



Norms, Power, and Human Rights

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The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics. By Kathryn Sikkink. New York: W.W. Norton & Company, 2011. 342 pp., \$18.77 hardcover (ISBN-13: 978-0-39307-993-7).

Making Human Rights a Reality. By Emilie Hafner-Burton. Princeton: Princeton University Press, 2013. 296 pp., \$25.16 paperback (ISBN-13: 978-0691155364)

If there is one field within the study of international affairs where progress has undeniably been made over the past two decades, it surely is the study of human rights, which has grown from a marginal enterprise in which only a few scholars were engaged to a full-blown subfield of international affairs that attracts some of the most talented scholars publishing in the most prestigious outlets.

Kathryn Sikkink and Emilie Hafner-Burton have each made remarkable contributions to our knowledge in this field. Sikkink's work, especially *Activists Beyond Borders* (Keck and Sikkink 1998) and the *Power of Human Rights* (Risse-Kappen, Ropp, and Sikkink 1999), continues to have an enormous influence on how scholars theorize about human rights and on how they design their case studies. Emilie Hafner-Burton has become, along with Beth Simmons, the most prolific human rights scholar primarily (though not exclusively) using quantitative methods.

Now both scholars have written books that are aimed not just at academic audiences but also at policymakers and the educated public. Both books do a majestic job translating scholarly research for a broader audience. Both books also have normative agendas: they wish to improve current policies, practices, and institutions.

This is where the similarities end, however. Where Sikkink focuses on a specific domain of human rights—the end of impunity for those who commit the most basic violations of human rights—Hafner-Burton takes aim at the entire international human rights system. Where Sikkink identifies a positive trend, Hafner-Burton presents us with a mostly pessimistic assessment of the current state of affairs. Where Sikkink worries about the potential corrupting influence of power, Hafner-Burton views power as an essential ingredient for pushing states to improve their human rights records.

The Justice Cascade

Sikkink's book has two central objectives: The first is to document and explain the "justice cascade." The justice norm, as Sikkink explains, posits that some basic violations of human rights are crimes committed by individuals who should be held accountable for their misdeeds. Moreover, this should be done via fair trials. Amnesty for perpetrators does not satisfy the justice norm. Neither do summary executions motivated by vengeance. The key is not that perpetrators pay for their crimes but that they are held accountable in a just way.

Sikkink carefully documents how ideas about individual criminal accountability spread through norm entrepreneurship and institutions. The success and diffu-

sion of early trials in Latin America and Southern Europe are especially important. Sikkink's book is not primarily about the development of the norm through international institutions such as the International Criminal Court (ICC). Much more common and important for the evolution of the justice norm have been domestic prosecutions pursued for a mixture of domestic reasons as well as a desire for adherence to international norms. The ICC steps in when all else fails; although it is also relevant as a culmination of the normative development process.

The second, and perhaps most important, part of the book investigates whether human rights prosecutions have actually made a difference. This part relies on in-depth qualitative work, mostly from Latin America. Yet, there is also a quantitative evaluation, which finds that human rights prosecutions are correlated with subsequent improvements in human rights observance. Moreover, more trials correlate with more human rights improvements. This counters the criticism issued by Jack Snyder and Leslie Vinjamuri (2003), and others, that human rights trials may lead to renewed violence because trials threaten those with the ability to spoil the peace.

Making Human Rights Work

After the introduction, Hafner-Burton's book starts with two highly original chapters on the logic of why human rights abusers abuse. The first chapter discusses familiar (to political scientists) contextual or structural conditions that make abuse more likely: lack of democracy, violent conflict, poverty, inequality, and so on. The next chapter uses insights from psychology, anthropology, and criminology to understand why individuals and networks of individuals persist in abusing others. These chapters provide a nice complement to Sikkink's book. Any attempt at deterring or preventing abuse should start from understanding what motivates abusers.

There are at least two general lessons that emerge from this part of the book: The first is that abuses persist when individuals rightly or wrongly believe that they will gain something from their behavior; not because abusers are psychologically or biologically abnormal. The second lesson is that the reasons these beliefs persist are quite varied across societies. In some places, they stem from civil wars, in others from illiberal dictatorship, and in yet others from legacies of violence or distrust that are difficult to break. Hafner-Burton argues that a universal human rights system may be insufficiently tailored to adequately disrupt the specific incentives that keep abuse alive in particular contexts.

