

PEER PRODUCING HUMAN RIGHTS

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The growth of collaborative technologies has spurred the development of projects such as Wikipedia, in which large groups of volunteers contribute to production in a decentralized and open format. The author analyzes how these methods of peer-based production can be applied to advance international human rights as well as the limitations of such a model in this field. An underlying characteristic of peer-based production, amateurism, increases capacity and participation. However, the involvement of ordinary individuals in the production of human rights reporting is also its greatest disadvantage, since human rights reports generated by citizen activists are less likely to be perceived as accurate, thereby detracting from the effectiveness of those reports. The author examines methods by which these disadvantages might be overcome and concludes by advocating for a collaborative approach, whereby peer-based production is augmented by training and certification by local professionals.

La croissance des technologies collaboratives a éperonné le développement de projets tel que Wikipedia, où de grands groupes de bénévoles contribuent à la production d'un format décentralisé et ouvert. L'auteur analyse comment ces méthodes de production d'égal à égal peuvent s'appliquer aux droits internationaux de la personne ainsi que les limites qu'un tel modèle présentent dans ce domaine. L'amateurisme est une caractéristique fondamentale de la production d'égal à égal et en augmente la capacité et la participation. Cependant, la participation de personnes ordinaires à la production de rapports sur les droits de la personne en constitue également le plus grand inconvénient, étant donné que les rapports sur les droits de la personne qui sont produits par des citoyens activistes seront probablement moins perçus comme étant précis, diminuant par conséquent l'efficacité de ces mêmes rapports. L'auteur examine les méthodes pouvant éventuellement pallier ces inconvénients, et conclut en préconisant une approche collaborative où il y aurait plus de production d'égal à égal grâce à la formation et homologation de professionnels locaux.

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I. INTRODUCTION

Contrary to popular belief, it may indeed be possible to get something for nothing — and the benefits of doing so might far exceed our expectations. Despite the apparent lack of an incentive, ordinary citizens are using on-line spaces such as YouTube and Wikipedia to engage in activities formerly the prerogative of professionals. Individuals are coming together to create encyclopedias, photography exhibits, and operating systems not because they are being paid to do so, but out of an interest in and a desire to participate.

The participatory potential of such activities bodes well for both systems and individuals. Systems of production improve because they harness previously untapped resources and knowledge. Individuals benefit because they can engage much more deeply and meaningfully in the project at hand without the mediation of professionals. These models of peer production (models in which the work is carried out by groups of individuals on a voluntary basis, rather than centrally managed through a firm or organization) would appear to challenge some of our most fundamental assumptions about how products, goods, and knowledge are and must be produced.

In the context of international human rights, the benefits of peer production initially seem quite extraordinary. People are contributing videos about human rights violations to websites such as The Hub¹ and 24 Hours for Darfur,² taking part in group efforts to pressure governments on human rights issues via Avaaz.org,³ drafting an international framework agreement on human rights with the 2048 Project,⁴ and aggregating small donations for entrepreneurs in developing countries around the world through Kiva.⁵ Given the limited resources available to fund human rights advocacy and the importance of mobilizing broad constituencies and galvanizing public opinion to pressure human rights violators, amateur involvement in human rights activities has the potential to have a significant impact on the field.

Yet, amateur activism may present as many problems as it solves. Human rights organizations exist in order to meet very concrete and important needs and it is unclear whether peer production will be able to meet those needs in the absence of similar structures. Professionalization provides the direction and control that is required to transform diffuse activity into effective action. Without such control, individual efforts may not be effective in achieving collective goals.⁶

This tension between participation and control is particularly evident in the context of human rights reporting. Human rights reporting is not only a core activity of human rights

¹ See online: The Hub <<http://hub.witness.org/>>.

² See online: 24 Hours for Darfur <<http://www.24hoursfordarfur.org>>.

³ See online: Avaaz.org <<http://www.avaaz.org/en/>>.

⁴ See “About Us,” online: 2048 Project <<http://www.2048.berkeley.edu/about>>.

⁵ See online: Kiva <<http://www.kiva.org/>>.

⁶ This challenge, however, is not specific to the problem of human rights fact-finding. As I describe more fully elsewhere, there is an inherent tension between mobilization and participation in online activism. Projects that mobilize large constituencies often limit participation in order to ensure effective action: see Molly Beutz Land, “Networked Activism” (2009) 22 Harv. Hum. Rts. J. 801.

organizations, but also one of the most professionalized. This professionalization has arisen not because of an inherent desire to control the process, but rather as a practical response to the demands of reporting — namely, the need to ensure the accuracy of the information contained in the report. The challenge for peer-produced reports is whether they can accomplish the same result without a centralized hierarchy. Human rights reporting thus presents a particularly apt example for evaluating whether ordinary citizens can organize to accomplish tasks formerly the domain of professionals without the benefit of a professional organization.

In this article, I argue that peer production in its purest form is unlikely to achieve several goals central to human rights reporting. Open models of production would increase capacity and participation, but would decrease accuracy and may endanger the intended beneficiaries of the reporting. Despite these limitations, however, there are many ways in which peer production might be used in conjunction with traditional reporting to achieve greater participation in the process of human rights advocacy. The final section of this article recommends the adoption of a fact-finding model that extends the ability to participate to those whose credibility and training could be verified by a non-governmental organization (NGO). Although participation would be limited, decentralizing authority to vet researchers would nonetheless allow such a model to capitalize on at least some of the benefits of increased openness.

II. CONTROL VERSUS PARTICIPATION

Human rights investigation and reporting is central to human rights advocacy. It is also one of the most resource-intensive human rights activities, requiring a considerable investment of time and money in the form of researchers who conduct on-site investigations, and editors who review and revise the final product before dissemination. Peer production would not only significantly augment our ability to identify, analyze, and respond to human rights violations in a timely and effective manner, but also increase the extent to which ordinary individuals connect to human rights issues, thus fostering the ability of the movement to mobilize broad constituencies and influence public opinion in support of human rights.⁷

The demands of fact-finding, however, may ultimately limit the viability of peer-produced human rights reports. Human rights organizations have established bureaucratic structures and work processes for their reporting and limited participation to specially trained individuals in order to ensure the accuracy, and thus perceived legitimacy and power, of the information contained in the report. This section discusses this professionalization of reporting and the way in which professionalization has limited the capacity available for

⁷ Yochai Benkler has called open models of production “commons-based peer production”: see Yochai Benkler, *The Wealth of Networks: How Social Production Transforms Markets and Freedom* (New Haven: Yale University Press, 2006) at 60. Clay Shirky, in turn, has evaluated the significant benefits associated with “organizing without organizations” in a variety of contexts, including activism: see Clay Shirky, *Here Comes Everybody: The Power of Organizing Without Organizations* (New York: Penguin Press, 2008). Beth Noveck has analyzed the role of peer production in fostering collaborative democracy: see Beth Simone Noveck, *Wiki Government: How Technology Can Make Government Better, Democracy Stronger, and Citizens More Powerful* (Washington, D.C.: Brookings Institution Press, 2009).

reporting and the extent to which human rights reporting might serve as a catalyst for grassroots mobilization.

