid empirical analysis of human rights problems rests on examining the *observable practices* from state and non-state actors that constitute human rights violations, and then applying the theories and methods from the social sciences to provide plausible explanations for their occurrence and provide deeper understanding of their meaning. Such explanation and understanding draws on the theoretical insights from rational, structural, and cultural approaches in the social sciences combined with different kinds of quantitative and qualitative methods. The book outlines the scope of human rights, the terrain of key actors that have an impact on human rights; summarizes dominant social science theories, methods, and measures for studying human rights; and then provides separate treatment and discussion of global comparative studies, truth commissions, and human rights impact assessment. Overall, the book contributes to the literature on human rights by moving beyond the philosophical search for an agreed set of foundations and uses the international law of human rights as a useful way of delineating the core content of those human rights categories and dimensions subject to systematic social scientific analysis.

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Introduction

Studying human rights

The field of human rights has long been dominated by the discipline of law (Freeman 2001:123; 2002b:77–78), which has been dedicated to studying (and in part advancing) the normative evolution in the promotion and protection of human rights. The public international law of human rights has concentrated on the legal processes that affect the nature of state sovereignty, the degree of state obligations, the structure, function, and scope of the UN and regional systems and mechanisms established to protect human rights, and the justifiability of an increasing number of human rights that have become formally protected through the proliferation of international treaties. Alongside the long history of the commitment of law to study and advance the struggle for human rights, disciplines within the social sciences have overcome their own tendency to marginalize human rights and have grappled with a large variety of human rights problems, puzzles, and contradictions that have characterized the modern struggle for greater protection of human rights. Indeed the political sociology of the struggle for citizenship rights predates work on the modern human rights movement, while political science research has included global, small-N, and case-study analysis of the determinants of human rights protection, the analysis of foreign aid and human rights, the effect of globalization on human rights, the transmission of international human rights norms to the domestic level, and the politics of transitional justice in post-authoritarian and post-conflict countries, among many other substantive topics (see Landman 2002, 2005a). Anthropology, long seen to be diametrically opposed to human rights (see Freeman 2002a, 2002b), has re-asserted its commitment to providing deep understanding of human rights problems that overcome its natural aversion to cross-cultural generalizations and the universality of concepts (Messer 1993). Moreover, rights-based approaches to development have brought economics 'back in' to the study of human rights as the international development policy agenda seeks to integrate human rights concerns into large- and small-scale aid and technical assistance programmes (see Human Rights Council of Australia 1995; Chapter 8 this volume).

While the social sciences have not eclipsed law in the field of human rights, there is now more than ever an increasing space and need for systematic social scientific research and analysis to expand our knowledge about the social, economic, and political conditions within which the promotion and protection of human rights is made possible and over which significant struggles for human rights are fought. Much of the international discourse on human rights is replete with declarations and normative claims that many human rights scholars and practitioners translate (un)wittingly into empirical claims, which in many instances may lead to policy decisions that adversely affect the protection of human rights. Such discourse has sought to transcend the historical development of human rights, which draws on the longer history of citizenship rights and claims that all rights are indivisible, mutually reinforcing, and interdependent. Such

language, for example, appears throughout the 1993 Vienna Declaration and Programme of Action, which as Boyle (1995:81) concedes, sits uncomfortably with many social scientists since much empirical analysis has yet to be done that confirms the existence of 'mutually reinforcing and interdependent' relationships between and among the different types of human rights. Mere declaration and iteration may have a tendency to reify such relationships, but in the absence of systematic analysis on the degree to which these relationships exist, such claims remain largely baseless. Thus, foreign aid, developmental assistance and programmes, and actions by the 'international community' that are often heavily influenced by such claims may be made in haste or at the service of ideological and political agendas, which in the end may have the perverse effect of undermining the promotion and protection of human rights.

It is thus paramount for students of human rights to have the necessary conceptual frameworks and methodological tools to approach problems in the field of human rights in a scholarly and critical fashion, and it is the aim of this volume to provide such a framework for sound social scientific analysis of human rights. In order to realize this aim the volume is designed to (1) map the complex terrain of contemporary human rights, including their overall scope and the ways in which they can be promoted, protected, and defended; (2) provide a social scientific framework for studying human rights, including dominant paradigms of social theory, varieties of social scientific methods, and the ways in which human rights can be measured and compared; and (3) illustrate how social scientific analysis has been and can be applied to a selection of typical problems and research areas confronting the field of human rights, including global comparative analysis on the determinants of rights violations, the social science of truth commissions, and human rights impact assessment. The volume's conclusion ties these different elements of the book together and argues how greater systematic study of human rights can help in the struggle for their continued promotion and greater protection.

Social science and human rights

In 1971, Alisdair MacIntyre asked 'Is a science of comparative politics possible?' Ten years later, John McCamant (1981) asked 'Are the "tools of the trade" of the social scientist appropriate to the study of human rights?' Twenty years after this question was posed, Michael Freeman asked 'Is a political science of human rights possible?' These perennial questions about the scientific nature of social inquiry and its applicability to the study of human rights are the central concerns of this volume. In short, this volume asks, 'Is a social science of human rights possible?' MacIntyre's (1971:171–172) answer to his own question claims that a general science of political action is not impossible, but faces serious obstacles, particularly in making cross-cultural *law-like generalizations* akin to the 'covering laws' in the natural sciences. In similar fashion, Freeman (2001:127–128) does not reject out of hand a political science of human rights, but highlights two fundamental problems. On the one hand, he argues that there is an unresolved tension or 'philosophical contradiction' between the positivistic foundations of behavioural social science and normative values of human rights. On the other hand he argues that the rise of social science in the 19th century sought to displace philosophy and political theory

with economics and sociology and so rejected any notion of human rights. The solution for MacIntyre (1971) is to lower expectations for making comparative inferences that seek universal applicability, while the solution for Freeman (2001:139) is to reject scientific and legal positivism and to pursue a political science of human rights that is 'neither narrow nor rigid'.

This present volume provides an answer to its own question that is much less sceptical than the answers provided by either MacIntyre or Freeman, and is broadly in line with McCamant who argues that there is a great need for social scientific analysis of human rights problems. My own answer is thus a qualified 'yes' and is based on five important assumptions. First, the volume is grounded in the assumption that the goal of empirical social science is *explanation* and *understanding* of observed social phenomena (see also Landman 2000a, 2003). For the substantive focus of this volume, such observable social phenomena comprise a virtually infinite variety of human rights *practices* that provide the evidentiary base upon which social scientific analysis can take place. These human rights practices include both *negative* and *positive* actions of state and non-state actors that have a bearing on the individual and collective enjoyment of all human rights (see Chapter 2). Such a typology of negative and positive dimensions of rights protection and rights provision is crucial to the ways in which human rights can be measured and analysed through qualitative and quantitative means (see Chapter 5; and Landman 2004). Moreover, certain analytical techniques have been developed over the years that can provide reasonable estimates of certain types of *unobservable* human rights practices that can also form the universe of evidence for secondary social scientific analysis (see Chapter 7; and Ball *et al.* 1994; Ball, Spirer and Spirer 2000; Ball, Asher, Sulmont and Manrique 2003). In addition to these observable and unobservable human rights practices, there is an equally infinite variety of events, actors, interests, structures, societal features (e.g. class, gender, race, ethnicity) and outcomes that may have direct and indirect impacts on the promotion and protection of human rights that are equally subject to social scientific analysis.

