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## 11. "Can You Describe This?" Human Rights Reports and What They Tell Us About the Human Rights Movement

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In the prologue to her poem "Requiem," the Russian poet Anna Akhmatova wrote:

In the awful days of the Yezhov terror I passed seventeen months in the outer waiting line of the prison visitors in Leningrad. Once, somebody 'identified' me there. Then a woman, standing behind me in the line, waked up from the torpor, typical for us all there, and asked me, whispering into my ear (all spoke only in a whisper there):

"And can you describe this?"  
And I answered:  
"Yes, I can."

Then the weak similarity of a smile glided over that, what had once been her face.

This short paragraph from Akhmatova is like the dense short parables of the Jewish Talmud: we can spend a whole year analyzing and interpreting its themes and potential meanings. I will utilize this quote to highlight some points that provide the background themes for this chapter. A first noteworthy point is that the woman asks "can you *describe* this," not "can you *help* me." The poet is not expected to provide direct assistance (the woman does not ask "can you help release my husband") but to provide a description. There are times when, for various reasons, what is sought after is a description.

This leads us to another major point: why does the woman, who is present in the scene, there and then, seek someone else to describe "this," rather than doing it herself? One possible answer is based on the moment of

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recognition, when the woman spots Akhmatova with her status as a famous poet. From this point of view, what the woman seeks is someone whose description would have a higher status: it would be read by many, reach an audience, be perceived as credible. The meaning of her question can be read as “do you have the *authority* to describe this.”

A second, and not mutually exclusive, interpretation is that the woman feels she lacks the capacity to produce an eloquent representation of the scene, which will affect the readers and therefore she calls for a “professional.” Her question can be read as “are you *able* to describe it?” by which I mean, do you have the technical ability, do you have access to a meaningful discourse that would make sense of the scene of terror and mobilize readers?

This double meaning is a feature of all valuable witnessing: those who describe must have both the technical ability to write in a way that creates a new superior understanding of the facts and influences the readers, as well as the status and authority to ensure that an audience will read them in the first place and accept their version as valid. Often there can be a potential tension between these two ambitions. I want to look at one particular genre of describing suffering – the modern human rights report – and I will argue that while this format succeeds in establishing an authoritative voice, this can come with the price of limiting its actual effects on the readers.

### Framework of Discussion

While the analysis of descriptions of suffering is usually focused on works of fiction, media accounts, or historical studies, my focus here is on the work of human rights organizations and the way they document, report, frame, and describe abuses. I have approached the issue of human rights reports through an interest in the work of human rights organizations, building on studies whose aim is to understand the choices and dilemmas of these organizations (e.g. Cohen 1991a; Hopgood 2006), rather than, for example, on the lineage of studies which deal with theoretical questions of representations (e.g. LaCapra 2001) – which would have probably entailed a different take on the motive of “can you describe this” than the one pursued here.

The objects of this study are what Bell and Keenan define as “‘core mandate’ human rights NGOs”: those that deal with “the promotion and protection of human rights, as defined internationally” (2004: 336), and whose characteristic modes of working are “monitoring” human rights violations. Often they are also referred to as “watchdog” human rights organizations

(Cohen 1991b). Human Rights Watch and Amnesty International are the typical international examples: B’Tselem, an Israeli NGO, is an example of a local organization which has adopted this mode.<sup>1</sup>

The production of human rights reports constitutes a major part of the work of such organizations, and these reports have generated an “extraordinary volume of information” over the last thirty years (Cohen 1996). As Orentlicher observes, “While NGOs undertake a range of activities to promote their concerns, perhaps none has been more influential than their efforts to document and publicize human rights violations” (1990: 84).

The assumption here is that, in order to fully appraise the strengths and limitations of the human rights movement’s response to atrocities and suffering, we need to look not only at the abstract legal and normative principles associated with it but also at the concrete tools it uses. The human rights report – its language, parameters, the type of materials that are included in it, and the discourses excluded from it – can tell us about the assumptions, ambitions, and state of mind of the human rights movement. By focusing on this narrow product and treating it as a genre, we can expose the advantages and shortcomings of human rights organizations in contributing to political change.

While I aim to offer generalized insight, the main case study will be the Israeli-Palestinian conflict.<sup>2</sup> This conflict “occupies a special niche in the story of human rights” (Rosenblum 2002: 313) and is among the most visible and analyzed of contemporary conflicts. In addition, “the history of human rights in Israel/Palestine is a local manifestation of [a] global trend” (Hajjar 2001: 21), and human rights work on this place, by both local and international NGOs, is symptomatic of human rights work in general. Finally, it is a suitable case study because the level of abuses is coupled with a lack of censorship in Israel, where “human rights organizations can do the sort of documentation impossible in societies where gross human rights violations take place under a regime of total state control” (Cohen 1991b).