A. HUMAN RIGHTS FACT-FINDING

Evaluating state conduct based on international human rights standards is one of the most important functions of human rights organizations.⁸ “Naming and shaming” is the process of publicizing evaluations of a country’s human rights record in an effort to pressure or shame the government into changing its conduct.⁹ In the absence of centralized enforcement mechanisms, the use of such “shame sanctions” is one of the most effective ways human rights organizations have found to bring pressure to bear on states and international authorities. As Diane Orentlicher argues, “no action is more effective in prompting governments to curb human rights violations than aiming the spotlight of public scrutiny on the deprecations themselves.”¹⁰ Although often most closely associated with the work of international NGOs, such as Human Rights Watch (HRW) and Amnesty International (AI), research and monitoring is also a critical part of the activities of domestic human rights organizations.¹¹

Over time, human rights NGOs have increasingly professionalized the activity of human rights fact-finding. NGOs have created comprehensive review processes in which information is gathered by a limited number of specially trained individuals and filtered through a few senior staff members in order to maintain quality control. HRW, for example, has an “elaborate review procedure” that is “headed by especially knowledgeable and experienced senior staff researchers, to weed out the uncertain or speculative.”¹² Similarly, at AI, “research and editorial operations have been centralized for ease of quality control.”¹³

In large part, the professionalization of reporting is a result of the fact that naming and shaming as an enforcement technique depends critically on the accuracy of the information gathered. Commentators consistently emphasize the importance of accuracy to the success of naming and shaming, characterizing a human rights organization’s “reputation for

⁸ See Dermot Groome, *The Handbook of Human Rights Investigation: A Comprehensive Guide to the Investigation and Documentation of Violent Human Rights Abuses* (Northborough, M.A.: Human Rights Press, 2001) at 24 (“Human rights investigation is the professional, in-depth examination of a specific allegation by pursuing and gathering all relevant physical, testimonial, and documentary evidence”).

⁹ Naz K. Modirzadeh, “Taking Islamic Law Seriously: INGOs and the Battle for Muslim Hearts and Minds” (2006) 19 *Harv. Hum. Rts. J.* 191 at 199; see also Claude E. Welch, Jr., “Amnesty International and Human Rights Watch: A Comparison” in Claude E. Welch, Jr., ed., *NGOs and Human Rights: Promise and Performance* (Philadelphia: University of Pennsylvania Press, 2001) 85 at 107 [Welch, “A Comparison”].

¹⁰ Diane F. Orentlicher, “Bearing Witness: The Art and Science of Human Rights Fact-Finding” (1990) 3 *Harv. Hum. Rts. J.* 83 at 84; see also Helena Cook, “Amnesty International at the United Nations” in Peter Willetts, ed., *The Conscience of the World’: The Influence of Non-Governmental Organisations in the UN System* (Washington, D.C.: Brookings Institution Press, 1996) 181 at 182 (noting that AI’s methodology “developed from a conviction that public awareness of human rights violations and the pressure of public opinion are powerful and essential weapons against government repression”).

¹¹ See e.g. Susan Dicklitch, “Action for Development in Uganda” in Welch, “A Comparison,” *supra* note 9, 182 at 188 (discussing the research of the organization Action for Development in Uganda).

¹² William Korey, *NGOs and the Universal Declaration of Human Rights: “A Curious Grapevine”* (New York: St. Martin’s Press, 1998) at 346.

¹³ Welch, “A Comparison,” *supra* note 9 at 105.

accuracy and integrity” as its “most valuable asset,”¹⁴ a characterization that appears to be shared by the organizations themselves.¹⁵

Accuracy is important because states accused of human rights violations often attack the credibility of the information at issue. Orentlicher, for example, describes the way in which the Reagan administration’s critique of HRW’s reporting of abuses in El Salvador forced HRW to establish and prove the reliability of its methodology.¹⁶ Ann Marie Clark recounts the response of the Guatemalan government to AI’s 1979 report on human rights abuses in Guatemala, in which it called the information “fabulous tales.”¹⁷ The United States government, supporting the Guatemalan government, disputed AI’s research and called its sources biased.¹⁸ AI’s 1977 report on abuses in Argentina was attacked by the Argentine government as “political,” and William Korey argues that the success of that report was attributable to the fact that AI’s data on disappearances was “not easily challenged.”¹⁹ Establishing a standard, reliable methodology for collecting facts and building up a reputation for accurate reporting are often the only viable responses to such attacks.

Accurate reporting is also important in mobilizing the press and public opinion. Korey notes that HRW’s “credibility was to prove of central importance in impacting upon the media” because “the major press organs would come to trust and rely upon the reports and studies of HRW and its various divisions.”²⁰ Constituencies can best be mobilized by information that the public finds legitimate and credible, making accurate reporting an essential element in public information campaigns.²¹ Finally, it is also possible that failure to ensure the accuracy of the information reported can harm not only the organization’s reputation, but also the larger issues on which the organization works. Dermot Groome argues, for example, that “a reputation for exaggerated, biased or inaccurate findings can result in serious, legitimate human rights complaints being ignored.”²² Thus, inaccurate

¹⁴ Groome, *supra* note 8 at 42; see also e.g. David Weissbrodt & James McCarthy, “Fact-Finding by International Nongovernmental Human Rights Organizations” (1981) 22 Va. J. Int’l L. 1 at 5; Orentlicher, *supra* note 10 at 85.

¹⁵ See e.g. Kenneth Roth, “Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization” (2004) 26 Hum. Rts. Q. 63 at 65 (emphasizing the finite “moral capital” that HRW accumulates through its rigorous methodology); Korey, *supra* note 12 at 346 (observing that Aryeh Neier, former executive director of HRW, “understood that the organization’s influence depended in large part on the credibility of its research findings” and noting that “[a] commitment to ‘absolute accuracy’ was fundamental to the dissemination of the researched information”); Morton E. Winston, “Assessing the Effectiveness of International Human Rights NGOs: Amnesty International” in Welch, *supra* note 9, 25 at 36 (observing that “AI works hard to protect its reputation for accuracy and reliability, in part by trying to be balanced, impartial, objective, and nonpartisan in its reporting”).