Second, the volume argues that cross-cultural generalizations are an essential and inherent feature of human rights research since the international law of human rights sets a universal ideal standard against which country performances and cultural contexts are compared (see Landman 2002), and it is entirely possible to make cross-cultural generalizations *if certain basic rules of social science inquiry are observed*. The framework developed throughout the book is based on a general commitment to a logic of inference' that drives all good social scientific analysis. Making inferences involves 'using facts we know to learn something about facts we do not know' (King *et al.* 1994:119 après J.S. Mill; see also Couvalis 1997). There is an inseparable link between evidence and inference, while there is a direct trade-off between the strength of the inferences that are made and the number of observations that are used to make them. Strong and general inferences are made possible from examination of a wide range of observations over space and time, such as individual nation states, regions, sub-national units, or individual human beings. A smaller number of observations limits the explanatory nature of the inferences that are drawn, but may increase our understanding of a particular human rights problem. The choice that a social scientist makes about the number, type, and quality of observations under investigation will necessarily affect the

types and strength of inferences that can be drawn about a particular human rights problem (see Chapter 4).

Third, despite such notable examples as the Michels 'iron law of oligarchy' (Michels 1959; see also Zald and Ash 1966; Kriesi 1996:156), 'Duverger's law' on the correspondence between electoral systems and party systems (Duverger 1951), and the 'dyadic peace' between democracies (Levy 2002), this volume readily concedes that there are few 'laws' in the social sciences and that generalizations will always and everywhere carry with them *varying degrees of uncertainty*. But it is crucial to understand that there are strategies for the proper application of social theories and methods that can *reduce the presence of uncertainty* and so enhance the usefulness of the generalizations that are made (see King, Keohane and Verba 1994). Measurement error, indeterminate research designs, problems of case selection, and misspecification of explanatory models affect the degree to which social scientists can make generalizations in their research (see Chapter 4). And it is the problems with and differences across such factors that explain what may appear to be mixed results of social scientific research on human rights.

Fourth, the whole volume is based on the fundamental assumption that the social scientific analysis of human rights problems can take place in the absence of agreed philosophical foundations for their existence (Landman 2005a). Efforts in philosophy and normative political theory have long sought to establish the definitive foundations for the existence of human rights through various appeals to God, nature, and reason (see e.g. Finnis 1980; Waldron 1984; Ingram 1994; Jones 1994; Donnelly 2003). These traditions in rights theories and their attempts to argue for the existence of human rights have variously been criticized by utilitarians as *nonsense* (Waldron 1987), communitarians as *fantasy* (MacIntyre 1984), Marxists as *bourgeois* (Marx 1978a:26–52), and (some) postmodernists as *relative* (Rorty 1993), such that there has been a cumulative scepticism that has undermined rather than fortified the quest for foundations (Mendus 1995; Donnelly 2003:18–21). Human rights are nonsense to utilitarians since any notion of human rights might actually undermine the achievement of the greatest happiness for the greatest number of people within a given context. For MacIntyre (1984:69), belief in the existence of human rights is like the belief in unicorns and witches. For Marx, human rights were simply legal protections for the further empowerment of the propertied classes. For some postmodernists, fixing human rights is impossible since human rights discourse itself is one of many social constructions and does not enjoy any foundational or hegemonic position, and even within the field of human rights, there is no way to adjudicate among the various contentious foundational claims to their existence.

A popular response to such scepticism has been to take a pragmatic turn by side-stepping the need for philosophical foundations for human rights and making legal and political claims about their existence and the need for their protection. Legal claims focus on the proliferation of human rights norms since the 1948 Universal Declaration (see Chapters 1 and 2) and emphasize the global consensus on the content of human rights that has been achieved within dominant international fora, such as the various regular and special meetings within the United Nations system for the promotion and protection of human rights. Such a claim cites the participation of over a hundred nation states in such fora, which in many cases has led to the promulgation of formal declarations and the setting of international standards, as clear evidence of this global consensus on the core

content of human rights (McCamant 1981:534; Freeman 2001:132). Such formal declarations offer a 'language of commitment' about human rights that can be used to carry out advocacy strategies for their further promotion and protection (Boyle 1995:81), but for a social science of human rights the language of commitment establishes a useful baseline from which to operationalize human rights concepts for systematic analysis (see McCamant 1981:546, 551; Adcock and Collier 2001; Landman and Häusermann 2003; see also Chapter 1 this volume).

The second pragmatic response to the absence of agreed foundations for human rights involves making political claims about how rights may both constrain and facilitate human behaviour. Some scholars see human rights as important means to achieving certain ends, such as social claims for institutionalized protection (Turner 1993), as bulwarks against the permanent threat of human evil (Mendus 1995:23–24), as necessary legal guarantees for the exercise of human agency (Ignatieff 2001), or as an important political lever for the realization of global justice (Falk 2000). In this way, human rights are not held in some metaphysical suspended animation, but are practical tools used to limit the worst forms of human behaviour while creating conditions for the protection of human dignity. For empirical social scientists interested in studying human rights problems, such a pragmatic turn represented by these legal and political claims has allowed scholars to bypass the quest for foundations and to use the content found in the international law of human rights as a useful starting point for their research.

Finally, the volume argues that the positivistic heritage of modern social science is less problematic for studying human rights than Freeman contends. While strict positivists may eschew making ethical judgements and may well want to pursue 'value-free' scientific research, social scientists of human rights, consistent with Max Weber (1991b: 143–149), can carry out research on topics that have been *influenced* by values but the research process itself should not have been so influenced. In contrast to Galtung (1977), this approach is not to conflate the normative and empirical, but to use the tools of empirical analysis to research real-world problems that have normative importance (McCamant 1981:534). Moreover, to ignore the actual practice of human rights violations carried out by state and non-state actors for some notion of objective scientific purism would have precluded a large body of research in social science carried out since the 1960s, such as the comparative work on political violence (e.g. Gurr 1968, 1970; Hibbs 1973), social protest and social mobilization (e.g. Marshall 1963; Tilly 1978; Piven and Cloward 1977; Foweraker and Landman 1997), and state repression (see Lichbach 1987; Davenport 2000).

