

Disseminating Truth to Power

Human Rights, Information and the Internet as Court of Last/Only Resort

Clay Collins

Within the context of the concept of the internet as court of last resort for victims of human rights violations, this article explores the case of a Guantánamo Bay prisoner to illustrate the notion that, under certain circumstances, the internet may effectively serve as a court of *only* resort. It then expands to consider the power of human rights information on the internet through the introduction of two important human rights information agencies, ventures a taxonomy for classifying human rights bloggers, and discusses needed library and archival work. It discusses the plight of human rights bloggers as well as the human rights of information seekers and providers on the internet. Finally, it concludes with thoughts on information technology, the crises in Darfur, and the future of internet-based human rights advocacy work.

A. The Internet as Court of Last Resort

In a properly functioning court system, someone whose human rights have been violated may turn to a court of first instance, or a trial court.¹ If the case is heard before a court and the complainant's grievances are still not satisfactorily remedied, she may appeal the trial court's decision and go through an appeals process that may lead to her case being heard before a court of last resort,² such as a constitutional court³ or supreme court.⁴ If her complaints are not satisfactorily resolved and she has exhausted all domestically available legal remedies,⁵ she may attempt to have her case admitted to an international court such as the Inter-American Court of Human Rights or European Court of Human Rights. (In states with corrupt, defunct, or functionally non-existent legal systems, or in instances where national courts are unwilling or unable to take a given case, domestic remedies may be exhausted without the case ever being admitted to a court).⁶ It should be noted, however, that due to the small

¹ *Black's Law Dictionary* defines a trial court as "[a] court of original jurisdiction where the evidence is first received and considered." A trial court may also be termed a "court of first instance; instance court; [or] court of instance." BLACK'S LAW DICTIONARY, court (8th ed. 2004).

² It is true, perhaps without exception, that in every state with a developed court system, the probability a randomly sampled case making it to the court of last resort is very slim. A court of last resort is a "court having the authority to handle the final appeal of a case, such as the U.S. Supreme Court." BLACK'S LAW DICTIONARY, court (8th ed. 2004).

³ A constitutional court is a "court whose jurisdiction is solely or primarily over claims that legislation (and sometimes executive action) is inconsistent with a nation's constitution." BLACK'S LAW DICTIONARY, court (8th ed. 2004).

⁴ Generally speaking, a supreme court, such as the U.S. Supreme Court, is a court of last resort. *See supra* note 2.

⁵ International human rights courts, such as the Inter-American Court of Human Rights and European Court of Human Rights, generally will not hear cases until all remedies or claims have been exhausted -- i.e. pursued to the full extent -- in the litigant's home country.

⁶ Even if their case were to be heard before the European Court of Human Rights, it may take years before it can be heard.

number of legitimate international courts and the large number of cases submitted to such courts, the probability that her case will be taken by an international court is extremely and prohibitively low.⁷

For a person who (1) has exhausted all available domestic remedies and (2) is unable to gain admittance before an international court, one of her few remaining options may be to publish the story online and hope that the international community -- or at least an international audience -- takes note.

B. The Internet as the Court of Only Resort: the Case of Adel Hamad

For persons stripped of their human right to judicial review,⁸ the court of public opinion -- accessed via the internet -- may effectively be the court of *only* resort. Consider the case of Adel Hamad, a 48-year-old Sudanese elementary school teacher who has been held in Guantánamo Bay, Cuba, without charge or evidence of crime for five years. It is uncertain whether a United States federal court or any other court of competent jurisdiction⁹ will ever review his case, especially after President Bush signed the Military Commissions Act in October of 2006.¹⁰ Unable to argue his case before a court, Adel's attorneys created an eight-minute YouTube video, entitled "Guantánamo Unclassified,"¹¹ using a computer and handheld cameras.¹² The video is narrated by one of Hamad's attorneys, William Teesdale, and includes interviews with former employers, supervisors, and friends which were collected during Teesdale's worldwide travels to collect evidence. Within a month, the video was viewed over 70,000 times and twice as many persons had visited the Project Hamad website,¹³ which is "part of a fast-growing public campaign to eviscerate the Military Commissions Act, passed by Congress last year, which denied Hamad his day in court."¹⁴ As one commentator noted, "[w]hile Hamad may never see the inside of a U.S. court, the public attention to his case may have forced the government's hand[: j]ust this week, the project told Hamad's supporters that the Department of Defense has added him to a list of people slated to be released from Guantánamo."¹⁵ Indeed, as Adel's attorneys have demonstrated,

⁷ In war torn regions, regions with a large number of dysfunctional court systems, and regions rife with human rights abuses, it is simply impossible for an international court to hear all admissible cases. Indeed, practical limitations often mean that human rights courts only hear cases involving the most flagrant and egregious human rights violations.

⁸ See Article 9(4) of the International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976.

⁹ A court of competent jurisdiction is a court "that has the power and authority to do a particular act; one recognized by law as possessing the right to adjudicate a controversy." BLACK'S LAW DICTIONARY, court of competent jurisdiction (8th ed. 2004).