¹⁶ Orentlicher, *supra* note 10 at 89-92; see also Widney Brown, “Human Rights Watch: An Overview” in Welch, *supra* note 9, 72 at 74.

¹⁷ Ann Marie Clark, “‘A Calendar of Abuses’: Amnesty International’s Campaign on Guatemala” in Welch, *supra* note 9, 55 at 62 [citation omitted].

¹⁸ *Ibid.* at 64.

¹⁹ Korey, *supra* note 12 at 179.

²⁰ *Ibid.* at 346; see also Brown, *supra* note 16 at 74.

²¹ See Hurst Hannum, “Implementing Human Rights: An Overview of NGO Strategies and Available Procedures” in Hurst Hannum, ed., *Guide to International Human Rights Practice* (Ardsley, N.Y.: Transnational, 2004) 19 at 37.

²² Groome, *supra* note 8 at 42.

reporting risks injury not only to the organization's credibility and influence, but also to those on whose behalf the organization advocates.

The centralized control associated with professionalization allows organizations to rely on individuals with specialized expertise who are well equipped to scrutinize the information with which they are presented. Human rights violations are often hidden and researchers must know how to obtain information despite efforts to conceal wrongdoing.²³ Fact-finding also requires expertise in being able to filter credible from non-credible information. Jonathan Power argues, for example, that AI has been able to succeed in producing high-quality and accurate reports despite having only a few researchers because "long practice in this arena [and] a disciplined caution, gives great depth to their judgments. They tend to know, unlike a court or a parliamentary investigation, whom they can believe and whom they can discount."²⁴ Centralized control by a professional organization has been viewed as fundamental to ensuring the accuracy of reporting, which itself is necessary for the reporting to have an impact on the behaviour of states.

B. BENEFITS OF PARTICIPATION

Although perceived as necessary to ensure accuracy, there are several ways in which the professionalization of human rights advocacy generally, and of reporting in particular, limits what human rights NGOs can accomplish. Opening up reporting to amateur activism would be associated with significant gains in terms of both capacity and mobilization.

1. CAPACITY

Professionalization often limits capacity. Only a few people with experience and expertise are allowed to contribute to human rights reports, which means fewer investigators in fewer locations. Those who participate may have a narrower range of abilities and skills or less detailed or intimate knowledge of the context in question than if human resources were unlimited. Limited resources also mean that participants will have less diverse perspectives, which can affect the selection of topics and nature of reporting. If a wider range of people were able contribute to the work of the group, that work would more likely reflect a greater variety of perspectives.²⁵

Collaborative modes of production offer the possibility of vastly increased capacity because the number of individuals who can contribute to the project is theoretically unlimited. In addition, such projects benefit from the fact that there is no need to spend resources to allocate tasks. Rather, each person would decide for him or herself what he or

²³ Ann Marie Clark, *Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms* (Princeton: Princeton University Press, 2001) at 16 [Clark, *Diplomacy of Conscience*].

²⁴ Jonathan Power, *Amnesty International: The Human Rights Story* (New York: McGraw-Hill, 1981) at 122.

²⁵ Indeed, the work of human rights advocates itself reflects this basic principle: advocates generally seek out information from multiple sources in order to "minimize distortions that might be built into any particular source's contribution": see Orentlicher, *supra* note 10 at 110.

she is best suited for and desires to contribute.²⁶ Because individuals can choose which things to work on rather than relying on an external organizational structure to assign them particular tasks, collaborative production increases both the likelihood that someone with deeply specialized knowledge will be able to contribute to the project and that the project will attract individuals with skills and abilities well-suited to the work.²⁷

Increased capacity can also lead to better outcomes because it can augment a group's willingness and ability to take risks.²⁸ Limited resources mean that human rights organizations need to focus their energies on those things that will capture the attention of the media and the public, which can affect the kinds of things that they report on, for example, neglecting low-grade conflicts in favour of more dramatic stories or emphasizing civil and political rights violations to the detriment of economic, social, and cultural rights violations. Human rights organizations may also choose sites for advocacy based on which actions would likely have the greatest impact, considering whether there is a local partner and the extent to which other governments have influence over the violator state.²⁹ The result is that some projects that may be both important and viable will be overlooked. When the barriers to entry for amateur activists are greatly reduced, however, there is an increased capacity to address even situations in which advocacy might have been thought to have low chances of affecting change.

2. MOBILIZATION

Professionalization also tends to distance an activity from ordinary citizens and thus may undermine the ability of human rights issues to capture public imagination. David Rieff, for example, critiques human rights organizations as elitist and unable to sustain their efforts because they lack a broad base of support among the public.³⁰ Professionalization has, in many ways, resulted in a disconnect between ordinary individuals and the language and ideas of international human rights, which deprives the human rights idea of its ability to inspire broad, grassroots activism.³¹

²⁶ See Benkler, *supra* note 7 at 376-77. As James Surowiecki explains, "it's smarter to cast as wide a net as possible, rather than wasting time figuring out who should be in the group and who should not": see James Surowiecki, *The Wisdom of Crowds* (New York: Anchor Books, 2005) at 276.

²⁷ Eric von Hippel explains that a "task can be greatly reduced in cost and also made faster and more effective when it is opened up to a large community of software users that each may have the information needed to identify and fix *some* bugs": see Eric von Hippel, *Democratizing Innovation* (Cambridge, Mass.: MIT Press, 2005) at 94. Surowiecki uses the example of labs co-operating to research SARS to illustrate this point. Because the labs collaborated, each lab had the "freedom to focus on what it believed to be the most promising lines of investigation, and to play to its particular analytical strengths, while also allowing the labs to reap the benefits — in real time — of each other's data and analyses": see Surowiecki, *ibid.* at 161.

²⁸ An ability to take risks and sometimes fail is necessary for progress: "Failure is free, high-quality research, offering direct evidence of what works and what doesn't" (Shirky, *supra* note 7 at 236). Modirzadeh, *supra* note 9 at 198.

³⁰ David Rieff, "The Precarious Triumph of Human Rights" *The New York Times* (8 August 1999), online: New York Times <<http://www.nytimes.com/1999/08/08/magazine/the-precocious-triumph-of-human-rights.html>>.