There are numerous analogous areas of research in the social sciences where there have not been agreed philosophical foundations about a particular object of inquiry. For example, there are no agreed foundations for the existence of democracy, yet political scientists have studied democracy and democratic performance since the days of Aristotle. There are no agreed philosophical foundations for the existence of the market, yet economists have developed theories and methods to analyse and predict individual and collective economic behaviour. It is also the case that new legal developments may add dimensions to existing understandings and categories of human rights (such as rape as a war crime or domestic violence as a human rights violation), which can then lead to further empirical research on such practices. Such research efforts may define the scope

of human rights that is to be studied, but will not make larger appeals to the philosophical foundations for their existence.

In sum, this book is grounded in an ontology of human rights that moves beyond definitive and agreed philosophical foundations and focuses on human rights practices delineated by reference to the extant international law of human rights, which is itself a product of the history of the struggle for human rights. Epistemologically, the book is grounded in the general understanding that such observable human rights practices and related social phenomena are subject to robust analysis and empirical testing that allow scholars to make reasoned, informed, and intelligent analytical statements useful for the promotion and protection of human rights. Methodologically, the book is committed to providing the necessary tools for maximizing inferences about particular human rights problems and puzzles that have been subjected to systematic social scientific analysis. In this way, the framework developed in this book makes possible progressive and incremental gains in knowledge about the promotion and protection of human rights in the world.

Structure of the book

Against this background defence of the possibility of a social science of human rights, the book is structured to develop the necessary theoretical and methodological tools to carry out social scientific analysis of human rights problems. Chapter 1 outlines the scope of human rights, including their different categories (civil, political, economic, social, cultural, and solidarity) and dimensions (positive and negative). While charting the genealogy of human rights, one accepts that there have been chronological generations of rights, but that in their current manifestation, such a history does not privilege one set of rights over another. Moreover, the chapter makes clear that all sets of rights have positive and negative dimensions such that in some way the realization of human rights will always be in part dependent on the fiscal capacity of states. Chapter 2 reviews the main international, regional, and domestic key actors that have a direct and indirect bearing on human rights. Using the notion of 'organizational field' (Di Maggio and Powell 1983), the chapter maps out these different actors, comprising public, private non-profit, and private for-profit organizations at the domestic and international levels of analysis.

The next three chapters move beyond these general exercises in mapping the scope and organizational terrain of human rights to consider theories, methods, and measures for studying human rights problems. Chapter 3 examines rationalist, structuralist, and culturalist empirical theories at the domestic and international levels and considers how they apply to the study of human rights. It evaluates them through an examination of their assumptions, explanatory logic, and the types of testable propositions they make about the protection of human rights. Chapter 4 outlines the main social scientific methods available for studying human rights, including qualitative, quantitative and mixed methods. The discussion includes the examination of an epistemological continuum in the social science that ranges from deep hermeneutic and 'thickly descriptive' (Geertz 1973) approaches to formal nomothetic and deductive approaches, as well as across the degree to which these different approaches privilege evidence over inference (see Almond 1996; Landman 2003). Chapter 5 illustrates how and why to measure human rights, including

measures of rights in principle *(de jure),* rights in practice *(de facto),* and as outcomes of public policies designed to enhance or realize the protection of human rights. The chapter identifies serious lacunae in our efforts to measure human rights and over-reliance on standards-based scales of civil and political rights.

Chapters 6 to 8 show how the theories and methods of the social sciences can be applied to human rights problems. Chapter 6 shows how global comparative studies have tried to identify a series of explanations for the global variation in human rights protection and to examine a number of important related factors, including foreign aid, the presence of multinational capital, and the impact of international human rights law. The chapter also discusses the limitations of this kind of analysis, including a narrow focus on civil and political rights, a fairly high level of abstraction and generality of findings, and an over-reliance on crude measures of human rights. Chapter 7 shows how social science methods have been used to enhance the work of truth commissions established after periods of conflict, authoritarian rule, and foreign occupations. The chapter argues that one of the main tasks of truth commissions represents a classic social scientific problem, namely estimating and explaining an elusive but finite number of human rights violations for a given context during a given period of time. Chapter 8 shows how the logic of inference that forms the basis of all good social scientific research is useful in developing a framework for human rights impact assessment. The chapter develops a typology of human rights impact assessment based on the intersection of their different forms (i.e. direct and indirect) and timing (i.e. *ex ante* and *ex post*) and then shows the complexity of determining the impact of specific policies of governments or programmes of organizations on a particular human rights situation. It concludes by examining the ways in which quantitative and qualitative analysis can be used to estimate the different *contribution* and *attribution* of human rights policies and programmes on the human rights situation.

Finally, Chapter 9 concludes the book with a main summary of the key insights and main contributions that the book makes to furthering our knowledge about human rights problems and how greater application of systematic social scientific analysis is vital for their ultimate realization in the world. It is recommended that the book be read in the order in which it has been presented even though many of the chapters can serve as 'stand-alone' contributions to particular debates in the field. Every effort has been made to provide useful cross-referencing between chapters where appropriate. Each chapter contains a list for further reading, while Chapter 5 contains a list of web sites for accessing and downloading popular forms of human rights data. It is hoped that the book presents a useful framework for analysing human rights problems from a social scientific perspective.

1
The scope of human rights

In their contemporary manifestation, human rights are a set of individual and collective rights that have been formally promoted and protected through international and domestic law since the UN Declaration of Human Rights in 1948. Arguments, theories, and protections of such rights, however, have been in existence for much longer (see e.g. Claude 1976; Foweraker and Landman 1997:1–45; Freeman 2002b:14–54; Ishay 2004; Woodiwiss 2005), but since the UN Declaration, the evolution of their express legal protection has grown rapidly. Today, there are numerous international treaties on human rights promulgated since the UN Declaration to which an increasingly large number of nation states are a party (see below), while the language of human rights increasingly pervades our moral, legal, and political vocabulary to such an extant that many have claimed we now live in an 'age of rights' (see Bobbio 1996). Indeed, the development of a human rights doctrine has changed the ways in which nation states act towards each other at the international and regional levels, and the ways in which governments, individuals and groups interact at the domestic level. These new types of action and interaction cover a broad range of areas, including political rights, civil rights, social, economic, and cultural rights, as well as questions of poverty and the distribution of socio-economic resources. Politically and legally, both the sovereignty and pursuit of power-based national interest has become increasingly checked by the application of international, regional, and national human rights norms and practices (Landman 2005b). This chapter provides an overview of the current categories of human rights that make up the field and maps the breadth and depth of the international and regional systems for their protection by looking at the degree to which nation states in the world formally participate in these systems through ratification of human rights treaties. The chapter concludes by considering whether the world has reached the limits of specifying new human rights in need of protection and whether key actors with prime responsibility for their promotion and protection (see Chapter 2) should now concentrate their energies on the full implementation and enforcement of human rights.