¹⁰ The Military Commissions Act of October, 2006 "attempts to strip the federal courts of jurisdiction to hear Guantánamo detainee habeas cases." Because of the Act, "[Adel's case is] presently stayed pending resolution of this issue." William Teesdale, *Representing Adel: The Case of Guantánamo Detainee 940*, Jurist, at <http://jurist.law.pitt.edu/forumy/2007/01/representing-adel-case-of-Guantánamo.php> (Jan. 12, 2007).

¹¹ William Teesdale et al., *Guantánamo Unclassified*, YouTube, at <http://www.youtube.com/watch?v=D5E3w7ME6Fs> (last modified Jan. 5, 2007).

¹² Andrew K. Wood, *The YouTube Defense: Human Rights go Viral*, SLATE, Mar. 28, 2007, at <http://www.slate.com/id/2162780/>.

¹³ The Project Hamad website may be found at <http://wwwprojecthamad.org>.

¹⁴ Wood, *supra* note 12.

¹⁵ *Id.*

YouTube and its ilk mean that today anyone can tell human rights stories . . . [and] if the stories are told with enough brio and skill, the public will pay attention, and the government may be more likely to respond. Critics pooh-pooh the importance of all of this by pointing to the fact that civil rights advocates have traditionally had a friend in the press. But they're missing the point: YouTube goes where the mainstream media can't or won't go. It's visceral. It's story *first*, message second. And it gives advocates instant access to an audience in a way that press releases and op-eds never can.¹⁶

Another reason why media outlets such as like YouTube are so powerful is that they have the power to alter public opinion, which -- like it or not -- affects judicial outcomes.¹⁷ Indeed, civil rights activists over a half-century ago understood that attorneys stand a greater chance of success when legal arguments are in step with changes in the broader social milieu:¹⁸

When the NAACP went to court to end segregation in the South, it coordinated with groups staging sit-ins, knowing that the resulting public unrest would help shape Thurgood Marshall's legal victories in the courtroom. This strategy works because, right or wrong, judges keep an eye on the street. Internal notes from the Supreme Court's deliberations in *Brown v. Board of Education* suggest the justices spent less time discussing law than chewing over the state of race relations in the South. In fact, as law professor Michael Klarman points out, little relevant constitutional law had changed between *Brown's* ruling against segregation and *Plessy v. Ferguson*, the case that helped establish the "separate but equal" school regime. What had changed was the social context.¹⁹

The implications of the above line of reasoning is that as democratized channels of information dissemination, like YouTube, attain greater portions of the media market, human rights advocates may turn with increasing frequency to online tools to favorably alter public opinion in the hopes that legal opinion will follow.²⁰ These advocates may also use the media and online tools to make international human rights court decisions more visible and ease the enforcement of such decisions.²¹

Although human rights information can further human rights causes, lack of such information can also diminish human rights situations. For example, during the Cambodian genocide of 1975 through 1979, Pol Pot and his regime were "careful to deny observers access to their crime scenes" and journalists were forced to rely on eyewitness or second hand accounts.²² Furthermore, since reporters are trained to authenticate their stories by visiting or

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ See David Weissbrodt, *Strategies for the Selection and Pursuit of International Human Rights Objectives*, 8 YALE J. WORLD PUB. ORD. 62 (1981).

²² SAMANTHA POWER, *A PROBLEM FROM HELL: AMERICAN AND THE AGE OF GENOCIDE* 109 (2003).

corroborating with multiple sources, they tend to shy away from publishing critical accounts.²³ When they do print them, caveats and disclaimers are routinely added: "With almost every condemnation or citation of intelligence that appear in the press about Cambodia in 1975 and 1976, reporters included reminders that they had only "unconfirmed reports," "inconclusive accounts," or "very fragmentary information."²⁴ As one U.S. foreign service office stated, "[t]he refugees [crossing the border into Thailand] were telling tales that you could only describe as unbelievable," he remembers; "I kept on saying to myself, 'this can't be possible in this day and age.'"²⁵ Human rights information, aided by the media -- or horizontal and democratic channels of information dissemination -- is needed because human rights atrocities and crimes against humanity are not an easy things to wrap one's mind around,²⁶ and the outside world's reactions to each act of genocide has demonstrated a lack of willingness to believe eye-witness accounts, especially when the accuracy of those accounts necessitate the use of international action and force.²⁷

C. The Power of Human Rights Information on the Internet

One reason the internet is such a powerful venue for the publication and dissemination of human rights information is that information available via the internet is, for the most part, downloadable, forwardable, and sharable. There is an infinite difference between the impact of a violation that occurs only once in history and a violation that can be downloaded and continually replayed on people's computers via mechanisms such as videoblogs, podcasts, and various internet websites. Once a violation has been captured as video or sound and frozen in time, it may be picked up by the media and transformed into a story for wider distribution. There are substantial benefits to having media recordings of human rights violations, as accounts of abuse which are captured orally or in writing may lose their impact, becoming mere words as events are rationalized or disputed. As stated in an advertisement for one human rights organization: "You can say a story was fabricated / You can say the jury was corrupt / You can say a document is false / You can say a person is lying / You can even say you don't trust newspapers / But you / Can't / Say / What you just saw / Never / Happened."²⁸ Videos of police brutality, torture, and other gross human rights violations²⁹ speak for themselves.