³¹ This disconnect is also a result of the legalization of the language and ideas of international human rights: see Philip Allott, *Eunomia: New Order for a New World* (Oxford: Oxford University Press, 1990) at 288 ("Human rights were quickly appropriated by governments, [and] embodied in treaties.... The result has been that the potential energy of the idea has been dissipated"). Catherine Powell has argued

Peer-produced collaboration and other models of open-source advocacy may provide a way to democratize human rights advocacy — to recapture the popular imagination and render human rights a tangible, genuine issue for many more people than is currently the case. The example of the Darfur movement illustrates the potential that increased participation offers.³² The movement captured the public imagination in a way that few human rights issues have.³³ Although many have been frustrated with the lack of progress on Darfur, the pressure generated by widespread participation caused the U.S. to become more actively involved, which contributed to pressure on China to address the issue of Darfur with the Sudanese government.³⁴

Grassroots mobilization is particularly important given growing awareness of the limits of traditional naming and shaming to achieve changes in state conduct.³⁵ Naming and shaming to promote accountability “works best with governments willing to acknowledge their responsibility to protect human rights and able to take effective action when abuses occur.”³⁶ Shaming, by itself, may no longer have quite the same impact it once did, particularly when governments are unwilling to take action, unresponsive to the pressure of negative publicity, powerful, or highly repressive.³⁷ Pressure from domestic and foreign constituencies is crucial in such circumstances. Involving ordinary individuals in human rights reporting may be one way of augmenting the public pressure necessary to make the reports effective.

that international law itself is distanced from the public in the United States by virtue of the way in which institutions with authority in the realm of foreign affairs “discourage direct broad-based participation” in the processes of law-making: see Catherine Powell, “Dialogic Federalism: Constitutional Possibilities for Incorporation of Human Rights Law in the United States” (2001) 150 U. Pa. L. Rev. 245 at 256.

³² Because open models of production are made possible, to a large extent, by access to the Internet, the ability of such models to increase participation in human rights advocacy is limited by the digital divide (the division between the “haves” and “have nots” in terms of access to technology). The prospects for bridging this divide are improving, however, including as a result of the increasingly widespread use and availability of mobile phones: see Sara Corbett, “Can the Cellphone Help End Global Poverty?” *The New York Times* (13 April 2008), online: New York Times <<http://www.nytimes.com/2008/04/13/magazine/13anthropology-t.html>>; see also Okuttah Mark, “Toll-Free Mobile Service to Give Rural Africa Access to Medics” *Business Daily [Nairobi]* (8 May 2008), online: All Africa <<http://allafrica.com/stories/200805081046.html>> (describing the way in which mobile phones are being used to connect people in rural areas in Tanzania, Uganda, and Kenya to health workers for counselling in emergencies).

³³ Colin Thomas-Jensen & Julia Spiegel, “Activism and Darfur: Slowly Driving Policy Change” (2008) 31 *Fordham Int’l L.J.* 843 at 849.

³⁴ See *ibid.* at 850.

³⁵ See Reiff, *supra* note 30 (“The [human rights] movement’s signature strategies — releasing shocking reports detailing abuses, exploiting the media to shame Western leaders into action — no longer have the impact they once did”).

³⁶ Welch, “A Comparison,” *supra* note 9 at 107.

³⁷ See “Ensuring a Responsibility to Protect: Lessons From Darfur” (2007) 14:2 *Human Rights Brief* 26 at 27 (giving the example of Darfur); Winston, *supra* note 15 at 49 (“we now know that bad publicity is often not enough to bring about changes in the behavior of abusive governments”); Kenneth Roth, “Human Rights Organizations: A New Force for Social Change” in Samantha Power & Graham Allison, eds., *Realizing Human Rights: Moving From Inspiration to Impact* (New York: St. Martin’s Press, 2000) 225 at 235 (noting that naming and shaming may not be effective on issues bound up with cultural traditions or involving powerful and highly repressive states or political allies).

III. CHALLENGES OF AMATEUR PRODUCTION

Although professionalization limits the capacity and mobilization potential of investigation and reporting, it is also necessary to ensure that reports will have their intended effect. Without an organization exercising centralized control, reports may not be associated with the accuracy needed to generate pressure on states to promote and protect human rights and may even endanger those they are intended to help. This section uses the example of Wikipedia, an on-line, peer-produced encyclopedia, to examine the risks and benefits that might be associated with the introduction of open models of production into human rights reporting.

A. HUMAN RIGHTS ON WIKIPEDIA

Although still a fairly new phenomenon, collaboratively edited articles about human rights on Wikipedia can be viewed as an early form of peer-produced human rights reporting.³⁸ There are, of course, significant differences between these articles and our current understanding of a human rights report, including the fact that Wikipedia articles do not include independent research and analysis. Nonetheless, evaluating Wikipedia's human rights articles in terms of coverage and participants helps illuminate some of the advantages and disadvantages that might be associated with using its model to create human rights reports.

The coverage of reporting on Wikipedia and on HRW's website appears comparable on many issues. For example, the Wikipedia article on the Sudanese government's attacks on civilians in early 2008 and the HRW report on those same events were fairly similar in terms of the types of information provided.³⁹ As of August 2009, Wikipedia and HRW's coverage of the repression of popular protests in Burma (Myanmar) were comparable in scope and detail, although the HRW report included more historical background and additional details about the events.⁴⁰ Further, Wikipedia's articles were also somewhat easier to find; Wikipedia entries on human rights topics appear near the top in response to Google searches, whereas HRW reports on similar topics are lower in the search results.⁴¹

³⁸ Some of these articles appear on Wikinews, not Wikipedia. For ease of reference, I will refer to both here as Wikipedia.

³⁹ Compare the following two sources: *They Shot at Us as We Fled: Government Attacks on Civilians in West Darfur* (United States: Human Rights Watch, 2008), online: Human Rights Watch <<http://www.hrw.org/reports/2008/darfur0508>>; "UN: Military Attacks on Darfur Violated International Law" *Wikinews* (20 March 2008), online: Wikinews <http://en.wikinews.org/wiki/UN:_Military_attacks_on_Darfur_violated_international_law>; cf. Jonathan Zittrain, *The Future of the Internet and How to Stop It* (New Haven: Yale University Press, 2008) at 137 (citing a controversial 2005 study by *Nature* that compared Wikipedia and *Britannica* entries and found a similar rate of error).

⁴⁰ Compare the following two sources: *Crackdown: Repression of the 2007 Popular Protests in Burma* (United States: Human Rights Watch, 2007), online: Human Rights Watch <<http://www.hrw.org/en/reports/2007/12/06/crackdown>>; "2007 Burmese Anti-government Protests" *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/2007_Burmese_anti-government_protests>.