Categories and dimensions of human rights

The collection of human rights protected by international law draws on a longer tradition of rights from philosophy, history, and normative political theory and now includes three sets or categories of rights that have become useful shortcuts for talking about human rights among scholars and practitioners in the field, and will be used throughout the remainder of this book. These three categories are: (1) civil and political rights, (2) economic, social, and cultural rights, and (3) solidarity rights. It has been typically understood that individuals and certain groups are bearers of human rights, while the state

is the prime organ that can protect and/or violate human rights. The political sociology of human rights argues that historical struggles by oppressed groups have yielded a greater degree of protection for larger sets of individuals and groups whose rights have not always been guaranteed while the state itself, in attempting to construct a national identity and fortify its capacity to govern, has extended various rights protections to increasingly larger sectors of society (Foweraker and Landman 1997). The struggle for human rights and contemporary arguments about their continued promotion and protection have extended beyond exclusive attention on the legal obligations of nation states and have started focusing on how non-state actors, such as guerrilla movements, terrorist organizations, warlords, multinational corporations, and international financial institutions, may be conceived as responsible for human rights violations and how such entities may carry an obligation for their protection (see Chapter 2; also Forsythe 2000:191–214; UN Global Compact Office and OHCHR 2004). Let us consider these different categories of human rights in turn.

Civil and political rights uphold the sanctity of the individual before the law and guarantee his or her ability to participate freely in civil, economic, and political society. *Civil rights* include such rights as the right to life, liberty, and personal security; the right to equality before the law; the right of protection from arbitrary arrest; the right to the due process of law; the right to a fair trial; and the right to religious freedom and worship. When protected, civil rights guarantee one's 'personhood' and freedom from state-sanctioned interference or violence. *Political rights* include such rights as the right to speech and expression; the rights to assembly and association; and the right to vote and political participation. Political rights thus guarantee individual rights to involvement in public affairs and the affairs of state. In many ways, both historically and theoretically, civil and political rights have been considered *fundamental* human rights which all nation states have a duty and responsibility to uphold (see Davidson 1993:39–45; Donnelly 1998:18–35; Forsythe 2000:28–52). They have also been seen as so-called 'negative' rights since they merely require the absence of their violation in order to be upheld.

Social and economic rights include such rights as the right to a family; the right to education; the right to health and well being; the right to work and fair remuneration; the right to form trade unions and free associations; the right to leisure time; and the right to social security. When protected, these rights help promote individual flourishing, social and economic development, and self-esteem. *Cultural rights,* on the other hand, include such rights as the right to the benefits of culture; the right to indigenous land, rituals, and shared cultural practices; and the right to speak one's own language and 'mother tongue' education. Cultural rights are meant to maintain and promote sub-national cultural affiliations and collective identities, and protect minority communities against the incursions of national assimilationist and nation-building projects. In contrast to the first set of rights, this second set of social, economic, and cultural rights is often seen as an aspirational and programmatic set of rights that national governments ought to strive to achieve through progressive implementation. They have thus been considered less fundamental than the first set of rights and are seen as 'positive' rights whose realization depends heavily on the fiscal capacity of states (Davidson 1993; Harris 1998:9; see also Foweraker and Landman 1997:14–17).

Solidarity rights, which include rights to public goods such as development and the environment, seek to guarantee that all individuals and groups have the right to share in

the benefits of the earth's natural resources, as well as those goods and products that are made through processes of economic growth, expansion, and innovation. Many of these rights are transnational in that they make claims against wealthy nations to redistribute wealth to poor nations, cancel or reduce international debt obligations, pay compensation for past imperial and colonial adventures, reduce environmental degradation, and help promote policies for sustainable development. Of the three sets of rights, this final set is the newest and most progressive and reflects a certain reaction against the worst effects of globalization, as well as the relative effectiveness of 'green' political ideology and social mobilization around concerns for the health of the planet.

The distinction between these sets of rights follows the historical struggle for them (Marshall 1963; Claude 1976; Barbalet 1988; Davidson 1993), the appearance of the separate international instruments that protect them, the philosophical arguments concerning their status (see the Introduction to this volume), and the methodological issues surrounding their measurement (see Chapter 5; also Claude and Jabine 1992; Foweraker and Landman 1997:46–65; Landman 2004). But significant sections of the human rights community have challenged these traditional distinctions between 'generations' of human rights and have sought to establish the general claim that all rights are indivisible and mutually reinforcing (Boyle 1995; Donnelly 1999a). Such a challenge suggests that it is impossible to talk about certain sets of human rights in isolation, since the protection of one right may be highly contingent on the protection of other rights. For example, full protection of the right to vote is largely meaningless in societies that do not have adequate health, education, and social welfare provision, since high rates of illiteracy and poverty may mean the *de facto* disenfranchisement of large sectors of the population. Equally, those interested in combating torture need to examine possible underlying socio-economic, cultural, and organizational reasons for the practice of torture, which themselves may rely on the variable protection of other human rights (see Huggins 2000).

This human rights challenge also suggests that there is a false dichotomy between negative and positive rights (Shue 1980; Hurrell 1999:278; Donnelly 2003:30–33) that tends to privilege civil and political rights over economic and social rights, since the protection of the former appear less dependent on state resources than the latter (Foweraker and Landman 1997:14–17). One response to this false dichotomy is to claim that 'all rights are positive' (Holmes and Sunstein 1999) since the full protection of all categories of human rights ultimately relies on the relative fiscal capacity of states. In this view, the protection of property rights requires a well-funded judiciary, police force, and fire service, as well as a well-developed infrastructure that can relay information, goods, and services in the event that property is under threat in some way. A similar argument can be made about guaranteeing the right to vote. Beyond prohibiting intimidation and discrimination at the polls, running a free and fair election requires a tremendous amount of financial support, technology, and infrastructure, the need for which has been illustrated dramatically by the highly contested process and result of the 2000 Presidential Election in the United States. And as above, the prevention of torture involves training and education within police and security forces, which entails the need for significant financial resources from the state.

Another response to the traditional division between positive and negative human rights is to view them as having *positive and negative* dimensions, the full delineation of

which is essential for a social science of human rights (Landman 2004:922–923). By claiming that all rights are positive, we may lose sight of significant negative characteristics of human rights. While it is clearly possible to see how civil and political rights have positive characteristics (i.e. the provision of well-funded judiciaries, training and education programmes, and well-developed infrastructure), it is equally possible to see how economic and social rights have significant negative characteristics. For example, just like torture by the state is seen as preventable if only the state refrained from torturing, discrimination in public education and healthcare is equally preventable if only the state refrained from so discriminating. In this way, it is equally possible to have a 'violations approach' (Chapman 1996) to studying the promotion and protection of economic, social, and cultural rights as it is to studying the promotion and protection of civil and political rights.