The power of downloadable media is illustrated well by the 2007 spectacle in which CBS fired famous radio personality Don Imus over an on-air discussion during which Imus referred to the Rutgers University women's basketball team as a bunch of "nappy-headed hos." In a *New York Times* article about the incident, David Carr states that "30 years ago, if he made the same kind of remark, it would have *floated off into the ether* [emphasis added] -- the Federal Communications Commission, if it received complaints, might have taken notice,

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ See generally *id.*

²⁸ Witness, <http://wearcam.org/reebok.mov>, Wearcam.org, at <http://wearcam.org/reebok.mov>.

²⁹ See, for example, *Egyptian Police Torturing a Woman Murder Suspect 2*, YouTube, at <http://www.youtube.com/watch?v=ZQom4edkHkw> (published Jan. 3, 2007).

but few others."³⁰ But the present modern media paradigm is quite different than it was 30 years ago, largely because *Imus in the Morning* is downloadable.³¹ Two days after Imus made the remarks, "reporters and advocates could click up the remark on the Media Matters for America Web site, and later YouTube, and see a vicious racial insult that delighted him visibly as it rolled off his tongue."³² The internet has given the ether a lasting memory.³³

The internet has not only increased the longevity and availability of human rights information, but it has also given a voice to ordinary citizens and, to some extent, provided a means for the democratization of the power and ability to create news. In December, 2006, for example, one person armed with a camera phone was able to thwart a government-sanctioned spin on the execution of Saddam Hussein by posting an unofficial video of the execution to the internet only hours after Saddam's death.³⁴ The video sparked a large global debate surrounding the appropriateness of the death penalty in this day and age; the video also led to Iraqi government investigations³⁵ into the execution, and comments from world leaders such as Tony Blair, who claimed that the execution was "completely wrong."³⁶ The example of Saddam's execution illustrates that, with the increased proliferation of electronics and audio/video capturing technologies, the ability to inform and help create news and other societal narratives has been opened up to a much larger demographic that includes citizens and persons not in traditional positions of power.

Interestingly, on December 10th, 2006 (human rights day), just 20 days before Saddam's execution, the *New York Times Magazine* published an annual report entitled "The Year in Ideas," which identified "sousveillance" as one of the formative ideas of 2006. Whereas "surveillance," refers to "watching over" and "the monitoring of people by some higher authority -- the police, for instance,"³⁷ sousveillance (also sometimes called "inverse surveillance") refers to the "monitoring of authorities [by] . . . regular people, equipped with little more than cellphone cameras, video blogs and the desire to remain vigilant against the excesses of the powers that be."³⁸ Instances of sousveillance have increased with the spread of lightweight and cheap cameras and the increased presence of video sites like YouTube. The internet now is rife with citizen footage of gay-bashing in Latvia, union-busting in Zimbabwe, and civilian footage of police abuse in Malaysia.³⁹ As noted by Steve Mann et al.:

³⁰ David Carr, *The Media Equation: Flying Solo Past the Point Of No Return*, NEW YORK TIMES, April 13, 2007, at C1.

³¹ *See id.*

³² *See id.*

³³ *Id.*

³⁴ *See Saddam Execution [cell phone footage]*, YouTube, at <http://www.youtube.com/watch?v=KnzwgBrIr1s> (published Dec. 30, 2006).

³⁵ *Iraq Investigates Saddam Footage*, BBC News, at http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/middle_east/6224531.stm (Jan. 3, 2007).

³⁶ Alexis Unkovic, *Saddam Taunter Heard on Cell Phone Video to Face Iraqi Judges*, JURIST: LEGAL NEWS & RES. (2007), at <http://jurist.law.pitt.edu/paperchase/2007/01/saddam-taunter-heard-on-cell-phone.php>.

³⁷ Jascha Hoffman, *The 6th Annual Year in Ideas/Sousveillance*, NEW YORK TIMES MAGAZINE, Dec. 10, 2006, at 74.

³⁸ *Id.*

³⁹ *Id.* at 75.

Surveillance cameras threaten autonomy. Shrouding cameras behind a bureaucracy results in somewhat grudging acceptance of their existence in order to participate in public activities By having this permanent record of the situation beyond the transaction, social control is enhanced. Acts of sousveillance redirect an establishment's mechanisms and technologies of surveillance back on the establishment.⁴⁰

What is important about sousveillance is that it is a new mechanism of accountability for people who have been forgotten, abandoned, or simply left out by the media and both domestic and international courts, and whose plight has been ignored by the mainstream media. Sousveillance as a last-resort mechanism of accountability can be a powerful tool, since the most egregious acts of large-scale human rights abuses have occurred within informational vacuums in which international observers, foreign service workers, and journalists do not enter and information about atrocities does not escape to reach a wider audience.

