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# Reflections on United States-Based Human Rights NGOs' Work on Africa

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## REFLECTIONS ON UNITED STATES-BASED HUMAN RIGHTS NGOS' WORK ON AFRICA

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In this Note we reflect on the work of U.S.-based international human rights nongovernmental organizations (INGOs), with particular focus on their work on Africa. Although our analysis may apply to INGOs generally, we will focus here on the International Human Rights Law Group (the Law Group) and the Women's Rights Project of Human Rights Watch (HRW) because these are groups with whom we interned during the summer of 1995. Although we each had unique experiences, we found points of convergence based on our shared experiences and perspectives on human rights in Kenya, and in Africa generally.

Our analysis will focus on the work of the INGOs within the international human rights framework.<sup>1</sup> This Note begins by providing brief background information on the Law Group and HRW and on our internship experiences. Thereafter, we analyze and compare our experiences, critiquing the work of these organizations and drawing comparisons with human rights practice in Kenya.

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1. By international human rights framework we mean the instruments that codify human rights norms, such as the *Universal Declaration of Human Rights*, Dec. 10, 1948, G.A. Res. 217A (III), U.N. Doc. A/810 (1948), the *International Covenant on Civil and Political Rights*, Dec. 16, 1966, 6 I.L.M. 368, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976), and the *International Covenant on Economic, Social and Cultural Rights*, Dec. 16, 1966, 993 U.N.T.S. 3 (entered into force Jan. 3, 1976), as well as the established practices of institutions that work toward the realization of these norms. While the human rights framework contains certain political and civic virtues to which states and private actors could aspire, we believe that political and civic virtue is also present in other value structures such as cultural systems. See Makau wa Mutua, *The Banjul Charter and the African Cultural Fingerprint: An Evaluation of the Language of Duties*, 35 VA. J. INT'L L. 339 (Winter, 1995). The scope of this Comment does not, however, allow us to engage in a critique outside of the international human rights framework.

## I. BACKGROUND ON THE INTERNATIONAL HUMAN RIGHTS LAW GROUP AND HUMAN RIGHTS WATCH

The Law Group's work is organized into four program areas: empowerment, rule of law, women in the law and international advocacy.<sup>2</sup> The Empowerment Project provides technical assistance and training to human rights advocates in developing countries. The Rule of Law Program provides consultative assistance on constitutional issues and on judicial and legislative institution-building.<sup>3</sup> As has been argued elsewhere, the assumption underlying this "rule of law" approach is that "political democracy . . . [is] the only political system [within] which human rights norms are readily realizable."<sup>4</sup> This assumption lays the basis for the inclusion of liberal democratic institution-building in the agenda of human rights INGOs such as the Law Group. Initiated in 1992, the Women in the Law Project (WILP) is the most recent addition to the activities of the Law Group. Its mandate is to promote women's rights in the United States and abroad by strengthening international human rights standards and procedures.<sup>5</sup> The International Advocacy Project undertakes advocacy before U.S. institutions and international human rights tribunals regarding human rights issues both in the United States and abroad.<sup>6</sup>

Gathii's work at the Law Group focused mainly on human rights in Nigeria. On behalf of the Law Group, Gathii attended meetings of the International Round Table on Nigeria (IRTON), a coalition of organi-

2. The Law Group was established in 1978 as part of the Procedural Aspects of International Law Institute. It became an independent organization in 1983. The Law Group describes itself as a nonpartisan, nonprofit advocacy organization. Its main activities include empowering locally based human rights advocates, monitoring civil and political rights throughout the world, and using various fora to inform the U.S. government and the international community about abuses of these rights. The Law Group participates in election observation, as well as in activities aimed at ensuring fair trials and the independence of the judiciary. It also files amicus briefs in U.S. court cases that raise human rights issues. See International Human Rights Law Group, *At a Glance* . . . (undated fact sheet describing Law Group activities, distributed by Law Group, Summer, 1995) (on file with the *Harvard Human Rights Journal*) [hereinafter Law Group, *At a Glance*]; INTERNATIONAL HUMAN RIGHTS LAW GROUP, ACTIVITIES REPORT 1978-1989, at 3-11 (1990) [hereinafter LAW GROUP, ACTIVITIES REPORT 1978-1989].