⁴¹ Searches conducted on 2 June 2008 revealed that the Wikipedia article on female genital mutilation was the first result in Google in response to a search for the phrases "female genital mutilation," "female genital cutting," and "fgm." A UN article appeared as the 42nd result, and an article by *The New York Times* was the 83rd entry. HRW's articles did not show up in the first 100 results. See *infra* notes 64-66 for a discussion of Google's page ranking methodology. Among other things, ranking is tied to the number of pages that link to particular pages; Google does not sell rankings except its clearly marked

There are also important differences between the sites. For example, Wikipedia's coverage of the 2008 attacks on civilians in Sudan was much more journalistic than HRW's coverage, while HRW's article included conclusions about international legal responsibility and recommendations for future actions.⁴² HRW's reporting on Burma also included recommendations for future action; Wikipedia's article does not contain recommendations, although it does reference particular campaigns, strikes, consumer boycotts, website petitions, and Facebook user groups.

Differences in the reporting on Wikipedia and HRW's site result largely from the different purposes of each. HRW investigates and researches reports that evaluate state conduct in light of international human rights norms, with the goal of pressuring governments and international institutions into changing particular policies. As such, its reports naturally include recommendations for action and an evaluation of state responsibility for violations, emphasizing points that will change policy, rather than providing information or educating. Wikipedia, in contrast, prohibits original research and analysis and instead focuses on "collecting and organizing material from existing sources."⁴³ Although Wikipedia's policy allows the use of primary sources, contributors can include interpretations of primary material only if they have "a reliable secondary source for that interpretation."⁴⁴

The human rights pages on Wikipedia appear to be realizing at least some of the advantages of capacity and mobilization described in the previous section. Although by no means an empirical survey, searches of contributions to Wikipedia's human rights pages indicate a broad diversity of both contributors and topics. The individuals contributing to the human rights pages come from many different locations and backgrounds and have widely varying areas of expertise: a graduate student in history contributed to an article on bride kidnapping;⁴⁵ a Stanford undergraduate now at Harvard Law School contributed to an article on human trafficking in Sri Lanka;⁴⁶ a resident in radiation oncology contributed to an article about the Srebrenica massacre;⁴⁷ a former architecture student from Sheffield who is "involved in socialist politics and until recently worked in community radio"⁴⁸ contributed to an article on human rights in Burma and is a member of the provisional board of

"Sponsored Links."

⁴² Compare the following two sources: *They Shot at Us as We Fled*, *supra* note 39; "UN: Military Attacks on Darfur Violated International Law," *supra* note 39.

⁴³ See "Wikipedia: No Original Research" *Wikipedia*, online: Wikipedia <<http://en.wikipedia.org/wiki/Wikipedia:OR>> (Wikipedia defines original research as "unpublished facts, arguments, speculation, and ideas; and any unpublished analysis or synthesis of published material that serves to advance a position"). Wikipedia continues: "Do not combine material from multiple sources to reach a conclusion not explicitly stated by any of the sources" (*ibid.*).

⁴⁴ Wikipedia explains: "To the extent that part of an article relies on a primary source, it should: only make descriptive claims about the information found in the primary source, the accuracy and applicability of which is easily verifiable by any reasonable, educated person without specialist knowledge, and make no analytic, synthetic, interpretive, explanatory, or evaluative claims about the information found in the primary source": see "Wikipedia: Primary Secondary and Tertiary Sources" *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/Wikipedia:Primary_Secondary_and_Tertiary_Sources>.

⁴⁵ "User Talk: Ibsensgirl" *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/User_talk:Ibsensgirl>.

⁴⁶ "User: Calliopejen1" *Wikipedia*, online: Wikipedia <<http://en.wikipedia.org/wiki/User:Calliopejen1>>.

⁴⁷ "User: Djma12" *Wikipedia*, online: Wikipedia <<http://en.wikipedia.org/wiki/User:Djma12>>.

⁴⁸ "User: Warofdreams" *Wikipedia*, online: Wikipedia <<http://en.wikipedia.org/wiki/User:Warofdreams>>.

Wikimedia UK⁴⁹; a Dutch jurist, politician, and author of an election database contributed to an article on human rights in Vietnam;⁵⁰ and a history student in Croatia contributed to several pages on conflicts in the Middle East, Africa, the former Yugoslavia, and Iraq.⁵¹

Although it is difficult to determine based on observational analysis alone, Wikipedia articles may well be benefiting from fewer transactional costs in allocating people with specialized expertise to projects on which they can contribute. The diversity and range of participants also illustrates the way in which Wikipedia's human rights pages seem to be mobilizing a range of individuals, including many who may not identify themselves as human rights professionals.

There also seems to be significant diversity in terms of the topics and scope of coverage. Topics range from economic, social, and cultural rights, such as the right to health,⁵² to bride kidnapping,⁵³ human rights in Uzbekistan,⁵⁴ the 2007 murder of Red Cross workers in Sri Lanka,⁵⁵ the position of Muslims in Burma,⁵⁶ the treatment of Georgians in Abkhazia,⁵⁷ and slavery in Sudan.⁵⁸ The inclusion of controversial and less familiar issues on Wikipedia also indicates a fairly significant willingness or ability to take risks among those who are authoring articles.

Examples of collaborative reporting available on Wikipedia also indicate that there may be more diversity in the range of perspectives presented than in the reports of human rights organizations. For example, the 19 May 2008 version of the Wikipedia article on trafficking discussed critiques of anti-trafficking work as failing to recognize women's agency.⁵⁹ The issue of sex work and women's agency in relation to trafficking, which was not mentioned in the coverage of trafficking on HRW's website, is the subject of significant debate within human rights and anti-trafficking circles. Although the inclusion of this discussion on Wikipedia and not HRW's site may be a result of their respective purposes of providing information and advocating for change, it may also reflect a greater variety of perspectives being contributed to the collaborative report on Wikipedia.

Yet the coverage in peer-produced projects, though broad, may not be as consistent, or as consistently reliable, as the coverage provided by human rights organizations. For example,

⁴⁹ See online: Wikimedia UK <<http://uk.wikimedia.org/>>.

⁵⁰ "User: Electionworld" *Wikipedia*, online: Wikipedia <<http://en.wikipedia.org/wiki/User:Electionworld>>.

⁵¹ "User: The FEARgod" *Wikipedia*, online: Wikipedia <<http://en.wikipedia.org/wiki/User:TheFEARgod>>.

⁵² "Right to Health" *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/Right_to_health>.

⁵³ "Bride Kidnapping" *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/Bride_kidnapping>.

⁵⁴ "Human rights in Uzbekistan" *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/Human_rights_in_Uzbekistan>.

⁵⁵ "2007 murder of Red Cross workers in Sri Lanka" *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/2007_murder_of_Red_Cross_workers_in_Sri_Lanka>.

⁵⁶ "Persecution of Muslims in Burma" *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/Persecution_of_Muslims_in_Burma>.