Table 1.1 shows how such a conceptualization of human rights looks if we are to include their positive and negative dimensions. The table is a 2×3 matrix resulting from three categories of human rights, each with corresponding positive and negative dimensions. Positive dimensions include those actions that states can take to provide resources and policies for improving the protection of human rights while negative dimensions are those actions that states do (or do not do) that deliberately violate (or protect) human rights. Certain cells in the matrix have been well covered in the theory and practice of human rights. For example, the negative dimensions of civil and political rights in Cell II are the traditional focus of human rights international standards (e.g. the 1966 International Covenant on Civil and Political Rights), systems (e.g. United Nations, European, Inter-American, and African), and mechanisms for reporting and redress (e.g. Human Rights Committee, European Court of Human Rights; Inter-American Commission and Inter-American Court of Human Rights); monitoring, advocacy, and campaigns from human rights non-governmental organizations (e.g. Amnesty International

Table 1.1 Positive and negative dimensions of human rights

| | Dimensions | |
	'Positive' (i.e. provision of resources and outcomes of policies)	'Negative' (i.e. practices that deliberately violate)
Categories of human rights — Civil and political	**I** Investment in judiciaries, prisons, police forces, and elections	**II** Torture, extra-judicial killings, disappearance, arbitrary detention, unfair trials, electoral intimidation, disenfranchisement
Economic, social, and cultural	**III** Progressive realization Investment in health, education, and welfare	**IV** Ethnic, racial, gender, or linguistic discrimination in health, education, and welfare

	V	VI
Solidarity	Compensation for past wrongs Debt relief Overseas development and technical assistance	Environmental degradation CO_2 emissions Unfair trade

and Human Rights Watch); and much of the academic scholarship in political science (see Landman 2005 a). Equally, the positive dimensions of economic, social, and cultural rights in Cell III have been the traditional focus of human rights international standards (e.g. the 1966 International Covenant on Economic, Social, and Cultural Rights), mechanisms for reporting and redress (e.g. the Committee on Economic, Social, and Cultural Rights), non-governmental organizations working on social justice and minority rights issues (e.g. Minority Rights Group International) and academic scholarship primarily in sociology, developmental economics, and anthropology (Turner 1993; Freeman 2002a, 2002b).

Outside these two areas of human rights that have received wide attention and debate, there have been varying degrees of attention paid to the positive and negative dimensions of human rights depicted in the remaining cells. For the positive dimensions of civil and political rights in Cell I, the work on 'good governance' (Weiss 2000) has sought to examine the ways in which investment in judiciaries, prisons, and police forces can improve the foundations of governance and so deliver better economic prosperity (World Bank 1992; Knack and Keefer 1995; Clague, Keefer, Knack and Olson 1996, 1997; USAID 1998a, 1998b; de Soto 2000), while those interested in the administration of justice see such positive aspects of civil and political rights as essential to addressing problems of the '(un)rule' of law (e.g. Méndez, O'Donnell and Pinheiro 1999). For the negative dimensions of economic, social, and cultural rights in Cell IV, there has been much focus on general patterns of gender, ethnic, racial, linguistic, and religious discrimination, but perhaps less attention on how these practices may constitute violations to economic, social, and cultural rights (Chapman 1996). Since the debt crisis in the 1980s, there has been an increase in social mobilization and attention (e.g. Charter 99 issued by the One World Trust) around the transnational issues of debt relief, developmental assistance and distribution of global income, and 'post-colonial' reparations for past practices made most vocally at the 2001 World Conference against Racism (Cell V). Since the 1970s, groups have been mobilizing for transnational solutions to the global environmental problems and have focused on the negative dimensions of 'offending' states such as the United States (Cell VI), but there has been less of a focus on the rights issues associated with such solutions. Finally, from a human rights perspective, the work on globalization and trade has focused on the 'violation' represented by unfair trade agreements hammered out in the World Trade Organization (e.g. Compa and Diamond 1996; Francioni 2001), which is seen to be disproportionately influenced by the United States and the European Union (Steinberg *et al.* 2005), as well as unsavoury manufacturing and production techniques used by multinational corporations.

These various examples show how a social science of human rights can benefit from such a conceptual delineation, since it disaggregates the concept of human rights into different categories across different dimensions and facilitates the process of

operationalizing human rights for systematic analysis. The different dimensions and categories provide the content for events-based, standards-based, and survey-based measures of human rights for quantitative analysis and provide critical differences in meaning for qualitative analysis (see Chapter 5; also Landman 2004). But beyond these conceptual distinctions of human rights, what is the extant international law that seeks to protect them? And what are the temporal and spatial patterns of state participation in the various international human rights treaties? It is to these questions that the discussion now turns.

International human rights instruments

The United Nations system and its key documents for the promotion and protection of human rights—the 1945 UN Charter and the 1948 Universal Declaration of Human Rights—formed the basis of the international human rights legal 'regime' (Donnelly 1986, 2003:127–154). These two documents were soon followed by two more legally binding instruments, promulgated in 1966 and entered into force in 1976: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights (Davidson 1993:39–45; Donnelly 1989; Donnelly 1998:18–35; Forsythe 2000:28–52). Further treaties addressing specific human rights concerns (racial discrimination, discrimination against women, prohibition of torture, and the rights of the child) have entered into force since 1976. Table 1.2 lists the main international human rights instruments, the dates that they were open for signature, and the number and percentage of states parties to the treaties. The Convention on the Rights of the Child has the largest number of states parties, while the Second Optional Protocol to the International Covenant on Civil and Political Rights, which prohibits the practice of the death penalty in all member states, has the lowest. In addition to these legal instruments, there are monitoring bodies attached to each treaty that examine the degree to which states are fulfilling their legal obligations under the terms of each treaty (Alston and Crawford 2000). Taken together, these human rights instruments and the monitoring bodies form an international legal regime that seeks to limit state behaviour in order to protect and promote human rights (Landman 2005b).

Table 1.2 The international human rights regime: instruments, dates, and membership

Name	Date when open for signature	States parties as of 2004 N and %
International Covenant on Civil and Political Rights (ICCPR)	1966	152 (78%)
International Covenant on Economic, Social, and Cultural Rights (ICESCR)	1966	149 (77%)
Optional Protocol to the International Covenant on Civil and Political Rights (OPT1)	1976	104 (54%)
Second Optional Protocol to the International Covenant on Civil and Political Rights (OPT2)	1989	50 (26%)
International Convention on the Elimination of all	1966	169 (87%)

Forms of Racial Discrimination (CERD)		
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	1979	177 (91%)
Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT)	1984	136 (70%)
Convention on the Rights of the Child (CRC)	1989	192 (99%)