3. The Law Group's Rule of Law Program has ongoing projects of this nature in Cambodia and Zaire. The Cambodia project is aimed at training judicial officers, in an effort to rebuild the country's judiciary which was completely destroyed as a result of civil war. The Zaire project is a voter education campaign, in preparation for that country's transition to democracy. The Zaire project has two field officers from the Law Group working on a day-to-day basis with new and established Zairian human rights and pro-democracy NGOs. See International Human Rights Law Group, Interim Report on Rule of Law Program: 1993-1995 (1995).

4. Makau wa Mutua, *The Politics of Human Rights: Beyond the Abolitionist Paradigm in Africa*, 17 MICH. J. INT'L L. (forthcoming 1996) (reviewing CLAUDE E. WELCH, *PROTECTING HUMAN RIGHTS IN AFRICA: STRATEGIES AND ROLES OF NON-GOVERNMENTAL ORGANIZATIONS* (1995)).

5. Law Group, *At a Glance*, *supra* note 2, at 1.

6. *Id.* See also, LAW GROUP, ACTIVITIES REPORT 1978-1989, *supra* note 2, at 3-5 (describing advocacy activities).

zations interested in the political situation in Nigeria. Gathii also participated in demonstrations and strategy-sharing sessions with other groups in the coalition. Although useful in exerting moral force against the military regime in Nigeria, the publicity measures adopted by the IRTON were countered by a powerful international public relations campaign financed by the Nigerian government and its supporters.<sup>7</sup> The objective of the Nigerian government's campaign was to discredit the efforts of the human rights groups.<sup>8</sup>

The Law Group was particularly concerned about the numerous arrests and incommunicado detention of pro-democracy and human rights activists in Nigeria. Government harassment of these activists had intensified since the June 1993 annulment of the presidential elections in Nigeria. In June 1995, pro-democracy activists in Nigeria held protests to mark the anniversary of that annulment. In response, the military government arrested and detained several key activists. The Law Group's concerns also centered on the violation of internationally recognized due process rights in the politically motivated murder trial of Ken Saro-Wiwa, the leader of the Movement for the Survival of the Ogoni People, and eight other defendants, all of whom were executed in November 1995.<sup>9</sup>

In response to the deteriorating human rights situation, the Nigerian Civil Liberties Organization (CLO), in collaboration with other pro-democracy and human rights NGOs in Nigeria, commenced a national initiative to lobby the U.N. High Commissioner for Human Rights to visit Nigeria and to review the human rights situation there.<sup>10</sup> The Law Group supported the CLO's initiative and lobbied

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7. *Nigerian Leader Accuses the West of Smears*, N.Y. TIMES, Nov. 18, 1995, at A4 (reporting that Nigeria's military leader had declared that Nigeria would not be "cajoled nor intimidated" into changing its behavior to satisfy foreign interests). In an effort to clean the government's image, Nigerian Military Leader General Sani Abacha announced that his government had hired at least seven U.S. companies for a public relations campaign entitled, "Not our Character." The campaign, which also includes a book and a video, arose in response to a "60 Minutes" television documentary on corruption in Nigeria. The newspaper report added that a Sani Abacha Unity Foundation had been formed and that about U.S. \$2 million had been raised for the campaign. *Id.* See also, Howard W. French, *Deadly Logic in Nigeria*, N.Y. TIMES, Nov. 12, 1995, at A18 (analyzing Abacha's decision to execute Ken Saro-Wiwa).

8. *Nigerian Leader Accuses the West of Smears*, *supra* note 7.

9. The execution of Ken Saro-Wiwa and the other defendants during the annual meeting of the Commonwealth Heads of States resulted in Nigeria's suspension from the Commonwealth. See Howard W. French, *Nigeria Executes Critic of Regime; Nations Protest*, N.Y. TIMES, Nov. 11, 1995, at A1, A6; *Commonwealth Suspends Nigeria Over Executions*, N.Y. TIMES, Nov. 12, 1995, at A18.