⁵⁷ "Category: Ethnic cleansing of Georgians in Abkhazia" *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/Category:Ethnic_cleansing_of_Georgians_in_Abkhazia>.

⁵⁸ "Slavery in Sudan" *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/Slavery_in_Sudan>.

⁵⁹ "Human Trafficking" *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/Human_trafficking>.

coverage on Wikipedia is less consistent than coverage on HRW's site, both in terms of issues selected and the depth of information provided about each of those issues. For example, as of May 2008, Wikipedia did not have specific information about women and HIV/AIDS, an important human rights issue that HRW did cover on its site.⁶⁰ There may be more diversity in the topics covered on Wikipedia, but there is no guarantee that there will be a Wikipedia entry on any particular topic on any given day. In addition, although not a problem raised by Wikipedia because of its prohibition on original research and analysis, it is also likely that coverage of human rights in states that are not easily accessible would be lacking in an open-source project. Fact-finding often requires travel to the location in question, since information may not be "easily acquired either within borders or across borders."⁶¹ Individuals taking part in peer-produced projects may be less likely to engage in field research, particularly in light of the resources that such projects require. As a result, places that are closed to the public or where information is otherwise more difficult to obtain might not enjoy as comprehensive of coverage as other locations.

Finally, despite its apparent success in mobilizing ordinary individuals, Wikipedia also, and perhaps counterintuitively, ends up being less participatory than one might imagine. Wikipedia's articles, for example, are generally written by a small number of contributors, often between five and 20.⁶² Control of the page's content is vested in the hands of an even smaller number of frequent contributors.⁶³

B. THE CHALLENGES OF PEER-PRODUCED HUMAN RIGHTS

Although Wikipedia's human rights pages appear to be benefiting from some of the advantages of increased capacity and mobilization, its success along each of those fronts is nonetheless mixed. In addition to the challenge of coverage and the practical limitations of participation, collaborative reporting projects face two other obstacles to effective and responsible advocacy — namely, the difficulty of ensuring accuracy and protecting witnesses. The ability of open models of production to achieve these two objectives will play a significant role in determining whether such models will be able to replace, in whole or in part, the naming and shaming work of human rights organizations.

1. ACCURACY

Increased participation is likely to be associated with an increased risk of inaccuracy, which is of particular concern in the context of human rights because accuracy directly affects enforcement. Information that a human rights NGO collects will be less effective in bringing pressure to bear on human rights violators, or convincing other states to apply such pressure, if it is not credible and reliable. Peer-produced human rights reporting would need to be able to provide strong indicia of reliability for such reports to have the influence that reports by organizations such as HRW and AI enjoy.

⁶⁰ Nada Ali, "Women and HIV/AIDS" *Human Rights Watch* (16 May 2008), online: Human Rights Watch <<http://www.hrw.org/en/news/2008/05/16/women-and-hiv-aids>>.

⁶¹ Clark, *Diplomacy of Conscience*, *supra* note 23 at 16.

⁶² Zittrain, *supra* note 39 at 143.

⁶³ *Ibid.* at 135-36. For further discussion of the inverse relationship between participation and mobilization, see Land, *supra* note 6.

Further, even the *perception* of unreliability can be enough to provide a state with a basis for critiquing the information presented. As Orentlicher argues, “If NGOs hope to be effective, they can ill afford to flout the standards applied by their target audiences.”⁶⁴ The fact that an article about a UN report on Sudanese attacks in Darfur was written by a fourteen-year-old boy in Dallas, Texas is a testament to the extraordinary potential of peer-produced projects, but may at the same time undermine the impact of the report. Ongoing controversies over the reliability of information on Wikipedia means that peer-produced reports will continue to be vulnerable to the charge of unreliability, and thus potentially ineffective in accomplishing their goals.

In addition, any system that opens up participation to the public involves the risk that participants will attempt to game the system to produce certain outcomes. Google, for example, uses a form of peer production to generate its page rankings. Among other factors, it looks at how often other pages link to a particular page in order to determine where the page should appear in search results.⁶⁵ In this process, Google is drawing on the collective wisdom of Internet users to conclude that many in-links increase the relevance of a particular page. Web page owners, however, quickly realized this and began trying to manipulate search results by having other pages link to their page.⁶⁶ Wikipedia has experienced a similar form of manipulation and has gone to great lengths to prevent companies from building their business models on helping people and companies “promote themselves and shape their reputations on Wikipedia.”⁶⁷

A model of collaborative human rights reporting would be subject to the same type of risk. States or individual human rights abusers might attempt to manipulate the information that appears about them in the report. Others might simply engage in vandalism, revising material or contributing false information for humorous or harmful purposes. Wikipedia resolves these types of issues through collaborative editing:⁶⁸ all versions of the page are saved and it is easy for editors who notice gaming or vandalism to revert to the earlier version. It has also established a policy against living individuals editing their own biographical information. Although solutions like this may help address some of the concerns about gaming and vandalism, the stakes are higher in the context of human rights reporting. In addition, these risks might be exacerbated as the difficulty of verifying the information contributed increases.

2. MECHANISMS FOR ENSURING ACCURACY

Ensuring the accuracy or trustworthiness of information contributed is a challenge for any peer-produced project. Corrective editing, the primary mechanism adopted by Wikipedia for evaluating the accuracy of information contributed, may provide one solution to the problem

⁶⁴ Orentlicher, *supra* note 10 at 103.

⁶⁵ Benkler, *supra* note 7 at 76.

⁶⁶ See Christopher Heng, “How to Improve Your Search Engine Ranking on Google” *thesitewizard* (8 October 2008), online: thesitewizard <<http://www.thesitewizard.com/archive/google.shtml>>.

⁶⁷ See Zittrain, *supra* note 39 at 140, 151.

⁶⁸ See e.g. “Wikipedia: List of Policies” *Wikipedia*, online: Wikipedia <http://en.wikipedia.org/wiki/Wikipedia:List_of_policies>.

of accuracy in peer-produced human rights reporting.⁶⁹ Indeed, corrective editing on Wikipedia already seems to be doing a fairly good job of ensuring the reliability of the information presented on that site. For example, the discussion page associated with a Wikipedia article on female genital mutilation reflecting the contributors' discussion about the content of and changes to the article contained exchanges that were vigorous and contested. Much of the discussion focused on how to present the material according to Wikipedia's rigorous criteria. Contributors debated, for example, whether the article could state that there was no basis in religion for the practice based on individual sources that said it was not based in particular religions.⁷⁰ The attention and careful reading reflected in this discussion indicates great potential for corrective editing as a mechanism for ensuring reliability.