From 2000 to 2002, I was a researcher at a leading Israeli human rights NGO, tasked with writing human rights reports. These three years saw unprecedented levels of abuses by the Israeli government against

<sup>1</sup> See Felner (2003) for background on B’Tselem.

<sup>2</sup> For human rights reports on Israel/Palestine see the website of B’Tselem at <http://www.btselem.org/English/Publications/Index.asp>, Human Rights Watch at [http://www.hrw.org/doc/?t=mideast\\_pub&c=isrlpa](http://www.hrw.org/doc/?t=mideast_pub&c=isrlpa), and Amnesty International at <http://web.amnesty.org/library/eng-isr/reports>.

Palestinians from the Occupied Territories, as well as atrocities by Palestinian groups. These were busy and demanding times for Israelis engaged in human rights work, hardly conducive for metaquestions, and, at the time, I was not planning in any concrete way to write an academic piece analyzing human rights reports. Nevertheless, as this chapter is widely influenced by my experiences then, I can somewhat awkwardly refer to this methodology as retrospective participant observation. In addition to this and to analyzing reports and consulting various secondary sources, I also held interviews with several Israeli human rights researchers.

While doing important and often selfless work, human rights NGOs are frequently a target of vicious critique from governments and nonstate actors. One feels a bit wary, from the temporary safety of academia, to add more critique. My approach is invariably sympathetic to human rights as an ideal and to NGOs as important vessels carrying this ideal forward. However, while conscious that critique from academia is often met by resentment from human rights practitioners, I agree with Kennedy (2006) that the academic study of human rights should move from "cheerleading from the bench" to more serious engagement with the human rights experience. I will at least aspire to follow what Rosenblum described as "ambivalent advocates" of human rights activism: "committed to action, but alert to multiple consequences . . . sympathetic to the plight of people trying to do good, while at the same time more critical of those who do it without reflecting on the possible negative consequences" (2002: 305). To the degree that my argument criticizes decisions and choices by NGOs, it should be seen as a painful self-critique.

### The Genre of Human Rights Reports: Characteristics

In his work on the British antislavery movement of the late eighteenth century, Hochschild often refers to this movement as a prototype of the modern human rights movement and points out practices that can be seen as antecedents of modern human rights campaigning. One of these is the 1791 publication of Thomas Clarkson's *Abstract on the Evidence*, which, Hochschild argues, "reads more like a report by a modern human rights organization than the moralizing tracts against slavery that had preceded it" (2005: 197). For Hochschild this point is a one-page casual aside, but I will use it as intuitively and, by the contrast with "the moralizing tracts," it serves as an excellent starting point for the characterization of the modern human rights report, and what sets it apart from other ways of describing suffering and violence.

Hochschild finds the difference from the tradition of earlier political pamphlets in an important choice: "Clarkson and his comrades somehow sensed they could better evoke sympathy if they stood back and let the facts speak for themselves" (2005: 198). Letting the facts speak for themselves is indeed a main feature of the contemporary human rights report (Wilson 1997: 143, Hopgood 2006: 123). Clarkson made sure the facts were seen as credible, supporting the arguments with "statistics, documents and sworn testimony . . . damning quotations from . . . laws and newspapers" (Hochschild 2005: 198). The eighteenth century antislavery advocates aimed to present an elaborated and realistic picture, relying on the premise of "detail as a sign of truth" (Laqueur, Chapter 1 in this volume). The same premise is evident in the contemporary human rights report. It is empirical and emphasizes methodology and credibility of facts: "Perhaps no asset is more important to a human rights NGO than the credibility of its fact-finding" (Orentlicher 1990: 85). (1)

A second feature, instrumental in allowing the facts to speak for themselves, is the tone of the writing. Hochschild described the antislavery document as written in "a crisp and businesslike way" (2005: 198). This could just as well refer to modern human rights reports, where "the aversion to using emotive phrases" (Hopgood 2006: 74) is an important trait. Many of my interviewees have highlighted an informal ban on using adverbs and adjectives. (2)

Another main aspect Hochschild describes is what the *Abstract* did not contain: unlike its predecessors it had no references to the Bible and had excluded all theological arguments. Being theology free is a main trademark of human rights reports, and in their "radical acts of exclusion" (Wilson 1997: 145) human rights reports also exclude historical, moral, or political frameworks. A merciless Occam's razor is used on anything which cannot be presented as true beyond doubt. (3)

Yet where we leave Clarkson behind and reach the final and necessary component of modern human rights reports is in another feature (unavailable to Clarkson and his comrades at the time): the reliance on international human rights law. Without the use of international law, "human rights" is a purely rhetorical device, and a "lack of substantive engagement in the human rights or humanitarian law framework removes a necessary anchor on policy and practice" (McEvoy 2003: 331). Reliance on the framework of international law (and an exclusive reliance on it) is a condition to be included in this genre. (4)

These are, then, the characteristics of the genre of human rights reporting: letting credible facts speak for themselves; a non-emotional

tone; and exclusion of all interpretive frameworks apart from international human rights law. An Amnesty International researcher summarized his organization's reporting ethos (shared by many other organizations): "objective information ... it was careful, it was accurate, it was not grinding political axes ... a voice of cool, calm, documentation" (quoted in Hopgood 2006: 14).