10. Although the High Commissioner is mandated to undertake country missions to promote human rights, the present High Commissioner, Jose Ayala Lasso, has a policy of undertaking such missions only in countries whose governments have invited him, making a visit to Nigeria unlikely. Exit memorandum from James Gathii to International Human Rights Law Group 1-2, Summer, 1995 (on file with the *Harvard Human Rights Journal*). See also, Janet B. Lord, *The United Nations High Commissioner for Human Rights: Challenges and Opportunities*, 17 LOY. L.A. INT'L. &

NGOs in the United States and Western Europe. In addition to providing a focal point for national and international pressure against the Nigerian government, a visit by the High Commissioner would have provided an opportunity for direct consultation between the military government and human rights groups. The Nigerian government, however, silenced local human rights and pro-democracy leaders involved in the campaign directed at the High Commissioner by arresting them and holding them incommunicado.<sup>11</sup> Although these arrests did not end the initiative, morale at the Law Group and at the CLO deteriorated. The Law Group's efforts were then directed toward seeking the release of those arrested.

Human Rights Watch (HRW) is one of the largest U.S.-based INGOs. Originally founded in 1978 as Helsinki Watch, HRW is now composed of five regional divisions: HRW/Africa, HRW/Americas, HRW/Asia, HRW/Helsinki (which covers Europe), and HRW/Middle East.<sup>12</sup> HRW also has five thematic projects: the Arms Project, the Children's Rights Project, the Free Expression Project, the Prisons Project and the Women's Rights Project. HRW engages primarily in monitoring and documenting human rights violations of a civil and political nature.

HRW focuses on governmental violations of standards set forth in international human rights instruments, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In its work, HRW also makes reference to regional instruments such as the African Charter on Human and Peoples' Rights.<sup>13</sup> Monitoring and documenting of human rights violations is the primary human rights methodology practiced by HRW and many other western-based groups. Besides being a retrospective approach, this methodology is also premised on a perception that the role of NGOs is primarily one of supplying information on failures to comply with human rights standards to forums such as the U.N., to donors, and to the media.<sup>14</sup>

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COMP. L.J., 329, 356 (1995) (discussing the requirement that the High Commissioner strictly respect state sovereignty, which seems to provide the basis for High Commissioner Lasso's operational policy).

11. *Clampdown on the Opposition*, CDHR NEWSL. (Ctr. for Democracy and Hum. Rts., Nigeria), June 1995, at 1-2, 6.

12. Human Rights Watch has its principal offices in New York and Washington, D.C. Presently, the activities of HRW cover over seventy countries. See HUMAN RIGHTS WATCH, QUESTIONS AND ANSWERS (1995) (brochure distributed by HRW, June, 1995) [hereinafter HRW, QUESTIONS AND ANSWERS].

13. Adopted June 27, 1981, O.A.U. Doc. CAB/LEG/67/31 Rev. 5 (1981) (entered into force Oct. 21, 1986). See HRW, QUESTIONS AND ANSWERS, *supra* note 12, at 3.

14. See, e.g., Nigel S. Rodley, *United Nations Non-Treaty Procedures for Dealing With Human Rights Violations*, in GUIDE TO INTERNATIONAL HUMAN RIGHTS PRACTICE 60, 76-82 (Hurst Hannum ed., 2d ed. 1992) (describing intervention by NGOs at the United Nations).

HRW's Women's Rights Project was established in 1990, twelve years after the founding of HRW. At the time of its establishment, the mandate of the Women's Rights Project was to work in conjunction with the regional divisions of HRW "to address issues of violence against women and gender-specific discrimination in employment, education and civil status" in "instances in which the state play[ed] a role, by legally sanctioning violations of women's rights or by routinely tolerating" such abuses.<sup>15</sup>

Both the Law Group's WILP and HRW's Women's Rights Project were established during the period between 1990 and 1992. At this time there was growing concern in the United States about violence against women, and about the failure of the U.S. government to accede to the U.N. Convention on the Elimination of All Forms of Discrimination Against Women.<sup>16</sup> In 1990, the U.S. State Department began to include the issue of violence against women in its annual *Country Reports on Human Rights Practices*.<sup>17</sup>

The mandate of the HRW Women's Rights Project is now described as "monitor[ing] violence against women and discrimination on the basis of sex that is either committed or tolerated by governments."<sup>18</sup> Issues dealt with by the Project must therefore, in addition to falling within the overall mandate of HRW, relate to government-sanctioned violence or discrimination against women. The 1990 Project mandate's reference to discrimination in the specific areas of employment, education and civil status has since been dropped.<sup>19</sup> The effect of this seems to be that the work of the Women's Rights Project steers clear of important economic rights issues that would inevitably be raised in dealing, for example, with discrimination in education.