Corrective editing may not work well in the human rights context, however, because of the centrality of observation and interviews to human rights research.⁷¹ For example, human rights field research might involve interviews with witnesses to human rights abuses in a refugee camp. The researcher might conclude that witness statements about the abuses are reliable because they were corroborated by other witnesses and by physical evidence of the attack (external corroboration), because the witness testimony was internally consistent (internal corroboration), and because it was based on first-hand knowledge.⁷² If the researcher contributes this information to a collaboratively edited report, other contributors will be unable to verify the statements because they do not have access to either the statements or the information that led the researcher to conclude it was reliable.

Accuracy may also be particularly difficult to verify in the human rights context because much of the work of human rights reporting is interpretative: ascertaining a set of facts, extrapolating from those facts to reach a set of conclusions about the existence of human rights violations, and then using principles of international law to establish state and individual responsibility for those violations.⁷³ Nearly every step of that process requires

⁶⁹ Other peer-produced projects have developed different mechanisms, including the use of ratings systems by trusted members on Slashdot: see Benkler, *supra* note 7 at 76-80; see also Michael J. Madison, "Social Software, Groups, and Governance" (2006) 2006 Michigan State Law Review 153 at 162. Technological format may influence the accuracy measures that are needed. For example, accuracy concerns may be somewhat muted when the contribution is in the form of a photograph or video instead of text. That said, however, there are many ways in which video can inaccurately portray a scene, whether through direct manipulation or choices about perspective and angle. Programs such as Photosynth, which can build three-dimensional models by synthesizing multiple photographs of a scene, may offer solutions to concerns about the accuracy of photographic depictions; the collective perspective of multiple photos is more likely to be accurate than any individual photograph.

⁷⁰ See "Talk: Female Genital Cutting," *Wikipedia*, online: [Wikipedia <http://en.wikipedia.org/wiki/Talk:Female_genital_cutting>](http://en.wikipedia.org/wiki/Talk:Female_genital_cutting).

⁷¹ See Laurie S. Wiseberg, "The Internet: One More Tool in the Struggle for Human Rights" in Welch, *supra* note 9, 238 at 245 (discussing field research).

⁷² See Weissbrodt & McCarthy, *supra* note 14 at 10 (discussing indicia of reliability in fact-finding).

⁷³ Clark, *Diplomacy of Conscience*, *supra* note 23 at 130 ("[T]he fact-finding project is indeed an interpretive one: the NGO is not simply a medium for the transmittal of information. It must verify accuracy, supply context, and strategize about how best to use the facts to attain principled goals"); see also Orentlicher, *supra* note 10 at 132-33 (noting that conclusions about responsibility require the researcher to determine whether the state is investigating and punishing and providing a remedy and to establish the overall scale and nature of the atrocities).

substantial inference, synthesis, and original analysis. Even the most experienced individuals can disagree about these types of interpretive conclusions.

Assuming everyone had access to the same information, these disagreements would likely be valuable and productive, with participants challenging and revising each other's conclusions to arrive at a more well-reasoned and thoughtful analysis. Participants might not, however, invest the time and energy that would be required to familiarize themselves with the information that forms the basis of the interpretation. Nor would they necessarily have access to this information. In addition, although the legal nature of the conclusions may make them somewhat easier to verify given the existence of common standards, there is still considerable room for disagreement. These legal standards are also applied to factual findings that are themselves indeterminate, thus adding an additional layer of complexity.

3. PROTECTING WITNESSES

Collaborative reporting also raises a set of ethical issues. Human rights researchers conducting field research are obligated to take steps to protect those they interview from possible retaliation. These steps might include keeping information about the interviewee confidential or not engaging in conduct that would subject the interviewee to unnecessary risk. Human rights researchers also take steps to minimize the trauma that interviewees might experience in recounting particular events.⁷⁴ It is unclear whether ordinary individuals engaging in this kind of research would be able to provide these protections to witnesses.

IV. MODELS OF COLLABORATIVE PRODUCTION

The challenge for collaborative projects is whether they will be able to capitalize on the benefits of capacity and mobilization while minimizing some of the possible negative consequences of decentralization. Initially, these goals may seem irreconcilable, since what is needed to ensure accuracy and protect witnesses (and more generally to channel the organization's effort into effective and influential advocacy) is precisely what currently limits the capacity and mobilization of human rights NGOs, namely, professionalization. As the previous Part argues, it may not be possible to both democratize human rights reporting and ensure its efficacy in the absence of effective control mechanisms.

It may, however, be possible to foster democratic principles in human rights advocacy by mobilizing ordinary citizens on human rights issues through collaborative reporting projects that pair with professional organizations to achieve common goals. This Part will explore two such models focused respectively on secondary and primary information, each of which is associated with certain advantages and disadvantages. The Part concludes by outlining a third model that would provide a basis for independent action through collaborative projects.⁷⁵

⁷⁴ See Weissbrodt & McCarthy, *supra* note 14 at 63, 70 (describing the importance of ensuring witness anonymity and protection, where required).

⁷⁵ Each of these models provides an alternative way of "chunking" the work of human rights reporting, which Noveck describes as a precondition for effective collaboration: see Noveck, *supra* note 7 at 151 (noting that work must be "described and broken down into specific tasks, which small groups of people can elect to undertake"). These three models, however, are not exhaustive; there are likely many other ways of allocating the work associated with human rights reporting.

Although this model is not entirely participatory, the control mechanism it adopts (certification of researchers by local NGOs) is a decentralized and peer-produced process of validation and therefore more likely to achieve the benefits of capacity and mobilization than centralized models.

A. SECONDARY INFORMATION

The first approach to peer producing human rights reports would be to limit such projects to collecting, synthesizing, and verifying secondary information. For example, portals (or spinoffs of existing portals, such as Wikipedia) might allow participants to write about human rights issues but require them to rely only on sources that are verifiable, that is, sources that can be accessed by other contributors. This kind of a project would encounter the same accuracy challenges that exist on Wikipedia and would likely be able to handle reliability problems in a similar manner. Such a project would also be a significant step toward mobilizing ordinary citizens in human rights advocacy and providing them with more of a stake in international human rights issues.

There are two central problems with such an approach. First, this model would encourage reliance on a certain subset of the available information, namely, information that is available either on-line or in print, thereby introducing bias.⁷⁶ Additionally, information about human rights violations often comes from individuals who are not otherwise able to disseminate information about their experiences. Thus, a significant portion of relevant information may not appear in a secondary source until much later, if ever. Second, even limiting the project to verifiable sources and relying on collaborative editing might not be enough to ensure trustworthiness. The perception of inaccuracy because of the lack of centralized control may be enough to undermine the leverage of the report.