### The Rationale

What is it about the genre of human rights reporting that appeals so much? Why would both local and international organizations adopt this particular combination of features when addressing the Israeli-Palestinian violence? At the core, it is the organizations' need to legitimize themselves as authoritative and credible commentators and to distinguish their mode of "describing" from the others.

The "competition" for a human rights framework – political arguments, religious dictates, historically grounded analyses – always hovers around, especially in a case such as the Israeli-Palestinian conflict. Human rights activists "depend for their legitimacy upon their reputation as providers of objective expertise" (Price 2003: 589). The mode of the human rights report is meant to meet these challenges. The "objective expertise" status is achieved first by collecting and presenting facts using a specialized methodology of fact-finding, making the facts look reliable, and then by applying the specialized discourse of international law, with its aura of objectivity, creating an authoritative interpretation of the facts. The report's format is both an indication of the processes of professionalization human rights activists have been going through and an attempt to convey such a professional mode.

Both the fact-finding (statistics, eyewitnesses' accounts, "damning quotations" from state officials) and the legal analysis (references to a specific instrument of international law and its authoritative interpretations) are sourced in the reports' footnotes, and I have elsewhere argued that perhaps the symptomatic expression of the human rights report format is the extensive use of footnotes (Dudai 2006). Grafton's insights in his analysis of the use of footnotes in academic historical works are especially relevant here: "they identify the work in question as the creation of a professional" (Grafton 1997: 3); "they give legitimacy ... footnotes confer authority on a writer" (7–8). The "professional" mode of description in the reports (with the use of footnotes as an emblematic feature) creates an authoritative voice for the reports, reinforced by the non-emotive tone.

Orentlicher has pointed out the crucial importance of human rights NGOs "surviving scrutiny" (1990: 92). Such concerns are general to human rights work everywhere, but perhaps particularly so in the intense space of the Israeli-Palestinian conflict (Montell 2004). The imperative of surviving scrutiny (by both governments and the public) indeed shapes the way in which the reports are produced. Even if not viewed in these terms by many of the researchers themselves, I think that the important principle affecting the report's style and language is "scientific refutability," in its Popperian sense. That is, the reports present findings and interpretations in a rational and easy to communicate way; the sources of both findings and interpretations are presented in a transparent way, open to critique, and self-confident that any rational reader will accept them as valid. Claims that abuses are taking place are never general: they refer to specific incidents (e.g. two children were killed, 20 houses were demolished), whose authenticity is carefully sourced. The meaning of these events is not created, as often elsewhere, using moral or religious self-justifying claims, but through the employment of the objective, universal framework of international law. As Freeman argues, human rights law has "a kind of objectivity that moral and political discourses are thought to lack;" it "enables campaigners to appeal to established law rather than to contentious moral and political principles" (2006:49). In emotional, political-national conflicts, international law can "offer a set of standards that are formally independent of the parties to the conflict, offering a host of international and comparative reference points in relation to which the debate can be shaped" (Campbell, Ni-Aolain & Harvey 2002: 326).

To give one illustration, reports that deal with Israeli policies, such as administrative detentions of Palestinians or the construction of the Wall in the West Bank, which are justified by the Israeli government for their effectiveness in preventing terrorist attacks against Israeli civilians, will be analyzed only according to human rights standards. Common "dinner-table" arguments against these policies might also point out that in fact they cannot prevent suicide bombings, and, indeed, because they damage the economy and enhance frustration and humiliation among the Palestinians, they may be counterproductive. Yet human rights reports mostly eschew such speculative arguments and are restricted to documenting these policies and submitting them to legal analysis.

With all that, the human rights report successfully establishes its authority to speak. Its rational, objective, non-emotive voice is distinguished from subjective or nationalist polemics. Its self-confident presentation of facts and its interpretation using the universal framework of international law create a unique type of description.

### Forensics, Codes, and Stories

Another way of elucidating the reports' format is through examining alternatives, and by locating human rights reports within several typologies of "descriptions," the limitations of the format will become apparent. The first typology comes from one of the most important human rights documents of our time: the *Final Report of the South African Truth and Reconciliation Commission* (TRC 1998). One of the report's premises was that we can distinguish several types of descriptions of truth. The TRC's influential typology defined four types of truths: factual or forensic truth; personal narrative truth; social truth; and healing truth (TRC 1998: vol. 1, ch. 5). The language and ambition of the NGO report fits squarely, and almost exclusively, into the first category, that of "factual or forensic truth," which the TRC defined as "the familiar legal or scientific notion of bringing to light factual, corroborated evidence, of obtaining accurate information through reliable (impartial, objective) procedures."