The bulk of the Women's Rights Project's current work involves investigating and documenting violations of specific aspects of women's human rights in particular countries. Issues dealt with by the Project to date include the trafficking of women and girls for purposes of prostitution, the use of rape as a tool of political repression, and domestic violence.<sup>20</sup> The Project also engages in advocacy work related

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15. HUMAN RIGHTS WATCH, HUMAN RIGHTS WATCH WORLD REPORT 1990, at 522 (1991) [hereinafter HRW, WORLD REPORT 1990].

16. *Convention on the Elimination of All Forms of Discrimination Against Women*, Dec. 18, 1979, 1249 U.N.T.S. 13.

17. See HRW, WORLD REPORT 1990, *supra* note 15, at 523.

18. HUMAN RIGHTS WATCH, HUMAN RIGHTS WATCH WORLD REPORT 1995, at 334 (1995) [hereinafter HRW, WORLD REPORT 1995].

19. Compare HRW, WORLD REPORT 1990, *supra* note 15 (describing Project's mandate as of 1990) with HRW, WORLD REPORT 1995, *supra* note 18 (describing Project's mandate as of 1995).

20. See generally HUMAN RIGHTS WATCH/WOMEN'S RIGHTS PROJECT, THE HUMAN RIGHTS WATCH GLOBAL REPORT ON WOMEN'S HUMAN RIGHTS (1995) (reporting on evidence of violations of women's human rights in various countries from 1990 to 1995).

to violations of women's rights that the Project has previously documented in its reports. For this purpose, the Project collaborates with the U.S. Congressional Working Group on Women's International Human Rights<sup>21</sup> to urge ameliorative action from governments responsible for the violation of women's human rights. In addition, the Project is involved in lobbying for changes in U.S. trade and foreign policy to ensure observance of the human rights of women.

During her internship, Nyamu conducted a preliminary investigation into human rights issues raised by the mistreatment of girls employed in domestic and other related sectors in selected African countries. Her task was to prepare an internal memorandum discussing the nature and extent of the problem, including specific types of abuses, identifying the relevant international human rights law, and commenting on the possibility of the Women's Rights Project undertaking field research on the issue.<sup>22</sup>

Nyamu sent written enquiries to over fifty organizations in Kenya, Uganda, Tanzania, Ghana and Nigeria to determine whether local groups were looking into the issue of girl child labor. The response was discouraging as only five of the organizations surveyed responded. The five responses that were received arrived too late in the internship for any follow-up action.<sup>23</sup> Among the five, only one, a child labor commission in Ghana, had carried out any work on the issue of girls employed as domestic workers.<sup>24</sup>

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21. The Working Group is bipartisan and is comprised of Senators and members of the House of Representatives. The Women's Rights Project drafts letters to foreign governments on behalf of the Working Group, which are then signed by a steering committee on behalf of the Working Group.

22. Girl Workers in Domestic and Other Similar Settings in Africa, Memorandum from Celestine Nyamu to Robin Levi and Sara Lai (July 27, 1995) (on file with the *Harvard Human Rights Journal*).

23. This was largely due to the brevity of the internship, which lasted 10 weeks.

24. Although the issue of the exploitation of women and girl workers in domestic and related sectors in Africa has not been a central concern of local human rights groups, there have been efforts to put the issue onto the human rights agenda. For example, in South Africa such efforts have been championed by the South African Domestic Workers Union. They have used fora such as the NGO Forum of the Fourth World Conference on Women held in Beijing in August, 1995 to question the exclusion of domestic workers' concerns from the women's human rights agenda. See Dzodzi Tsikata, *The Beijing Conference: Prospects for Implementation*, 1 AFR. AGENDA 7, 8, 11 (1995). The Women's Rights Project staff's interest in the issue perhaps was inspired by related work on bonded labor in Asian countries, such as Pakistan, carried out by HRW/Asia. For an example of HRW work in this area see, HUMAN RIGHTS WATCH/ASIA, *CONTEMPORARY FORMS OF SLAVERY IN PAKISTAN* (1995).