The second part offers an overview of existing international human rights institutions and of scholarly research into and practitioner perspectives about the effectiveness of these institutions. Her conclusions are mostly pessimistic. Global human rights treaties at best have a modest effect in a smallish subset of states that does not include the world's worst human rights abusers. Hafner-Burton rightly lauds the existing system for its achievements, especially developing normative standards. Yet, she also argues that human rights treaties have proliferated too much; resulting in a system that defines many rights but that does little to ensure that states actually abide by the rights they have agreed to respect. Hafner-Burton argues that this threatens the legitimacy of the human rights system as a whole. Consequentially, activists and states that care about human rights improvement should not invest in more global human rights treaties that define new rights but they should focus on making core existing treaties and institutions work better.

Prescriptions

Hafner-Burton favors a decentralized solution with a central role for “stewards”: states that have for one reason or another decided that improving the human rights of others should be a central component of their foreign policies. She argues that these steward states currently waste precious resources by investing in ineffective strategies and institutions. She advocates several avenues for improving the efficiency of human rights policies. States should better localize which agencies within a state are primarily responsible for abuses or what the causes of abuse in a specific context are. Moreover, triage should lead states to invest more heavily in areas of human rights promotion where the evidence suggests that it is most likely to work. In essence, human rights policy should undergo a similar revolution to the one attempted in development and foreign aid, when attention for project evaluation and tailored investments has been a staple of the policy debate for over a decade.

This argument is controversial in part because it moves the human rights system away from the cherished principle of universality and highlights a not so cherished principle among human rights advocates: state power. Hafner-Burton argues that we worry too much about the corrupting influence of state power and put too little emphasis on the ability of powerful states with an interest in improving human rights to be effective. For example, her research shows that preferential trade agreements with “hard” human rights conditions improve human rights standards in the target countries. This effect happens only because powerful actors, mostly the United States and the European Union, have an interest in human rights observance in a country and the target country has an asymmetric dependence on those powerful actors. We may all like multilateral or norm-based solutions better, but what is the point if they ultimately do not, or barely, improve the human rights of others?

This approach differs in at least two fundamental ways from that of Sikkink: First, Hafner-Burton assumes that the perpetrators of human rights violations were initially motivated by self-interest and will ultimately abandon their practices only if self-interest so dictates. Sikkink is by no means blind to the influence of self-interest, but her emphasis is on the ability of normative change to transform how actors view their interests. Sikkink emphasizes that—especially early in the life cycle of a norm—agency, activism, and persuasion are important sources for explaining the success or failure of a human rights norm. Once a norm is accepted, normal politics based on incentives and rational calculation ensue. For example, acceptance of the justice cascade norm leads potential perpetrators to consider the potential consequences of their crimes differently. Hafner-Burton acknowledges the importance of norms, but ultimately emphasizes material interests; and emphasis matters when evaluating proposals for change.

Second, Hafner-Burton assumes that the United States and Europe will continue pushing for human rights improvement and not themselves violate basic human rights. Or, more accurately, she assumes that nothing much can be done if powerful states do start violating rights. Sikkink does not accept this. She highlights the importance of the universality of the justice norm. Sikkink tackles this question explicitly in a chapter on whether the United States is immune to the justice cascade. Sikkink answers that even though it may seem on the surface that the globe’s most powerful state has escaped the confines of the cascade, this view cannot be maintained:

The people whose positions carried the day within the Bush administration believed they were operating in a realist world where international law and institutions are quite malleable to exercises of hegemonic power. In the short term,

their beliefs were confirmed. In the longer term, they will find that this misreading of the nature of the international system is personally and professionally costly to them, not to mention costly to the reputation of the US government. (p. 222)

We might need more time to evaluate this claim. On the one side, the individuals responsible for the torture memos have suffered great damage to their reputations and were even indicted (in Spain). On the other side, skeptics would claim that the Bush six are still doing quite well, are under no immediate risk of prosecution in the United States, and that the Spanish judge who indicted them, Baltasar Garzon, was removed from his position.

Conclusion

Despite these different approaches and prescriptions, in many ways the commonalities are more important. We have two exceptionally gifted scholars deeply committed to important questions that affect the dignity and quality of human life across the globe. Both authors lucidly communicate an extensive body of rigorous scholarly work to a broader audience. Neither author shies away from tough normative questions. What more can we ask for?

References

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