Another relevant framework was introduced by Collins (2004) and Huggins (2000), who contrast two styles of collecting and organizing records of abuses: "stockpiling" on the one hand; and "storytelling" on the other. Stockpiling is based on the collection of facts, the piling up of statistical information; storytelling is based on recording personal and subjective experiences. Of these, human rights reporting clearly employs a "stockpiling" technique.

A third kind of typology comes not from the human rights world but from the eminent sociologist Charles Tilly's recent attempt to make sense of accounts in general (2006). Tilly suggests that the accounts people or organizations give of events can be divided into four groups: "conventions," "stories," "codes," and "technical accounts." This division is based on two factors: popular or specialized accounts, and formulas versus cause-effect accounts. Thus, conventions are popular formulas that do not involve cause-effect elements; stories are a popular mode of explanatory narrative; codes are specialized formulas; and technical accounts are specialized modes of cause-effect narrative. Of these, human rights reports most closely resemble codes. They are a specialized mode (Tilly's examples for codes include legal codes, religious prescriptions, and systems of honors) and one that does not engage in causal reasoning. As Tilly describes, codes may overflow with reasons, "but these reasons describe how what happened conforms to the code at hand rather than what actually caused the outcome" (2006: 17); this description fits human rights reports as well.

The definitions of styles suggested here – forensic, stockpiling, and codes – share the contrast to narratives and stories. And indeed "the classic Amnesty style," a style which is shared by other organizations, "is designed not to tell a story but to try to do the opposite" (Hopgood 2006: 205). The choice of human rights NGOs to adopt this style is grounded in necessity, in their need to present objective and non-emotive descriptions. It allows the presentation of reliable facts in a credible manner. It successfully establishes the organizations' authority as "objective experts," and makes their findings communicable to audiences around the world and to bodies such as courts or UN committees.

But adopting a mode of forensic stockpiling codes rather than narratives and stories has also more complex implications. For Huggins (2000), "stockpiling" reduces the victims to the status of homogenized cases. Wilson similarly observes that human rights reports create a "universal decontextualized individual" (1997: 148). Huggins also argues that stockpiling renders victims powerless by their statistical visibility as victims only. She adds that the stockpiling style – statistical facts on atrocities – can make subordinate non-victims feel impotent in their horror at cruelty against others.

Collins also contends that the stockpiling techniques of human rights reports result in a perception of "passive victimization" (2004: 45). He demonstrates this by showing how human rights reports on Israel/Palestine have emphasized children as victims of violations (often stretching the definition of "child" to include as many victims as possible). Thus "active participants in the intifada" are "reduced to the status of passive, innocent 'children,'" whereas many of these children view themselves as "self-motivated activists" (45). Similarly, Collins contends, the experience of imprisonment was for many Palestinians a rite of passage conferring social legitimacy and political prestige, and an experience that is associated with dynamic resistance, personal growth, and education. Yet stockpiling style cannot capture this, and portrays the prisoners as purely passive victims (125).

While pointing to the relative advantages of oral history or anthropology, Collins and Wilson do an important service by highlighting the shortcomings of human rights reports, but they do not convincingly demonstrate why these should replace, rather than complement, the human rights report. The ambition of the genre is to report facts in order to promote change; it is not its ambition to contribute to richer collective memory, nor necessarily to empower victims, at least not as an end in itself. Reports by human rights NGOs aim to gain the attention of an



"other" – whether the perpetrator government or society, or a third-party government or public. Mobilizing the oppressed community is not typically their role. Should human rights reports portray prisoners not as victims but as "dynamic resisters?" Should they treat children not as victims but as violent activists? I think that recording these complex experiences should indeed be the role of oral historians or anthropologists, but, for human rights organizations, trying to raise awareness of a third-party, that would be an imprudent tactic – if we accept that the ultimate ambition is to halt violent confrontations and imprisonment, not to merely record its – dynamic or fixed – experience.

Yet perhaps the important shortcoming of the rejection of storytelling in favor of forensic, "stockpiling" codes, is that it may limit a report's potential to generate the readers' empathy toward the victims. Human rights organizations are guided by a "hope that by provoking the emotional responses of compassion and empathy, people would become involved with the fight against human rights abuses" (Seu 2003: 183). Yet the stockpiling format may be ill-suited to the creation of an emotional response and identification with the victims, if "instead of narratives ... what the reader gets is a pared down and frozen stream of action" (Wilson 1997: 145). The legal language, for all its advantages, may be less successful in engendering compassion.

One way in which elements of personal narratives do in fact enter the human rights report is the use of first-person testimonies, from both eyewitnesses and direct victims. This is one of the hallmarks of the genre, and few reports are being published without such testimonies. Here is a typical illustration, from a B'tselem report on harassment of Palestinian villagers from the Southern Hebron area:

Around 2pm three soldiers came up to me on foot ... one of the soldiers tied my hands and covered my eyes. They put me in the van and told me not to move ... I felt as if they had put me in a room. One of them grabbed my head and slammed it into the wall three times ... a few hours later they put me back into the vehicle. I saw in a watch that it was midnight.