D. The Facilitative Role of Human Rights Information Agencies

Of course, not every victim of human rights abuse is fortunate enough to be availed of representation, much less an attorney willing to go the distance on his or her behalf. But human rights advocates and victims with the means and knowledge to post their stories to the internet do have some hope, even if they do not write like journalists, and even if documented rights abuses are contained within raw and unproduced video clips that are shot with an unprofessional media recording device -- such as a cellular phone.

Once human rights stories do make it to the internet via a blog⁴¹ or other venue for expression, there is hope. Over time, such postings are happening with greater frequency as people, ignored, negated, or misunderstood by the international media begin to take matters into their own hands by uploading video and pictures to the web, podcasting, and blogging.⁴² Once a human rights story has been released on a blog, other bloggers can pick up the story, link to it, provide their own commentary, and thus promulgate the message to an even wider audience. In this manner, the narrative of a compelling human rights story may become viral, as the blogosphere of a country or geopolitical region gradually gets wind of someone's plight and as bloggers become united over a given issue. When critical mass develops, the mainstream media is likely to notice as in the case of Kareem Nabel Sulaiman: a blogger sentenced to several years in prison for slighting Islam and insulting the president of Egypt.⁴³

⁴⁰ Steve Mann, Jason Nolan & Barry Wellman, *Sousveillance: Inventing and Using Wearable Computing Devices for Data Collection in Surveillance Environments*, 1 SURVEILLANCE & SOC'Y 331, 347 (2003).

⁴¹ Due to the strong presence and interconnectedness of advocacy networks operating within the blogosphere, and technological factors that facilitate the discovery of information contained within blogs, there is a good argument for using blogs rather than other mechanisms for online dissemination. Cf. Sami S. Gharbia, *Lessons from the Free Kareem Campaign*, Global Voices Online, at <http://www.globalvoicesonline.org/2007/04/04/lessons-from-the-free-kareem-campaign/> (published April 4, 2007).

⁴² Press Release, Rebecca Tabasky, Global Voices Online Awarded the Grand Prize for Innovations in Journalism from the Knight-Batten Foundation (Sept. 18, 2006), available at http://cyber.law.harvard.edu/home/newsroom/pressreleases/global_voices_wins_knight-batten_award.

⁴³ For more on Kareem Nabel Sulaiman's case, see Sami S. Gharbia, *Lessons from the Free Kareem Campaign*, Global Voices Online, at <http://www.globalvoicesonline.org/2007/04/04/lessons-from-the-free-kareem-campaign/> (published April 4, 2007).

Blog aggregators such as Global Voices Online⁴⁴ are another type of venue for amplification of blogged human rights stories. Global Voices Online, which is part of the Berkman Center for Internet & Society at Harvard Law School, was launched in 2005 with funding from the MacArthur Foundation. It supports an international team of editor-bloggers who select, translate, and explain citizens' views and news from outside Western Europe and North America.⁴⁵ Global Voices states that they "[s]eek[] to aggregate, curate, and amplify the global conversation online -- shining light on places and people other media often ignore."⁴⁶ With tens of millions of bloggers globally, Global Voices serves to highlight critical bloggers and podcasters in countries and regions across the world,⁴⁷ and they often amplify messages conveyed by bloggers -- particularly in the absence of mainstream media coverage and validation.⁴⁸

An additional noteworthy organization which has been launched to promote and facilitate citizenship journalism on the internet is Witness. Witness was formed in 1992 by musician Peter Gabriel after an ordinary citizen recorded Rodney King's beating at the hands of Los Angeles police officers, bringing international focus to the human rights situation in the United States.⁴⁹ Gabriel surmised that if a serendipitously recorded video could have such a powerful effect, an effort should be made to record international abuses more purposefully,⁵⁰ and he joined with the Reebok Human Rights Foundation and the Lawyers Committee on Human Rights to start Witness. In 2006, Witness and Global Voices Online launched a content partnership to form a human rights video network "to amplify human rights-related video being uploaded onto the Internet by concerned citizens around the world."⁵¹ The video network, presently in its pilot stage, is a curated forum. The final version of the network will include three sections: (1) a video viewing section, (2) an uploading section, and (3) a "get active" section, which will seek to empower users by providing access to online community and advocacy tools.⁵²

E. Human Rights Information Workers on the Internet

Although there are a number of different roles for human rights information workers on the internet, the present section of this article is primarily concerned with the roles of violation capturers, front-line and bridge bloggers, and aggregation and amplification bloggers. This section also discusses the need for greater involvement of library and information workers, documentalists, and archivists. It should be noted that is possible and even likely that one person will fill more than one of the roles discussed below.

⁴⁴ See Global Voices Online, at <http://www.globalvoicesonline.org>.

⁴⁵ Tabasky, *supra* note 42.