Data source: UNHCR (June 2004), *Status of Ratification of the Principal International Human Rights Treaties,* www.unhchr.ch/pdf/report.pdf. Reprinted with permission from Georgetown University Press, © 2005. All rights reserved.
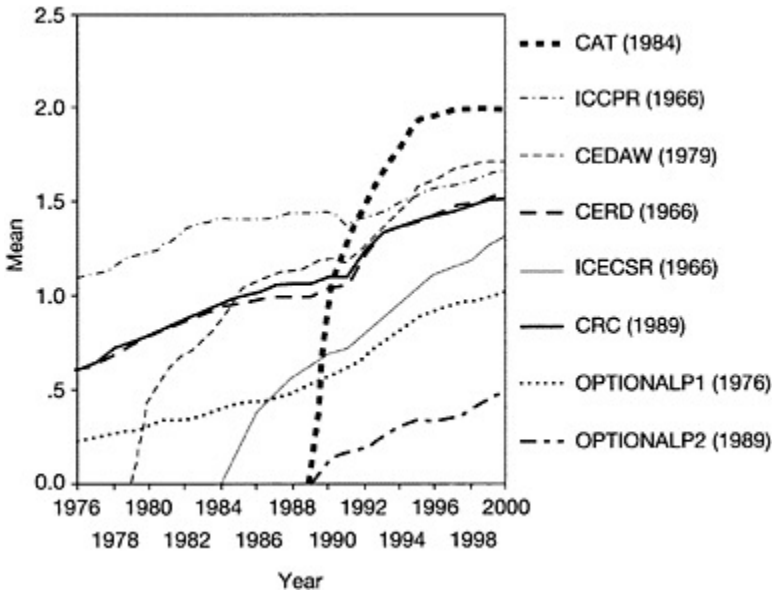
Figure 1.1 Mean ratification scores for the main human rights treaties over time, 1976–2000.

Source: Landman (2005b:62). Reprinted with permission from Georgetown University Press, © 2005. All rights reserved.

Beyond this simple tallying of current participation of states in the international regime, it is possible to examine the temporal and spatial patterns in this participation by giving a score for no signature (0), signature (1), and ratification (2), and then comparing these scores across time and space. Figure 1.1 compares the mean ratification scores for all the main international human rights treaties for the period from 1976, when the two main international covenants came into force, and 2000. The figure shows that there has been an expansion in both the breadth and the depth of the regime. On the one hand, the proliferation of human rights treaties has meant an increasingly larger set of human rights

has found positive legal expression, while on the other hand a larger number of states (many of them newly independent) have ratified these main instruments. But the time-series trends also show that some of the instruments (e.g. CERD and CRC) have consistently enjoyed more support than others (CAT and the Second Optional Protocol to the ICCPR). Figure 1.2 compares the mean ratification scores for the same set of instruments by World Bank classified regions. Western Europe, Latin America, and Post-Communist Europe exhibit the highest rates of participation, while Sub-Saharan Africa, the Middle East and North Africa (MENA), South Asia, and East Asia and the Pacific exhibit lower rates of participation.

These legal documents also provide the core content of human rights that ought to be protected, where the consensus on the content for some of these rights is more widespread than the content for others. Table 1.3 lists all the rights that ought to be protected that have been compiled from various readings of the extant international law of human rights (Davidson 1993; Gibson 1996; Green 2001; Donnelly 2003). The total number of human rights found across these various instruments varies between 49 and 64 depending on different emphases and the ways in which some authors combine concepts (Green 2001:
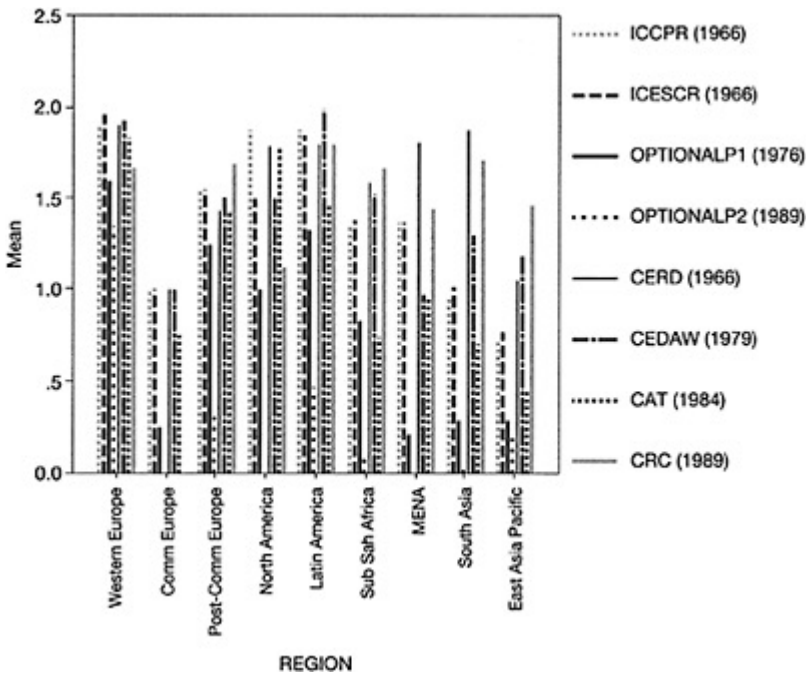
Figure 1.2 Mean ratification scores for the main human rights treaties by region, 1976–2000.

Source: Landman (2005c).

1068–1069). The list in Table 1.3 contains a total of 58 human rights found across these treaties, and it is the explanation and understanding of the variation in the promotion and protection of these rights with which a social science of human rights of the kind advocated in this present volume is primarily dedicated.

Regional human rights instruments

In addition to the international law of human rights, there are number of regional instruments and mechanisms that have developed since the 1948 UN Declaration, including the European system, the Inter-American system, and the African system. Like the international human rights treaties there are varying degrees of state participation, which can be measured through an examination of ratification behaviour. Figure 1.3 compares the mean ratification scores for the European Convention for the Protection of Human Rights and Fundamental Freedoms, the American Convention for the Protection of Human Rights, and the African Charter on Human and People's Rights. As in the case of the main international instruments, the figure shows an increasing participation of states through ratification of these various regional instruments and a general pattern of convergence in complete participation of states from each of the three regions. Indeed as of 2004, all forty-five Council of Europe states have ratified the European Convention, all

Table 1.3 List of human rights protected under international law

1. Non-discrimination	30. Trade unions
2. Life	31. Rest, leisure and paid holidays
3. Liberty and security of the person	32. Adequate standard of living
4. Protection against slavery and servitude	33. Education
5. Protection against torture	34. Participation in cultural life
6. Legal personality	35. Self-determination
7. Equal protection of the law	36. Protection of and assistance to children
8. Legal remedy	37. Freedom from hunger
9. Protection against arbitrary arrest, detention, or exile	38. Health
	39. Asylum
10. Access to independent and impartial tribunal	40. Property
	41. Compulsory primary education
11. Presumption of innocence	42. Humane treatment when deprived of liberty
12. Protection against *ex post facto* laws	
13. Privacy, family, home and correspondence	43. Protection against imprisonment for debt
14. Freedom of movement and residence	44. Expulsion of aliens only by law
15. Nationality	45. Prohibition of war propaganda and incitement to discrimination
16. Marry and found a family	

17. Protection and assistance of families	46. Minority culture
18. Marriage only with free consent of spouses	47. No imprisonment for breach of civil obligations
19. Equal rights of men and women in marriage	48. Protection of children
	49. Access to public service
20. Freedom of thought, conscience and religion	50. Democracy
	51. Participation in cultural and scientific life
21. Freedom of opinion and expression	
22. Freedom of the press	52. Protection of intellectual property rights
23. Freedom of assembly	53. International and social order for realizing rights
24. Freedom of association	
25. Participation in government	54. Political self-determination
26. Social security	55. Economic self-determination
27. Work	56. Women's rights
28. No compulsory or forced labour	57. Prohibition of the death penalty
29 Just and favourable conditions of work	58. Prohibition of apartheid

Sources: Davidson 1993: Appendix 1; Gibson 1996:37–38; Green 2001:1069; Donnelly 2003:24.

twenty-five Organization of American States member states have ratified the American Convention, and all fifty-three African Union member states have ratified the African Charter. Of the three regional systems, the European System is arguably the strongest in terms of its overall implementation of human rights standards, followed by the Inter-American System, and the African System.