The use of such testimonies allows the creation of a richer scene, beyond the statistics and legal rules. The victims are identified by name, as well as other personal details such as age, gender, and occupation, and they locate the event that the authors describe as a "human rights violation" within a broader personal narrative. With this, the testimonies can help generate empathy.

Nevertheless, this could be only a partial answer. There is often a dissonance between the victims' subjective voices and the rational tone of

the reports' authors. The authoritative interpretation of the events, and the meaning attached to them are provided by the authors. Political or religious pronouncements by witnesses will be erased. The meaning of their testimonies is provided by the legal interpretation of the authors. Even if the witness is able or willing to construct his or her story in legal terms, this will also not reach the report – this interpretation will be done by the authors' cold and objective voice. Although not always clear to all readers, the testimonies are produced through answers to the specialized questions of human rights researchers. These are not free narratives, but responses to questions the organization's fieldworker is asking, guided by the organization's needs and working style. The testimonies are then often edited, using a more relaxed Occam's razor, but still one that will not allow everything.

Thus, the insertion of personal testimonies does not alter the overall forensic and stockpiling mode of the reports. They are there to support the organization's factual and legal claims, not the other way around, and while their visibility in the reports varies, they are always marginal to the claims made by the authors themselves. The readers will see glimpses of first-person stories, but these will be edited and fragmented, subordinated to the overall style and mode.

The forensic, "stockpiling," style adopted by human rights reports establishes their authority to speak. We can all tell stories and be emotive. But only professional experts can produce a forensic report, and the potential readers would recognize this style and locate it above all the ordinary storytellers. Or, to use Tilly's terms, conventions can be produced by anyone, but the creation and application of codes necessitate the professional and the resulting report is perceived by an audience as more authoritative. Yet what is won in gaining authority may be lost in the impact on the readers: forensic style may have higher credibility but will generate less empathy.

Let me illustrate this by using a randomly picked example, from a study co-authored by Amnesty International and Human Rights Watch on incarcerated children in the USA. The topic of imprisoned children is acutely emotive, one that could create instinctive empathy among most readers. Yet here is how the press release starts:

There are at least 2,225 child offenders serving life without parole (LWOP) sentences in U.S. prisons for crimes committed before they were age 18, Human Rights Watch and Amnesty International said in a new joint report published today. While many of the child offenders are now adults, 16 percent were between 13 and 15 years old at the time they committed their crimes. An

estimated 59 percent were sentenced to life without parole for their first-ever criminal conviction.<sup>3</sup>

All the advantages and problems are here: the authoritative claim ("Amnesty International said"), the technical jargon ("LWOP"), and the stockpiling of statistics ("16 percent were between 13 and 15"). This is identified as the work of a professional; these people know what they are talking about, any reader would feel. But does it generate empathy? Personal stories might follow, but those who will continue to read after this cold introduction will digest these stories already under the heading of acronyms, statistics, and percentages. To be sure, over-emotive descriptions have their own drawbacks. Often, the use of emotional language can conceal unsubstantiated claims, exaggerations, and manipulations, as some of the advocacy publications in the wake of the 2004 tsunami demonstrated (Brauman, Chapter 4 in this volume). Yet if Richard Rorty is right that the way to mobilize people to act for the human rights of strangers is by telling "sad and sentimental stories" (1993), then the forensic style of human rights reports might be severely limited in its capacity to achieve this goal.

### The Exclusion of Political Contexts

Another potentially negative ramification of the stockpiling and forensic codes format is the exclusion of context. Indeed, a common criticism of human rights reporting is centered on the lack of broader context in these reports. Wilson, for example, writing on the conflict in Guatemala, warned that by the decontextualisation in human rights reports they "depoliticize human rights violations by drawing attention away from structural processes of class or ethnic power" (1997: 148).

In the Israeli-Palestinian setting, the problem of "depoliticizing" lies in the fact that due to their nonpolitical stance, human rights reports do not address the issue of Israeli occupation of the West Bank and Gaza as such, but rather look at the human rights violations that take place during the occupation. The risk that is created by referring to the symptoms (specific policies and incidents that violate human rights) rather than to the structural problem (a military occupation of foreign people) is that it distorts the relation between the political situation (lack of peace agreement) and its results (abuses). It allows, theoretically, for a possibility of occupation without specific human rights violations – a notion that has

<sup>3</sup> At <http://news.amnesty.org/index/ENGAMR511602005>.

actually been at the center of the Israeli psyche, embodied by the phrase "enlightened occupation" (Gorenberg 2006).