⁴⁶ *About Global Voices Online*, Global Voices Online, at <http://www.globalvoicesonline.org/about/>.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Dana Hughes, *Making the Whole World a Witness*, YES! MAG. (2004), available at <http://www.yesmagazine.com/article.asp?ID=713>.

⁵⁰ *Id.*

⁵¹ Tabasky, *supra* note 42.

⁵² *The Human Rights Video Hub Functionality and Structure*, Witness, at http://www.witness.org/index.php?option=com_content&task=view&id=577.

1. Violation Documenters

Violation documenters witness human rights violations and capture them in text, audio, or video. They may post the captured human rights violation to the internet themselves, or this may be done for them by front-line or first-instance blogger. Often they are themselves victims of the violation or at least members of a repressed group; however these documenters may also be human rights violators recording a violation for their own amusement. Violation documenters are likely to be citizen journalists using sousveillance as a means to air their grievances, and they typically use whatever means at their disposal to document abuses. The activities of violation documenters frequently put them at risk, as they have been responsible for videos of the Guinean Army firing indiscriminately on demonstrating civilians;⁵³ torture and police brutality in Egypt,⁵⁴ clashes between police and students in China,⁵⁵ and anti-gay violence in Moscow.⁵⁶

2. Front-Line and Bridge Bloggers

Regardless of format, front-line bloggers are the first to actually post evidence of human rights violations to the internet. They may have documented violations themselves or they may be posting someone else's information. Like violation documenters, their activities often put them at risk of state sanctioned reprisals such as imprisonment or torture. Front-line bloggers are sometimes called "bridge bloggers" because they bring information about their local situations to a global audience and disseminate information from places of little power to places of greater power. Bridge bloggers, for example, can convey information from immigrant communities to non-immigrant communities, from citizens to politicians, and from the religious communities to secular communities.⁵⁷

3. Aggregation and Amplification Bloggers

⁵³ Gavin Simpson, *Guinea-Conakry: Standing Up to a Power-Hungry President*, Global Voices Online, at <http://www.globalvoicesonline.org/2007/03/13/guinea-conakry-standing-up-to-a-power-hungry-president/> (published March 13, 2007).

⁵⁴ See *المع تَقَلَات المِصرِي* [Torture Incident Involving Egyptian Police Sodomizing Emad Mohamed Ali Kabeer], YouTube, at <http://www.youtube.com/watch?v=4iez20eP-ic> (published Nov. 22, 2006); Hossam el-Hamalawy, *Victim of Police Rape Video Identified*, 3arabawy, at <http://arabist.net/arabawy/2006/12/09/victim-of-police-rape-video-identified/> (published Dec. 9, 2006); *Egyptian Police Torturing a Woman Murder Suspect 2*, supra note 29; *Egyptian Police Torture 2*, YouTube, at <http://www.youtube.com/watch?v=03RXZkv3qhU> (published Nov. 7, 2006); Moustafa Ayad, *The Next Page: A Digital Uprising Against Thug Government*, PITTSBURGH POST-GAZETTE, April 15, 2007, at <http://www.post-gazette.com/pg/07105/778143-109.stm>; Sameer Padania, *Egypt: Bloggers Open the Door to Police Brutality Debate*, Global Voices Online, at <http://www.globalvoicesonline.org/2006/12/09/egypt-bloggers-open-the-door-to-police-brutality-debate/> (published Dec. 9, 2006).

⁵⁵ *江西省南昌市江西服装学院骚乱(视象资料 23/10)* [Chinese Police Dispersing Student Protesters], YouTube, at <http://www.youtube.com/watch?v=sZsmyYdsoq4> (published Oct. 28, 2006); see also *China: Videos Emerge of Clashes Between Police and Students in Jiangxi*, YouTube, at <http://www.globalvoicesonline.org/2006/11/24/china-videos-emerge-of-clashes-between-police-and-students-in-jiangxi/> (published Nov. 24, 2006).

⁵⁶ See *Gay Pride in Moscow Attacked by Fascists*, YouTube, at <http://www.youtube.com/watch?v=VXHzoONni-k> (published May 28, 2006).

⁵⁷ See Hossein Derakhshan, *Weblogestan: How weblogs are affecting Iran*, Editor: Myself: A weblog on Iran, Technology and Pop Culture, at <http://hoder.com/weblog/archives/013982.shtml> (published April 29, 2006); See REPORTERS WITHOUT BORDERS, HANDBOOK FOR BLOGGERS AND CYBER-DISSIDENTS 41 (2005).

Aggregation bloggers are often scavengers of sometimes obscure and disparate sources of information, and they collect, and sometimes repackage or translate this information in a manner that makes it more accessible. They present a third tier in the information distribution chain. Aggregation bloggers often work for NGOs, libraries, or special interest groups such as Amnesty International. The blogger-editors working for Global Voices Online, mentioned earlier in this article, are examples of aggregation bloggers and people rely upon them to find, publish, translate, and sometimes editorialize the "good sources." In a chapter entitled "'Conscience Trigger': The Press and Human Rights,"⁵⁸ Anna Husarska discusses guidelines that he implements when covering human rights stories. At least four of these guidelines may be of use to aggregation and amplification bloggers:

[B]ecause interaction between the media and the human rights communities is most desperately needed in developing countries and those countries that are in a state of civil war, I draw on examples from these areas. I do not discuss stable countries that suffer from long-standing, isolated human rights abuses. These abuses usually have already become the subject of scrutiny by lobbying groups, specialized media, and other mechanisms.