This descriptive mapping of the extant international and regional law on the protection of human rights comprises the essential universe of legal content and enumeration of human rights that ought to be protected, and which form the main 'objects of inquiry' for a social science of human rights. State participation in these instruments is still not 100 per cent, and such participation is merely an indication of the willingness of states
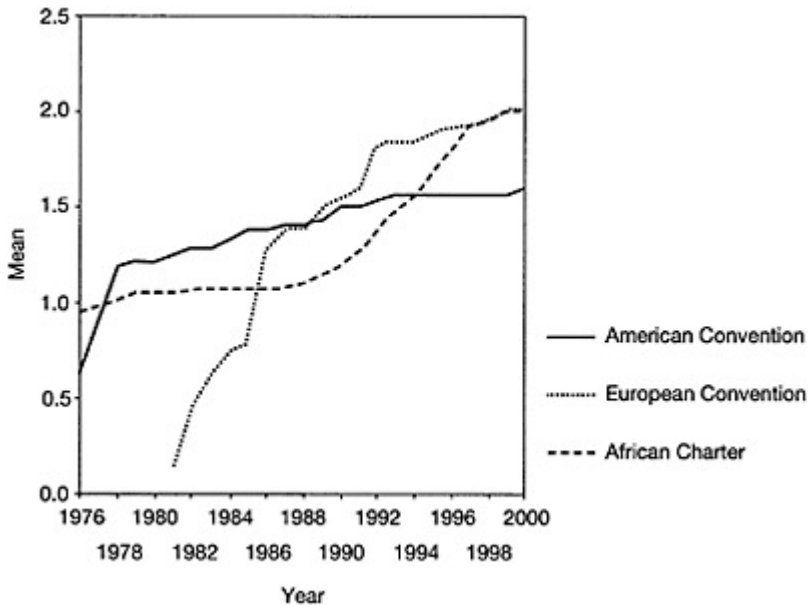
Figure 1.3 Mean ratification scores for
the main regional human rights
instruments, 1976–2000.

Source: Landman (2005c).

to commit to a series of legal obligations on the protection of human rights. Indeed, it is precisely the gap between the *de jure* protection of human rights represented by these formal commitments and their *de facto* realization within each state that presents a ripe area for social scientific analysis (Landman 2002; 2005b). It is safe to say that no state in the world is entirely human rights compliant and thus there is virtually an infinite supply of human rights problems to be addressed using the theories, methods, and tools of contemporary social science.

Limiting human rights?

The time-series trends and spatial patterns in the proliferation of human rights norms represented by the increasing number of instruments and increasing number of participation of states has led some commentators to argue that we are witnessing an international 'juridical revolution' (Ignatieff 2001), a process of international legalization' (Abbott *et al.* 2000), 'judicialization' (Stone Sweet 1999, Shapiro and Stone Sweet 2002), and 'constitutionalization' (Petersmann 2002; Alston 2002)—a process that has culminated in the Rome Statute, which established the International Criminal Court and may well represent the international 'institutionalization of criminal liability' (Falk 2000:4). And it is precisely this norm proliferation, the ability for states to implement

such norms, and the capacity for them to be adjudicated in some way that has been the 'stuff' of the discipline of law.

But are there limits to the continued expansion in the breadth and depth of human rights norms proliferation and how can a social science of human rights contribute to the work that has been carried out in the discipline of law? Clearly, the depth of 'human rights norms proliferation', as the term is employed here, would be reached once all states ratified all the extant human rights instruments, but is there a continuous need for an increasing number of instruments for new rights? And does such an attempt to expand the list of rights not undermine their value as fundamental rights that ought to be protected always and everywhere? While it is beyond the scope of this volume to provide a definitive answer to this question, it is important for a social science of human rights to examine the ways in which this particular 'basket' of extant human rights is being realized, implemented and contested across the globe. Indeed, the contribution of social science is to explain and understand the global, regional, sub-national, collective and individual variations and experiences in the enjoyment (or lack thereof) of the human rights that have been outlined in this chapter. To continue to build this notion of a social science of human rights, the next chapter examines the 'organizational field' (Di Maggio and Powell 1983) that comprises the key actors and entities that have a direct and indirect bearing on the defence and protection of human rights.

Suggestions for further reading

Bobbio, N. (1996) *The Age of Rights,* Cambridge: Polity Press.

Davidson, S. (1993) *Human Rights,* Buckingham: Open University Press.

Donnelly, J. (2003) *Universal Human Rights in Theory and Practice,* 2nd edn, Ithaca, NY: Cornell University Press.

Freeman, M. (2002) *Human Rights: An Interdisciplinary Approach,* Cambridge: Polity Press.

Holmes, S. and Sunstein, C.R. (1999) *The Cost of Rights: Why Liberty Depends on Taxes,* New York: W.W.Norton.

Ishay, M. (2004) *The History of Human Rights: From Ancient Times to the Globalization Era,* Berkeley: University of California Press.

Robertson, A.H. and Merrills, J.G. (1996) *Human Rights in the World: An Introduction to the Study of the International Protection of Human Rights,* 4th edn, Manchester: Manchester University Press.

Woodiwiss, A. (2005) *Human Rights,* London: Routledge.