The reports are silent regarding a crucial question: are the abuses inevitable in a political situation of occupation? If we accept that in Israel "the conditions that allow abuses are endemic rather than incidental" (Cohen 1991b), is there any point in fighting against isolated cases of abuses at checkpoints or the destruction of property, without progress in political-diplomatic course? The format of the reports seems to suggest an affirmative answer. Israeli human rights NGOs believe they "should remain neutral on overt political questions, taking no positions on the causes or solutions to the conflict and keeping institutional distance from the broader political 'left' camp" (Felner 2003: 23). Yet, an argument can be made that it might be a better use of energy to fight a political struggle for peace, for a structural change, rather than against specific violations, which in any case would continue as long as the political situation remains static. This echoes the general critique of Kennedy that "human rights occupies the field of emancipatory possibility" (2002).

Moreover, by conceptualizing the situation exclusively through the lens of human rights violations and neglecting structural issues, the reports distort the responsibility of the Israeli society as a whole. By focusing on direct abuses by the army, police, and security services, the reports eschew the role of broader segments of society, which benefit from and sustain the occupation (Haas 2006). Mamdani has criticized the South African TRC, arguing that, by dealing only with gross human rights violations, it has distorted the broader reality of the Apartheid era and left unaddressed the role of those who have sustained the system (2000). By looking only at the small group of direct perpetrators of acts such as torture, the TRC left uncovered the role of the many others who were passive supporters or beneficiaries of the regime. While Mamdani's analysis was directed at how the TRC has conceptualized the past, it seems equally relevant to the way human rights reports conceptualize the present in Israel/Palestine. The reports distort a total system of domination by looking only at the particularly brutal manifestations of it. This, even if indirectly, curtails their potential effects on readers, who can see themselves as not responsible for the situation.

The distortion of personal responsibility is enhanced by the fact that the reports do not include recommendations for the readers. They do present recommendations for the governments or armed groups covered by the reports: usually terse statements that call upon the government to cease the reported policy and sometimes also to punish the perpetrators and

compensate the victims. Yet, the reports do not tell the ordinary readers what they can do; they refrain from recommending that the readers take actions such as voting for certain political parties, or refusing to serve in the army, or going on strike, refusing to pay taxes, organizing demonstrations for a nonviolent overthrow of the regime, and so on. At least partly, this can be seen as a result of the state-centered focus of the human rights framework, which looks at the duties of governments rather than of individuals.<sup>4</sup>

Thus, through their content and conclusions, human rights reports do not present an explicit causal chain between the readers' actions and inactions and the creation of – and the potential to change – the reported abuses. Without such a causal chain, the reports' potential to mobilize their readers to act is limited.

### **"Division of Labor" and Other Counter-arguments**

Several arguments that counter these charges were suggested by my interviewees. One argument is that it would be inaccurate to suggest that human rights reports are useless in agitating for structural political issues, as accumulated over time they demonstrate, even if implicitly, the impossibility of an "enlightened occupation," and thus contribute to the political struggle as well. In addition, there is the appeal for the possibility of narrow, yet concrete and immediate, help: if one person is saved from abuse tomorrow it might be better than a political peace agreement ten years from now.

A more structural argument points out that the irrelevance of political context is exactly the major strength of human rights analysis. It does not matter who started the intifada, which side is to blame for the collapse of the Camp David peace talks, if suicide bombings are the tool of the weak or the tool of the jihadist, and so on. Even in times of war there are minimum rules, no matter which is the "right" side. This avoidance of context is the guiding principle of the human rights framework and what makes it effective when all other questions are contested. The role of human rights NGOs is to carve a space for human rights in highly politicized environments; causes and solutions to complex political questions should be left to academics and policy makers. Thus, the argument goes, if human rights researchers start to address these they "risk losing the comparative

<sup>4</sup> Compare this with publications of the environmental movement which, alongside recommendations to governments, contain recommendations to individuals: to fly less, recycle, and so on, thus highlighting individual responsibilities in addition to governmental duties.

advantage of focused scope, and are easily drowned out in the cacophony of political pundits" (Felner 2003: 4). The most common phrasing of this argument is through the idea of a "division of labor": human rights organizations address narrow policies and abuses, others fight for the structural issues. There is no contradiction, and in order to report with credibility human rights NGOs must indeed refrain from addressing political issues.

The idea of a division of labor is also mentioned in response to the omission of direct recommendation for the readers. According to this response, human rights NGOs do not operate in a vacuum; political parties and organizations are always active as well. Whoever reads human rights reports is exposed also to other kinds of advocacy and messages. Thus, the argument goes, there is a division of duties: the human rights reports should retain their crystal-clear voice by presenting only facts without direct calls for actions; the readers can get their ideas for such actions from other actors.