. . . [A]lthough some conflicts generate heavy media coverage, I focus . . . on situations when a human rights case is not already big news. In these circumstances, the media have the opportunity to influence the human rights agenda in a more powerful way.

. . . I do not discuss specialized legal, human rights, and political journals that play a completely different role from that of daily news or weekly magazine reporting. These publications can supply an invaluable record to those interested, but they usually preach to the converted, and constitute less of a tool for the advancement of human rights . . .

. . . [S]ince the role of foreign media covering human rights abuses is very different from that of local media, I bring examples only from the media that are foreign to the problems they describe. Countries in which human rights violations are notorious usually lack a free media, so the local media are not a great help in promoting human rights, and indeed often themselves need outside help. A few courageous outlets may hang on and, because they operate in the local language with local journalists and newsreaders, occasionally they can reach the local population. Belgrade's Radio B-92, Minsk's Radio 101.2, Port-au-Prince's Radio Soleil, and the Algerian newspapers EI Watan and La Nation are examples.⁵⁹

F. The Plight of Bloggers and other Human Rights Information Workers

⁵⁸ Anna Husarska, *Conscience Trigger: The Press and Human Rights*, in *REALIZING HUMAN RIGHTS* 336 (2002).

⁵⁹ *Id.*

Restrictions on information workers' freedom of expression may take a variety of forms.⁶⁰ A state may criminalize defamation, fail to investigate crimes against the media, fail to enact freedom of information laws or laws that prohibit monopoly ownership of the media, censor speech, harass the media or individual journalists, and require the compulsory licensing of journalists.⁶¹ A victim of freedom of expression restrictions that violate international law may have no domestic legal recourse, either because jurists and judges are too frightened to enforce the law or because national laws protecting expression are nonexistent.⁶²

Unfortunately, repression of human rights information workers does not stop with violations of the freedom of expression. Information workers are often faced with threats of life, liberty, and security of person. To be sure, speaking up takes audacity and can have serious consequences depending on where ones lives.⁶³ For example, in Iran authorities have targeted internet journalists and websites in an effort to curtail online dissemination of information and news:⁶⁴

Between September and November of 2004, the judiciary detained and tortured more than twenty bloggers and Internet journalists, and subjected them to lengthy solitary confinement. The government systematically blocks websites with political news and analysis from inside Iran and abroad. On February 2, 2005, a court in the province of Gilan sentenced Arash Sigarchi to fourteen years in prison for his online writings. In August 2005, the judiciary sentenced another blogger, Mojtaba Saminejad, to two years in prison for "insulting" Iran's leaders.⁶⁵

As the example of Iran illustrates, threatened information workers often become objects "of punitive government action for . . . reason[s] aside from the commission of . . . criminal act[s]."⁶⁶ That is, a "threatened information worker" is any information worker who has been "executed, imprisoned, tortured, threatened with imprisonment, interrogated, threatened with any type of government-assisted reprisals or threatened by a private citizen or group with the connivance of the government for any reason not clearly and legitimately criminal in nature."⁶⁷

G. The Rights of Human Rights Information Workers and Information Seekers

The freedom of bloggers to flow information across national borders using any media at their disposal is solidly established as a fundamental human right. This right is important because violations of the right to freedom of expression often

⁶⁰ Jo M. Pasqualucci, *Criminal Defamation and the Evolution of the Doctrine of Freedom of Expression in International Law: Comparative Jurisprudence of the Inter-American Court of Human Rights*, 39 VAND. J. TRANSNAT'L L. 379 (2006).

⁶¹ *Id.* at 379.

⁶² *Id.* at 382.

⁶³ Human Rights Watch, *Blog for Human Rights*, Human Rights Watch, at <http://hrw.org/blogs.htm>.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *How do we Define Threatened Bloggers?*, Global Voices Online, at http://www.globalvoicesonline.org/wiki/article/How_do_we_define_threatened_bloggers%3F.

⁶⁷ *Id.*

go hand-in-hand with other human rights violations, particularly violations of the right to freedom of assembly and association.⁶⁸ International laws regarding information provision and reception have long histories, and the scope of this article will not permit an exhaustive review of these laws as promulgated by the United Nations and regional intergovernmental organizations such as the European Union and the Organization of American States. A cursory review, however, of how the most widely-ratified treaties and most influential declarations protect human rights information workers -- and all information providers and consumers, for that matter -- will be provided.