## II. REFLECTIONS ON THE INTERNSHIP EXPERIENCES

This section focuses on three key issues: the problem of restrictive INGO mandates, their exclusive focus on government action, and the relationship between INGOs and local African NGOs.

### A. Restrictive Mandates and the Focus on Civil and Political Rights

Both HRW and the Law Group undertake activities which have a bias towards civil and political rights. Although HRW urges ratification of the International Covenant on Economic, Social and Cultural Rights, HRW does not seek enforcement of economic rights as part of its mandate.<sup>25</sup> Likewise, the Law Group has a well-defined set of activities which excludes efforts to enforce economic, social, and cultural rights.<sup>26</sup> The Law Group has, however, through the active involvement of the WILP in efforts toward the adoption of an Optional Complaints Procedure under CEDAW, participated in attempts to define standards for the redress of violations of both a civil and political and an economic and social nature.<sup>27</sup>

The boundaries that these organizations set for themselves are matters of institutional choice and are not mandated by any necessary interpretation of international law. For instance, HRW cites "reasons of resources and methodology" to explain the exclusion of economic and social rights from its mandate.<sup>28</sup> Yet mandates and activities can be revised and expanded, as is illustrated by the subsequent inclusion of women's rights in the activities of these two organizations. In our experience, the focus on civil and political rights was unduly confining, and undermined what could be done to press for greater reforms.

In conducting her preliminary research on girls employed in the domestic sector, for example, Nyamu was aware that widespread poverty among rural and urban populations explains the occurrence of child labor, in some cases leading parents to pledge the services of their under-age daughters as security for debts. These parents have little alternative but to make use of what they perceive to be some of their only assets. Moreover, Nyamu recognized that the most significant consequence of the problem of child labor is that vast numbers of girls are deprived of opportunities to acquire education and skills. Nonethe-

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25. See HRW, QUESTIONS AND ANSWERS, *supra* note 12, at 4.

26. See Law Group, At a Glance, *supra* note 2, at 1; LAW GROUP, ACTIVITIES REPORT 1978-1989, *supra* note 2, at 3-11; INTERNATIONAL HUMAN RIGHTS LAW GROUP, ACTIVITIES REPORT 1984-1986, at 2-10 (1986).

27. International Human Rights Law Group/Women in the Law Project, The Adoption of an Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (undated memorandum on file with the *Harvard Human Rights Journal*).

28. See HRW, QUESTIONS AND ANSWERS, *supra* note 12, at 4.



less, in accordance with the mandate of the Women's Rights Project, Nyamu had to confine her memorandum to human rights violations of a civil and political nature, such as sex discrimination, physical assault, confinement, and denial of the freedom of movement. Since the memorandum also had to relate such abuses to government action or inaction, Nyamu therefore highlighted the gender-discriminatory effect of the government's non-enforcement of minimum age, minimum wage and maximum work hour standards in the domestic sector. While violations of a civil and political nature are serious problems, they arise largely as a result of economic deprivation and social subordination, issues that must not be marginalized. Addressing the problem effectively thus necessarily entails a comprehensive and integrated approach.

The protest letters written to General Sani Abacha as part of the Law Group's Nigeria campaign furnish another example of the problem of restrictive mandates and approaches. These protest letters emphasized breaches of specific provisions of international human rights treaties that are binding on Nigeria. The factual situation seemed to matter more as evidence of a violation of identifiable provisions of international human rights, and less as a symptom of a larger political, economic, and social malaise.<sup>29</sup> This approach to advocacy fails to capture the totality of the circumstances within which human rights abuses occur, and narrows considerably complex social, political and economic debates.

