What Will States Really Do For Us? The Human Rights Enterprise and Pressure from Below

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Abstract
International human rights standards and treaties have been plagued with disputes over the relevance and power of international law with regard to state sovereignty. These disputes commonly result in states’ failure to realize the rights and standards outlined by such human rights instruments. What if states cannot or will not provide fundamental dignities to their people? Moreover, how does global restructuring affect states’ ability to implement human rights? We explore these questions through what we call the “human rights enterprise,” which includes conflicts between rulers and the ruled over the realization of human rights practice. As such, human rights are often developed through the struggles of grassroots organizations and non-elites from below, not simply from the compassionate actions of states to respect their international agreements.

Keywords
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Introduction
Though theoretically we all may have fundamental rights as human beings, many will never enjoy them. Since their inception, international instruments for human rights law (“human rights instruments”)1 have been

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1) We will refer to these as “HR instruments.” These instruments include the Universal Declaration of Human Rights (UDHR), the two Covenants (ICCPR, ICESCR), the various international Conventions (such as the CRC and ICERD), regional human rights treaties, and the regulatory bodies assigned to each – meant for implementation, information dissemination, and enforcement (however limited).
plagued with disputes over the relevance and power of international law with regard to the powers of sovereign states. In fact, as we draft this article, the US government continues to grapple with the civil and international law implications for the treatment of “enemy combatants,” where even the Geneva Conventions were suspended in the name of sovereign concerns for “national security.”

Specifically, HR instruments depend on the autonomy and cooperation of individual states to implement and enforce human rights practices to which they are party. The irony is that HR instruments’ content are intended to protect individuals and groups from abuses by (for instance) the state, yet require states to both implement these instruments and monitor their own compliance. That is, HR instruments formally expect and depend on states to choose the protection and provision of human rights over all other interests in the face of their conflict. Though this is not a new revelation, little has been done to address it, and we would like to highlight this persistent flaw in the ability of HR instruments to operate as ultimately effective mechanisms in their present form.

HR instruments (e.g., the Universal Declaration of Human Rights) were built, arguably against the will of many designers, on some dangerous assumptions: 1) states have the ability or political will to fulfill their responsibilities detailed in HR instruments to which they are party; 2) states are autonomous relative to each other and private interests; 3) states actually represent and/or serve the interests of their general populations. We find that many historical and contemporary struggles for human rights practice are waged against states, or private entities partnered with states. Here we are struck with a fundamental question: What does it say about state governance, and the supposed “social contract,” if states commonly cannot or will not provide the most basic fundamental dignities to their people?

Through this critique we will also illuminate what we see as the persistent elephant in the expanding room of human rights scholarship: Actual conflicts over the realization of human rights practice take place, most notably, between rulers and the ruled – between the haves and have-nots. For human rights to be realized under these conditions, we might learn from those who have successfully struggled for finite resources and human dignity in the face of great inequalities. We find, not coincidentally, that few of these cases involve the voluntarily benevolent actions of states2 to respect international law.

2) Where we refer to “states” doing things, we are referring to the collective behaviors of