Before any human rights declarations or treaties had been adopted⁶⁹ by the United Nations (UN), its General Assembly adopted resolution 59(I)⁷⁰ during its first session. Resolution 59(I) states that "[f]reedom of information is a fundamental human right and . . . the touchstone of all the freedoms to which the United Nations is consecrated."⁷¹ Additionally, the Universal Declaration of Human Rights (Universal Declaration)⁷² states in Article 19 that "[e]veryone has the right to the freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through *any media* and *regardless of frontiers* [emphases added]." Such a definition is sufficiently broad to protect the practice of blogging and internet browsing, and the inclusion of Article 19 in the Universal Declaration is significant because several of the Declaration's provisions -- arguably including Article 19 -- have become customary international law.⁷³

Further strengthening the rights articulated in Article 19 of the Universal Declaration are a number of so-called "hard law"⁷⁴ treaties which have given effect to these rights.⁷⁵ For example, the International Covenant on Civil and Political Rights,⁷⁶ which has been ratified by 160 nations -- including the United States and gross human rights violators such as Egypt, Sudan, and Guinea -- states in its 19th article that "[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, *or through any other media of his choice* [emphasis added]." Likewise, the Convention on the Rights of the Child,⁷⁷ which is the most widely-ratified treaty in existence today with 193 States parties,

⁶⁸ *Id.*

⁶⁹ *Guide on the Human Right to Freedom of Expression*, Human Rights Education Associates, at <http://www.hrea.org/learn/guides/freedom-of-expression.html>.

⁷⁰ See <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/033/10/IMG/NR003310.pdf>.

⁷¹ *Id.*

⁷² Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).

⁷³ Hurst Hannum, *The Status and Future of the Customary International Law of Human Rights: The Status of the Universal Declaration of Human Rights in National and International Law*, 25 GA. J. INT'L & COMP. L. 287, 289 (1996) (quoting Vienna Declaration and Programme of Action, World Conference on Human Rights, 22d plen. mtg. (June 25, 1993), pmbll., paragraphs 3, 8, U.N. Doc. A/CONF.157/24 (Part 1) at 20-46 (1993), *reprinted in* 32 I.L.M. 1661 (1993)).

⁷⁴ Hard law is generally considered to be written law that is both enforceable and binding.

⁷⁵ *Guide on the Human Right to Freedom of Expression*, Human Rights Education Associates, at <http://www.hrea.org/learn/guides/freedom-of-expression.html>.

⁷⁶ International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976.

⁷⁷ Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2 1990.

similarly states that “[t]he child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers . . . through any other media of the child’s choice.”⁷⁸ Furthermore, the International Convention on the Elimination of All Forms of Racial Discrimination⁷⁹ provides that “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of [t]he right to freedom of opinion and expression[.]”⁸⁰ Indeed, “[r]acial and ethnic minorities equally should not be discriminated against and have equal access to airing their views and sharing information of concern to them.”⁸¹

In addition to the above-mentioned United Nations protections, a number of regional treaties have given effect to the right to obtain and seek information. Indeed, every major regional human rights convention -- including the [European] Convention for the Protection of Human Rights and Fundamental Freedoms, the American Convention on Human Rights, and the African [Banjul] Charter on Human and Peoples’ Rights -- contains protections for information seekers and providers. For example, the [European] Convention for the Protection of Human Rights and Fundamental Freedoms⁸² states that “[e]veryone has the right to freedom of expression [and] . . . [t]his right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.”⁸³ The American Convention on Human Rights contains almost identical language as Article 19 of the International Covenant on Civil and Political Rights and similar provisions are also contained in the African [Banjul] Charter on Human and Peoples’ Rights.⁸⁴ Furthermore, the African Charter states in Article 9 that “[e]very individual shall have the right to express and disseminate his opinions within the law.”⁸⁵

⁷⁸ *Id.* art. 13.

⁷⁹ International Convention on the Elimination of All Forms of Racial Discrimination, G.A. res. 2106 (XX), Annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, *entered into force* Jan. 4, 1969.

⁸⁰ *Id.* art. 5.

⁸¹ *Guide on the Human Right to Freedom of Expression*, Human Rights Education Associates, at <http://www.hrea.org/learn/guides/freedom-of-expression.html>.

⁸² [European] Convention for the Protection of Human Rights and Fundamental Freedoms, *opened for signature* 4 November 1950, 213 U.N.T.S. 221, Europ. T.S. No. 5, art. 1, *entered into force* 3 Sept. 1953.

⁸³ *Id.* art. 10. It should be noted that Article 10 also states the following:

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Id.

⁸⁴ African [Banjul] Charter on Human and Peoples’ Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986.