### B. Focus on Government Action

Another way in which the work of the INGOs is significantly restricted by their mandates is in their exclusive focus on government action.<sup>30</sup> The experience of the IRTON, as observed by Gathii, illustrates this point. As described above, the IRTON is a loose coalition of NGOs, including the Law Group and HRW, concerned about the political situation in Nigeria. Faced with the imminent execution of about forty suspects in Nigeria following a secret trial in July 1995, U.S.-based Nigerian groups expressed a strong need to issue a state-

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29. Makau wa Mutua, who was an intern at the Law Group during the summer of 1985, made similar observations regarding the treatment of factual situations as secondary, and in some cases, as malleable and easily tailored to fit the organization's viewpoint on an issue. Quoting from an evaluation report that he wrote for the Harvard Human Rights Program at the time, Mutua stated: "The [Law] Group did not want to take positions it considered offensive to certain parties, so that it tended to tailor facts to suit the outcome it had in mind." Interview with Makau wa Mutua, in Cambridge, Mass. (May 1, 1996).

30. On HRW, see HRW, QUESTIONS AND ANSWERS, *supra* note 12, at 1. On the Law Group, see Law Group, At a Glance, *supra* note 2, at 1; LAW GROUP, ACTIVITIES REPORT 1978-1989, *supra* note 2, at 3-11.

ment condemning the role of multinational oil companies in propping up Nigeria's military regime, and to call for the imposition of sanctions on Nigerian oil exports.<sup>31</sup> Ultimately, however, only the U.S.-based Nigerian groups, such as the Nigerian Democratic Movement and the U.S. chapter of the CLO, took such steps. HRW, the Law Group, and Amnesty International did not, at the time, issue any condemnation of the role of multinational oil companies in Nigeria.<sup>32</sup> In addition, HRW, the Law Group, and Amnesty International deliberately refrained from calling for sanctions.<sup>33</sup> Yet, as suggested by the November 1995 executions of Ken Saro-Wiwa and the other eight defendants, and the subsequent belated criticism of multinational oil companies by both HRW<sup>34</sup> and the Law Group,<sup>35</sup> the oil corporations are centrally involved in Nigeria's politics.<sup>36</sup> Human rights strategies that downplay the role of these "private" actors as violators of human rights, and portray them only as possible sources of pressure against violating

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31. The Nigerian Democratic Movement (NDM), for example, called for an arms and oil embargo. Nigerian Democratic Movement, Response to Enquiries About the Nigerian Democratic Movement (NDM mission statement, revised Feb. 23, 1996) (on file with the *Harvard Human Rights Journal*), also available at <http://www.cldc.howard.edu/~ndmorg/ndmpage.html>.

32. See, e.g., Human Rights Watch/Africa, Human Rights Watch Denounces Continuing Crackdown on Nigerian Human Rights and Pro-Democracy Advocates (July 28, 1995) (press release, on file with the *Harvard Human Rights Journal*) (calling for "the immediate and unconditional release of all detainees held solely for the nonviolent expression of their political beliefs," pardon for coup plotters sentenced to death, and commutation of their death sentences to life imprisonment pending judicial review).

33. HRW has on occasion supported economic sanctions, but does so on a selective, case by case basis. Human Rights Watch, Policies of Human Rights Watch 8 (Mar. 1995) (distributed by HRW). HRW generally will support sanctions when, i) "sanctions are required by U.S. laws or by international agreements that are designed to promote human rights;" or ii) "governments have engaged in, encouraged or tolerated a practice of gross abuses of internationally recognized human rights." *Id.* HRW points out that support for sanctions in these two instances does not preclude HRW from endorsing sanctions in other circumstances "on a case-by-case basis." *Id.* The Law Group does not have a stated position on sanctions. Telephone interview with Alice Miller, Coordinator, Women in the Law Project, International Human Rights Law Group, and Gay McDougall, Executive Director, International Human Rights Law Group (Apr. 3, 1996). Amnesty International does not take a position "on punitive measures of any kind, such as sanctions or boycotts." Memorandum from Nigeria/Kenya Campaign to Amnesty International Groups Only 7 (Oct. 31, 1995) (regarding the imposition of death sentences on Ken Saro-Wiwa and eight others) (on file with the *Harvard Human Rights Journal*).