These observations are important and valid but, I think, not sufficient to resolve the discussion. The issue of politics in human rights work is not an either/or choice, but one that is on a spectrum, with various options (see Gready 2003). Cohen, for instance, showed how the South African human rights movement was much more political than the Israeli, without losing its claim to speak on behalf of "human rights" (1991a). It is not clear, for example, if making broader pronouncements would necessarily undermine the comparative advantage of Israeli human rights NGOs and to what extent their "self-imposed moratorium on addressing political issues" (Felner 2003: 27) is ultimately justified.<sup>5</sup>

Moreover, the assumption that readers would get their facts from human rights reports and then seek recommendation for action from other sources may be too optimistic. Cohen, using controlled psychological experiments, showed that information on human rights violations often does not lead to action even when the accuracy and characterization of the reported abuses is not contested by the readers (it should be noted that Cohen used shorter appeals, rather than full reports).<sup>6</sup> Due to claims of "desensitization," "compassion fatigue," and "information overload," people often "shut-out" in response to such information. Cohen reports on results from

<sup>5</sup> On a more practical level, for the division of labor argument to be fully valid, one must assume that limitless resources are available to support both human rights and political groups, and that all actors are performing their respective tasks effectively. Where this is not the case, as in Israel, the argument loses at least some of its strength.

<sup>6</sup> See also Seu (2003).



focus groups of students who were asked to read appeals by Amnesty International that dealt with abuses such as disappearances or torture. He describes a spiral process where "there is a peculiar sense in which the *more* you acknowledge all this distressing information, the more responsible and 'bad' you feel for not doing anything, so the *less* you feel motivated to absorb more information" (2001: 216, emphasis in the original). If these findings apply to human rights reports as well, it seems likely that the omission of concrete calls for action may result in a disempowering message that can potentially exacerbate this spiral process, leaving readers unmotivated to seek direct recommendations elsewhere.

Before concluding, one important qualification is due. The shortcomings of the human rights report format presented here are mainly in the context of its potential effects on the general public, the "ordinary reader." Yet the same format, for all its shortcomings, may be essential in its uses vis-à-vis official bodies. Wilson wrote that the "category of 'human rights violation' does not exist independently of its representation in human rights reports" (1997: 134). This may be true if one follows a narrow theoretical analysis of representations but, in fact, the category of human rights violations exists elsewhere as well: in the court that orders a halt to the building of the wall; in the committee of inquiry that grants compensation to victims; in the international criminal tribunal that charges perpetrators; in the UN committee that calls for release of prisoners; in the immigration tribunal that finds an asylum request credible. Human rights reports, with their authoritativeness and credibility, are used in all these cases. These possibilities of redress, as Cohen wrote, "depend on mode of knowledge that must use the language of facts and universal human rights standards" (1991). This mode, for all its other limitations, exists in the current format of human rights reports.

A final question remains then: is the gain in credibility worth the price of the various shortcomings?

### Conclusions

I would like to leave this question open: a "final verdict" on the genre of human rights reports is beyond the ambition of this chapter, as are decisive answers to the dilemmas presented here. My main conclusion is the need to encourage introspective self-critique among those who produce human rights reports. Human rights researchers confront tremendous challenges in their attempts at accurate fact-finding and legal analysis; they are socialized into the common mode of NGO work and often also acquire a

certain self-righteousness. With all this, they rarely pause to reflect on the nature of their genre.<sup>7</sup> Moreover, after devoting enormous resources to the production of reports, human rights organizations are often almost willfully ignorant regarding the impact of these reports once they are published; their effects "remain unknown and unmonitored" (Cohen 1996: 517). There is a dire need, then, to promote self-examination of the methods and engagement with the questions raised here. In the end the conclusion might be that the report format is an imperfect yet essential tool; but even if so, a sense of humility and an honest acknowledgment of the genre's limitations could only benefit the human rights movement.

It should be pointed out that some of the dilemmas I have presented above may be less stark in reality. Not all readers need an emotive tone to solicit their empathy; not all of them require direct recommendations to be mobilized for action. Indeed, perhaps the most constructive way forward is to gain more empirical insights on the way the reports are read and received – a move from analysis of the production of these texts to an analysis of their reception. We need better quantification and identification of who actually reads human rights reports, and a better understanding of how they are read. How many people read reports by Amnesty or B'Tselem? Who are they, where do they live, where do they work? How do they read the reports – cover to cover, or just some sections, and, if so, which sections? How do they interpret the meaning and message of the reports? What do they do, if at all, when finished reading? I hope, in future research, to start addressing some of these empirical questions. Such insights could provide a premise to a process of fine-tuning and modifying the format.