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*	
		Not for profit	*For profit*
	I	**II**	**III**
	International governmental organizations (IGOs):	International non-governmental organizations (INGOs):	Multinational corporations (MNCs): Shell
	United Nations (UN)	Amnesty International	Nike
	European Union (EU)	Anti-Slavery International	Reebok
	Council of Europe (CoE)	Article 19	British Petroleum
	Organization for Security and Cooperation in Europe (OSCE)	Human Rights First Human Rights Watch	Mitsubishi Mitsui
	North Atlantic Treaty Organization (NATO)	International Federation of Human Rights Leagues	Siemens Du Pont
Primary levels of activity International	Organization of American States (OAS) African Union (AU)	International Service for Human Rights Minority Rights Group	General Motors Sumitomo
	International Criminal Court (ICC) Organization of Petroleum Exporting Countries (OPEC)	Penal Reform International World Organization Against Torture	Ford Motor Toyota Exxon
	Organization for Economic Cooperation and Development (OECD)	Transnational advocacy networks (TANs)	Commercial banks and securities firms:
	International Bank for Reconstruction and Development (IBRD)		Citicorp Merrill Lynch
	International Monetary Fund (IMF) World Trade Organization (WTO)		JP Morgan Morgan Stanley UBS Investment Bank
Domestic	**IV**	**V**	**VI**

Independent nation-state governments	Non-governmental organizations (NGOs)	Domestic business firms
Sub-national governments (state, municipal, local)	Civil society organizations (CSOs)	Commercial banks Private schools
Public schools	Social movement organizations (SMOs)	Private armies/mercenary firms
	Warlords/guerrilla movements/'uncivil' movements/death squads	
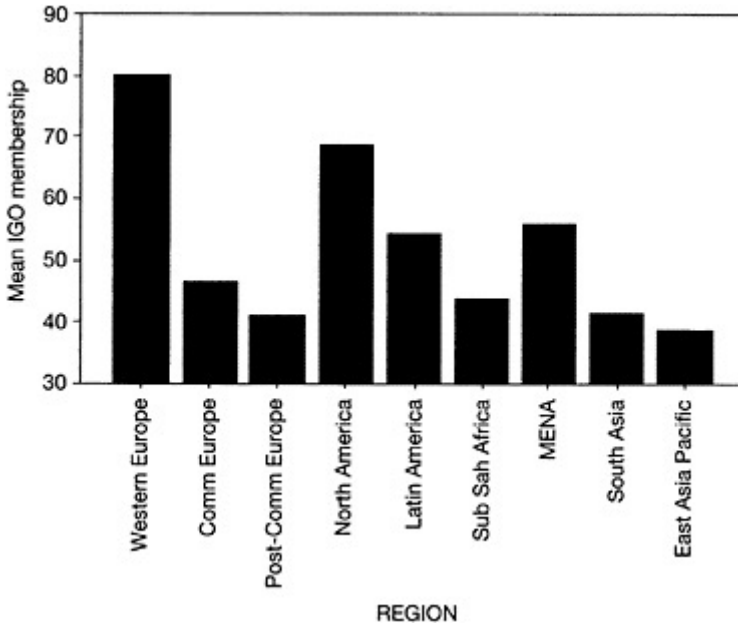
Figure 2.1 Number of IGOs in which states are a member by region, 1976–2000.

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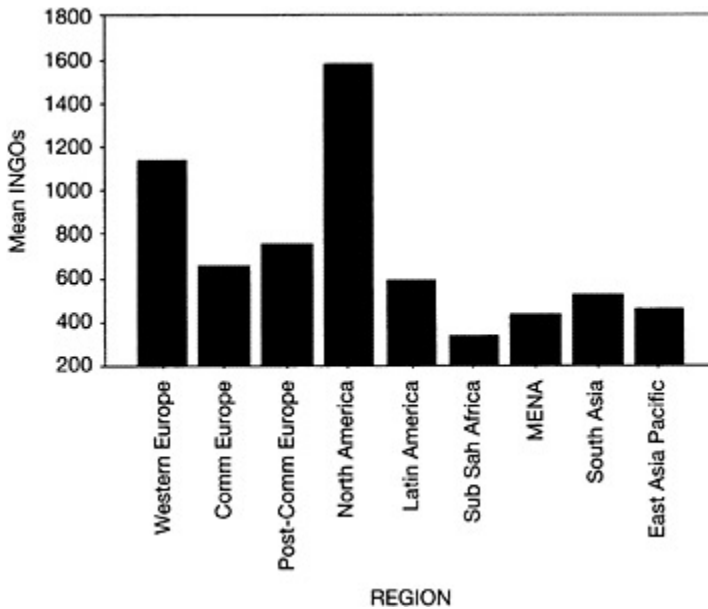
Figure 2.2 Number of INGOs with office registration in states by region, 1976–2000.

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 fulltime 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 proWestern 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, incuding 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 commisions (see Chapter 5 and Ball, Spirer and Spirer 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.
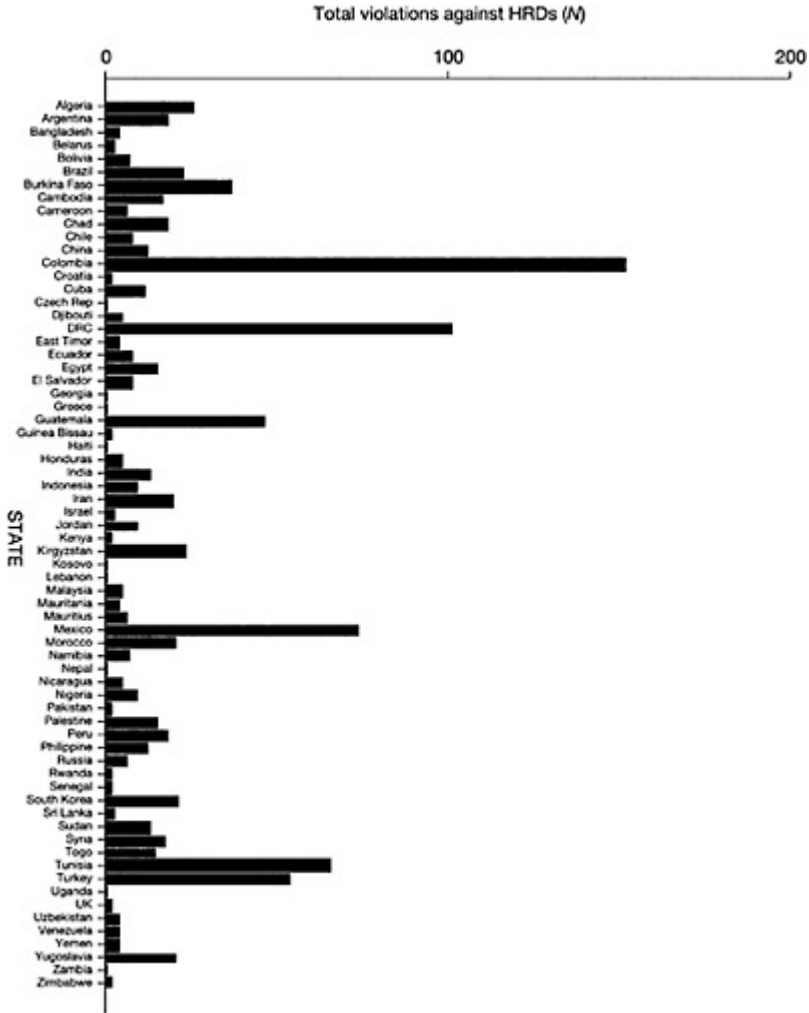
Total violations against HRDs (*N*)

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

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Forsythe, D.P. (2000) *Human Rights in International Relations,* Cambridge: Cambridge University Press.

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