34. Human Rights Watch/Africa, Human Rights Watch Calls for Multilateral Oil Embargo and Other Sanctions Against Nigeria (Dec. 6, 1995) (press release, on file with the *Harvard Human Rights Journal*). Note that HRW did not support strong measures such as an oil embargo or economic sanctions until long after the executions. In an earlier statement, dated Nov. 14, 1995, HRW called on the multinational oil corporations to insist that the Nigerian government release political prisoners and make progress towards democratic multiparty elections. No mention is made of sanctions. See Human Rights Watch, Human Rights Watch Issues an Open Letter to the Chief Executive Officers of Royal Dutch/Shell, Elf and Agip. (Nov. 14, 1995) (press release, on file with the *Harvard Human Rights Journal*).

35. Telephone Interview with Gay McDougall, *supra* note 33.

36. See, Paul Lewis, *Rights Groups Say Shell Oil Shares Blame*, N.Y. TIMES, Nov. 11, 1995, at A6.

governments, are bound to be ineffective and may encourage outright disregard by corporations of human rights standards.<sup>37</sup>

Another example of focusing on state action is the manner in which the HRW Women's Rights Project deals with the issue of domestic violence. Since the Project's mandate limits it to advocacy with respect to acts of governments,<sup>38</sup> the weight of the discussion on domestic violence has been on the failure of government agents to respond to complaints lodged by victims of domestic violence. Other issues, such as the economic position of women and the social and cultural context which allows domestic violence to persist and to be taken for granted, are overshadowed. This "State responsibility" approach is the strategy that has been adopted by women's movements generally in order to persuade States to treat domestic violence as a criminal offense and as a political issue.<sup>39</sup> This approach, however, is incomplete and insufficient, and it runs the risk of construing a broad social problem in an extremely narrow manner.

### C. Relationship Between INGOs and Local African NGOs

The Law Group has, over time, developed working links with at least two African human rights NGOs: the Nigerian CLO and the Zairian Center for Human Rights and Humanitarian Law. The Law Group maintains links with these national groups by pursuing joint projects that require daily contact. IRTON is another example of networking between human rights NGOs with diverse mandates and programs seeking to influence U.S. foreign policy. Networking among Kenya's human rights NGOs is just beginning to take shape amid intense government repression.

Nyamu's experience at the Women's Rights Project points to the importance of links, not only with local human rights groups, but with a broad range of other groups interested in a variety of social and economic issues. The issue of exploitation of girl workers affects a wide cross-section of girls who are vulnerable and unprotected. The lack of response to Nyamu's survey, however, suggests that African human rights groups may not be taking up the issue. Although the survey was not limited to human rights groups, narrowly defined, the results

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37. See, e.g., 7 Human Rights Watch/Africa, *The Ogoni Crisis: A Case Study of Military Repression in Southeastern Nigeria*, No. 5 (July 1995). Although the report recognizes the involvement of multinational oil companies in suppression of protests in the Niger Delta, its recommendations do not treat these corporations as violators of human rights. Rather, they are viewed as being "well-placed to convey their concern about Nigeria's rapidly deteriorating human rights record . . ." *Id.* at 9.

38. See HRW, *WORLD REPORT 1995*, *supra* note 18, at 334.

39. See, e.g., Celina Romany, *Women as Aliens: A Feminist Critique of the Public/Private Distinction in International Human Rights Law*, 6 HARV. HUM. RTS. J. 87, 103-04 (1993) (urging recognition of the interrelationship between the family structure and politics).

might have been different had the enquiries been addressed to a wider variety of groups, such as trade unions, consumer organizations, grassroots women's groups, and community and church-based groups. Since local African human rights groups have tended to duplicate the mandates and working methods of INGOs, they work largely within the narrow parameters defined by the U.S.-based human rights groups.<sup>40</sup> Links with local groups other than human rights groups narrowly defined, could thus be useful in broadening the range of issues that could be addressed.

We have also observed that the operations of human rights NGOs in Kenya largely follows that of the INGOs with which we interned. Although Kenyan human rights NGOs are, to a limited extent, becoming involved in issues of social and economic rights, they have adopted the passive strategies of writing reports and letters of protest, and have focused most of their efforts on violations of civil and political rights committed by the government. The focus of the Kenyan groups is influenced heavily by the fact that the local NGOs are foreign-funded and have to account to their donors. They therefore tailor their agendas to focus on issues in which the foreign donors are interested.<sup>41</sup> The tendency on the part of local African NGOs to mirror the approaches of U.S.-based INGOs is undesirable, especially given that it is the local groups that are in close proximity to the real-life contexts within which human rights abuses in African countries occur.