One potential source of inspiration in this process could be reports by truth commissions, which have become a second important genre of human rights documentation, often breaking new grounds in comparison with NGO reports, by using more flowing prose or by providing thicker descriptions of the political background. For example, the report of the Argentinean truth commission, titled *Nunca Más* (Never Again), was written mainly by a novelist (Ernesto Sabato) and has become a bestseller,

<sup>7</sup> In the interviews for this discussion, I asked several human rights practitioners what they think is the role of the personal testimonies inserted in reports. Some replied that it is the emotional effects on the readers that are sought and that the testimonies are redundant regarding the factual side; others argued the complete opposite. Some of these people have worked in the same organization for years and did not seem to have ever discussed this question with their colleagues. Wherever the merit lies, this is but one illustration of the lack of organizational self-reflection.

reaching a much wider audience than any human rights report can hope for (Hayner 2002: 33–34). The Guatemalan truth commission has produced a rich and sophisticated historical analysis of the contexts and causes of human rights violations there (Hayner 2002: 45–9). And the South African TRC, has demonstrated a range of modes to describe human rights violations, using both forensic and narrative styles.<sup>8</sup> All these “deviations” from the familiar NGO report format did not, it seems, undermine the authority and credibility of these reports,<sup>9</sup> and with all the important critique leveled at truth commissions, they can at least illustrate the potential of experimenting with new formats. In sum, a process of reexamining the genre of human rights reports would be a demanding task for human rights organizations, yet essential if they are to face better their contemporary challenges.

### A Final Thought: “To Describe . . . and Not to Add . . .”

The thrust of my discussion, in line with most scholars and NGOs, was to analyze human rights reporting as a tool. Cohen, for example, writes that “the report is usually seen as a means to an end . . . part of a wider strategy to prevent violations” (1996: 516). Similarly, Keenan assumes that a “fundamental axiom of the human rights movement” is that “the act of witness is not simply an ethical gesture but an active intervention” (2004: 446). Human Rights Watch emphasizes that reporting is not done for its own sake: “Documenting abuses is inherently a preventive strategy.”<sup>10</sup>

Yet, there might also be another way to view the human rights report. Cohen suggests that while the instrumental perception of the report is the more common, “reporting also may become an end in itself: the belief that even without results there is an absolute duty to convey the truth, to bear witness” (1996: 516). There is an instinctive appeal for such a formulation, to the view, reminiscent of Quaker notions, that “bearing witness” has intrinsic value. Reporting facts thus can be seen as “valuable in itself,” acquiring almost a metaphysical aura; yes, simply an ethical gesture. I find this view convincing but, as with all “intrinsic value” claims, it is impossible to justify it by any external criteria. I see the smile of the woman from Akhmatova’s poem as endorsing this view: the intuitive solace of recording

<sup>8</sup> Although the TRC has been criticized for its overreliance on statistics and positivist techniques; see Wilson (2001).

<sup>9</sup> Although it should be noted that, in being officially sanctioned bodies, truth commissions may have an inherent advantage over NGOs in their assumed authoritativeness.

<sup>10</sup> At <http://www.hrw.org/about/faq/#3>.

and reporting facts of suffering, in “a crisp and businesslike way,” while adding nothing to the facts themselves.

I began this piece by quoting an East European poet and will conclude by a quote from another, the Polish Nobel Laureate Wislawa Szymborska, a quote that captures the sentiment I was trying to convey in the previous paragraph. In her poem “A Photograph from September 11,” Szymborska writes about the people jumping to their death from the Twin Towers. Her poem ends like this:

There are only two things I can do for these people now:  
To describe their last flight  
And not to add a final sentence

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## 12. Financial Reparations, Blood Money, and Human Rights Witness Testimony: Morocco and Algeria

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Necessary to post-World War II reparation processes was some form of publicly establishing the truths of victims' and survivors' experiences. Based on international human rights norms ushered in after Germany's defeat, financial reparative remedies came to rely heavily on reporting procedures. When human rights violations are presented primarily in material terms to obtain financial indemnification, then acknowledging and filing an indemnity claim becomes one way for victims to testify, tell their story, and be recognized. What are the effects of money as a primary form of reparation to survivors of torture, disappearance, and illegal imprisonment? The pursuit – or refusal – of financial reparation is part of a growing field of research and literature in human rights legal studies. A large body of scholarly work has emerged under the rubric of "witness studies" to underscore French historian Annette Wievorka's characterization of the late twentieth century as "*l'ère du témoin*," the era of the witness – the century that has accorded the victim of political violence a cultural salience and representative characteristics to such a degree that an individual may stand for the collective experience and become a voice in the public realm (Wievorka 1998; Douglass & Vogler 2003; Torpey 2006: 18). The initial chosen avenues of reparation by both the Algerian and Moroccan governments, unique to the Arab world, are indemnity commissions granting financial awards. Reparations achieved through these quasi-independent, state-mandated bodies have also resulted in Moroccan and Algerian citizens mobilizing in order to frame facts and tell different stories about past histories of opposition and human rights violations.

A variety of transnational and governmental, quasi-governmental, and nongovernmental institutions have emerged to listen to, process, quantify, and issue reports based upon witness testimony in order to compensate for the lack of international enforcement or implementation. Reparations protocols have become one measure of the speed at which different