⁸⁵ *Id.* art. 9. It should be noted that there are some important and significant caveats to the freedom of expression language articulated in many of the above mentioned instruments. For example, the International Covenant on Civil and Political Rights states that the exercise of the right to freedom of expression, “since it carries with it duties and responsibilities,” may be subject to:

such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing

Although the justiciability of freedom of expression rights as articulated in the above international and regional treaties is strong, the rights of human rights information workers is most potently articulated by the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.⁸⁶ This declaration, created and affirmed by the U.N. General Assembly, states that “[e]veryone has the right, individually and in association with others . . . [t]o know, seek, obtain, receive and hold information about all human rights and . . . [t]o publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms.”⁸⁷ The Declaration also provides that all individuals have the right “[t]o study, discuss, form and hold opinions on the observance . . . of all human rights and . . . to draw public attention to those matters” and “to develop and discuss new human rights ideas and principles and to advocate their acceptance.”⁸⁸ Furthermore, Article 13 states that “[e]veryone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.”⁸⁹

H. Concluding Thoughts

In 1995, Pulitzer Prize winning author Samantha Power asked Bosnian civilians in Sarajevo where they would go if able to escape.⁹⁰ The majority of Bosnians picked one of the many beautiful beaches along the Adriatic. In the summer of 2004, she asked the same question of genocide victims in the Sudanese province of Darfur who had seen their children butchered, their women raped, their homes torched, and their families murdered. The “surprisingly common answer, whether from refugees wandering the Sahara, or from farmers who had never had electricity or running water, was this: ‘The Hague.’”⁹¹ The Darfurians were aware that there was an international court in the Netherlands and they wanted to testify.⁹² Unfortunately, most Darfurians will not have the opportunity to travel to The Hague and testify before the International Criminal Court.

Despite the International Criminal Court’s inaccessibility for most Darfurians, the genocide in Sudan will likely go down as the most extensively documented genocide since the holocaust, and the most widely “observed” genocide to date. In contrast to the Cambodian genocide discussed earlier in this article, the Darfurian genocide does not appear to be occurring in a vacuum. Indeed, because of modern technology and the internet, one can easily find footage of Darfurian devastation, hear the testimony of war crimes victims, and

the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. *Id.*

⁸⁶ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, G.A. res.53/144, annex, 53 U.N. GAOR Supp., U.N. Doc. U.N. Doc. A/RES/53/144 (1999).

⁸⁷ *Id.* art. 6.

⁸⁸ *Id.* art. 7.

⁸⁹ *Id.* art. 13.

⁹⁰ Samantha Power, *Court of First Resort*, NEW YORK TIMES, Feb. 10, 2005, at A23.

⁹¹ *Id.*

⁹² *Id.*

view pictures that evidence unspeakable atrocities. Furthermore, destroyed villages are monitored on Google Earth and incidences are documented days after they occur, almost as if the genocide is monitored in real-time. To be sure, the roughly 200 million people who have downloaded Google Earth since its launch are able to view locations of damaged and destroyed Sudanese villages, high-resolution satellite imagery of burned homes and communities, survivor interviews and event narratives linked to villages of occurrence, and geospatially indexed evidentiary photographs.

Unfortunately, while embarrassing evidence may be enough to motivate governments to release prisoners of conscience or crack down on police brutality, internet advocacy campaigns have done little to prompt military intervention, or even aggressive diplomacy, for the sake of victims of gross human rights violations in foreign locals such as Darfur. Furthermore, genocidal governments and militia groups such as the Sudanese Janjaweed often have no regard for the perceptions of the international community and tend to prefer political isolation. They are impervious to political pressure. For the time being, then, it appears that online advocacy is most effective when applied to situations whose remedy requires little governmental effort (e.g. the release of a prisoner of conscience). Nonetheless, the internet remains unrivaled in its ability to provide information on crises such as the one in Darfur, and it has in many cases provided the only vehicle for present-day genocide victims -- aided by humanitarian workers, the independent media, and concerned volunteers -- to tell their stories, relate their accounts, and air their grievances. When the next devastating humanitarian crisis does occur -- as it surely will -- victims may, like the Darfurians, seek to testify before international courts. If the proliferation and prevalence of internet technologies persist, however, these future victims may also seek a second desirable venue for bearing their testimony: the internet. If and when future human rights victims and witnesses do post their stories to the internet, a much more established and advanced infrastructure of information technologies, information workers, and advocacy tools must be in place to help these future victims document their stories and air their grievances. Advances in both human rights advocacy tactics and the number of human rights advocates are needed to ensure that testimonies about future atrocities are amplified and directly or indirectly spur governments to action.

Human rights information is like other forms of information in that it must be well organized, cataloged, and managed if it is to benefit the greatest number of persons. But whereas human rights information might, in some regards, necessitate the same maintenance and organizational treatment as other forms of information, one must not fail to recognize that human rights information differs from other genres of information for the simple fact that it is much more critical. Human rights information -- in specific contexts and during crucial moments -- holds the potential to save lives, prevent murder, stop state-sponsored terrorism, and generally further the cause of human rights. It is for this reason that librarians and other information workers -- as experts in information organization, delivery, and promotion -- should be front and center in the fight for distribution of sousveillance media, for the dissemination of information from the poor to the rich, and for advancing mechanisms and technologies that promote freedom of expression in political environments that favor censorship. It is because of the very importance of human rights information that information workers should not wait until funds have been

established, a vision has been crafted, and a proper job description constructed before putting their skills to use. To be sure, the efforts of information scientists and librarians are sorely needed in the struggle for human rights and the time to act is now.

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