We view the relationship between local African NGOs and U.S.-based INGOs as hierarchical. For example, the use of the term "empowerment" in the Empowerment Project of the Law Group seems to be founded on two assumptions: that human rights norms must be taught to African activists; and that by teaching human rights norms and practices to African activists, INGOs will supply a ready answer to human rights problems. The validity of these assumptions is questionable.<sup>42</sup>

Further, in our experience, the role of local African NGOs in the work of INGOs is often limited to that of serving as a source of information on human rights violations to support the advocacy efforts of the INGOs. HRW articulates its perception of local groups in other countries as follows: "[h]uman rights groups in other countries are

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40. See Makau wa Mutua, *Domestic Human Rights Organizations in Africa: Problems and Perspectives*, 22 ISSUE: A JOURNAL OF OPINION 30, 31 (1994).

41. See Mutua, *supra* note 4, at 31.

42. See, e.g., Mutua, *supra* note 4 (arguing that human rights programs should be run by Africans with local resources). The Law Group also uses the term "partnerships" to describe its relationship with local NGOs in Third World countries. See, e.g., International Human Rights Law Group/Women in the Law Project, *supra* note 27, at 1. This term only disguises rather than alters the hierarchical relationship we describe, as illustrated by the concurrent use of other terms such as "expert assistance." *Id.*

frequently *sources of information* for Human Rights Watch, putting us in touch with victims of abuses or their families, or assisting us in other ways." (emphasis added)<sup>43</sup> The role of local groups as data collectors is particularly discernible where information is needed to lobby for action in the U.N. This was well illustrated when the Law Group sought the Nigerian CLO's assistance in preparing a submission to the U.N. Sub-Commission on the Prevention of Discrimination and Protection of Minorities. While the factual information was obtained from the CLO, the statement was submitted by the Law Group, since the CLO is not accredited to the U.N. Economic and Social Council and thus does not have consultative status at the U.N.

Two limitations that continue to inhibit Kenyan NGOs, and African NGOs generally, from approaching the U.N. directly are their lack of accreditation to the U.N. system and their difficulty in mobilizing sufficient resources.<sup>44</sup> These barriers to access to the foremost human rights forum perpetuate the predominance of U.S. and other Western-based INGOs.

### CONCLUSION

Our internship experiences raised three key points. First, it is limiting for human rights groups to focus exclusively on civil and political rights. The selective mandates that INGOs have set for themselves are a matter of institutional choice and should be reconsidered. Overcoming mandate-defined limits is a starting point for broadening the meaning and practice of human rights. Second, it is equally limiting and inadequate for INGOs to continue to be government-oriented in their work on Africa. People continue to suffer serious violations arising from situations in which it is not easy to draw a line between government and nongovernment action, as is illustrated in the suppression of the Ogoni people in Nigeria's oil-rich region. Third, it is time African NGOs stopped replicating the confining mandates and approaches of INGOs, since these are shaped by circumstances that are specific to the INGOs' domestic environments. African NGOs should not be "miniature replicas of their powerful counterparts in the North [subsisting] on life-support systems provided by the North."<sup>45</sup> Instead, African NGOs should actively seek to build broad-based local constituencies.

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43. See HRW, *QUESTIONS AND ANSWERS*, *supra* note 12, at 8.

44. Some of the obstacles to African NGOs' accreditation to the U.N. are lack of resources, a requirement by the U.N. that NGOs seeking accreditation should be of an international character, and the power of governments to object to the accreditation of particular NGOs. For further information as to criteria for NGO accreditation, see Peter Willetts, *Introduction*, in *THE CONSCIENCE OF THE WORLD: THE INFLUENCE OF NON-GOVERNMENTAL ORGANISATIONS IN THE UN SYSTEM* 1, 4-5 (Peter Willetts ed., 1996).

45. See Mutua, *supra* note 4, at 31.