Both of these problems might be remedied through the development of partnerships between collaborative projects and human rights organizations. This model would view peer production not as a substitute for, but a complement to, existing fact-finding efforts. For example, human rights organizations might pair up with collaborative projects and use the information collected in their reports. This reduces the problem of bias resulting from reliance on a single set of sources because the NGO in question would be combining the information with information from other sources. The NGO would also be able to conduct an additional level of review to evaluate whether the reporting is corroborated by other sources, thus further minimizing the risk of perceived inaccuracy. The NGO would also ensure more consistent coverage and be able to protect the witnesses who provide first-hand information.

Nonetheless, the participatory dimensions of such a model are quite limited. Decisions about what and how to report would still be made by the NGO, with limited participation

⁷⁶ Reem Bahdi, "Analyzing Women's Use of the Internet Through the Rights Debate" (2000) 75 *Chicago-Kent L. Rev.* 869 at 893 ("If the Special Rapporteur [on Violence Against Women] relied on the Internet as her only point of contact with the world, then her perception of the problem would undoubtedly be biased in favor of Northern concerns and strategies").

from those taking part in the collaborative project.⁷⁷ This model would also inadequately address the capacity problems of human rights NGOs, since much of an NGO's need is for researchers who can provide first-hand knowledge and collect information from witnesses locally.

B. PRIMARY INFORMATION

An alternative approach to peer producing human rights reports would be to limit such projects to collecting primary information from those with first-hand knowledge. For example, a site might allow witnesses to human rights abuses to report on what they saw or experienced. First-hand information about human rights violations might be used by human rights organizations or other institutions in several ways. Human rights organizations might rely on this information in their reporting on human rights violations. This kind of partnership would help address one of the most pressing needs faced by human rights NGOs: augmenting their capacity to collect primary information. Such partnerships would also increase the diversity of perspectives that are contributed to the work and the likelihood that information from individuals with specialized knowledge is reflected in the final product.

This information might also be used by or in connection with the processes established by human rights institutions. The United Nations' "thematic" mechanisms, such as UN working groups and Special Rapporteurs, rely extensively on information provided by NGOs both to identify countries or situations that warrant attention and in researching and analyzing the situation in question.⁷⁸ The treaty monitoring bodies (those entities that are created, generally by the human rights treaty in question, to receive state reports and monitor state compliance with the terms of the treaty) also rely heavily on NGO-submitted information as a way of becoming familiar with the situation in question and to develop questions for the state parties presenting their periodic reports.⁷⁹ These human rights institutions might rely on information collected through open models of production to supplement the information provided by NGOs or even to serve as a kind of early warning system providing time-sensitive information about where and how human rights violations might be occurring and when further investigation is needed.

NGOs engaging in advocacy might also use primary information collected through open models of production. For example, NGOs might rely on collaboratively collected primary information in creating "shadow reports" that provide the treaty monitoring bodies with additional information about state compliance with the terms of human rights treaties. NGOs might also rely on such information in submitting evidence to the Office of the High Commissioner for Human Rights for submission to the Human Rights Council in connection

⁷⁷ At the very least, the NGO should establish mechanisms for those participating in the collaborative project to contribute to decisions about the report or provide feedback to the NGO about its reporting and advocacy.

⁷⁸ See e.g. Cook, *supra* note 10 at 198.

⁷⁹ Andrew Clapham, "UN Human Rights Reporting Procedures: An NGO Perspective" in Philip Alston & James Crawford, eds., *The Future of UN Human Rights Treaty Monitoring* (Cambridge: Cambridge University Press, 2000) 175 at 179-80.

with the Council's universal periodic review,⁸⁰ which requires the Council to assess, "based on objective and reliable information, ... the fulfilment by each State of its human rights obligations and commitments."⁸¹

Finally, governments, or NGOs seeking to influence government policies, might rely on primary information in evaluating their responses to human rights violations in other countries. The U.S., for example, considers information about human rights violations, such as the information contained in the human rights reports written each year by the U.S. Department of State, in evaluating U.S. foreign policy.⁸² Primary information about violations might be used by governments or organizations seeking to influence government policies to determine aid conditionality and other forms of incentives and sanctions that might be used to pressure other states to improve their policies with respect to human rights.⁸³

Although a model focused on collecting primary information would more effectively address the problem of capacity, it still presents significant accuracy problems. Participants in such a project could verify contributions by comparing individual reports.⁸⁴ Yet, corroboration as a method of validation would require a volume of information that might not be available in many situations of human rights abuses. When abuses are invisible (violations of women's human rights or the rights of vulnerable populations); systemic (violations that require analysis of complex systems, such as fair trial or economic rights violations); or hidden (when relevant information has been suppressed, or when witnesses are unwilling or unable to come forward in significant numbers out of fear of retaliation), there may not be enough information available for corroboration. Crowdsourcing primary

⁸⁰ In addition to documents submitted by the state concerned and a compilation of reports by treaty bodies and other United Nations documents, the Council will be able to rely on "[a]dditional, credible and reliable information provided by other relevant stakeholders to the universal periodic review," a summary of which is to be prepared by the Office of the High Commissioner for Human Rights: see Human Rights Council, *Institution-building of the United Nations Human Rights Council*, HRC Res. 5/1, 2007, Annex, UN Doc. A/HRC/RES/5/1.

⁸¹ *Human Rights Council*, GA Res. 60/251, UN GAOR, 60th Sess., UN Doc. A/RES/60/251 (2006) at para. 5(e).

⁸² See Sean D. Murphy, *United States Practice in International Law, Volume 1: 1999-2001* (Cambridge: Cambridge University Press, 2002) at 283; see also U.S., *A Review of the State Department's "Country Reports on Human Rights Practices": Hearing Before the Subcommittee on International Terrorism, Nonproliferation and Human Rights of the Committee on International Relations, House of Representatives*, 108th Cong. (2003) at 23 (Lorne W. Craner, Assistant Secretary, Bureau of Democracy, Human Rights, and Labor, U.S. Department of State) ("This volume is one of the most significant tools available to the U.S. Government to help determine foreign policy strategies that promote the development of democratic systems and principles, and remedy abuse and disregard for human rights. They also serve as a basis for our government's cooperation with private groups to promote the observance of internationally recognized human rights") [Hearing].

⁸³ The State Department, for example, relies on information from a variety of sources in drafting its Country Reports on Human Rights Practices, not only staff and Foreign Service Officers but also human rights monitors, academics, activists, and many others: see Hearing, *ibid.* at 22 (describing the process of collecting information for the reports); Murphy, *ibid.* at 283-84.

⁸⁴ Patrick Meier, "Peer Producing Human Rights" *iRevolution* (1 April 2009), online: <http://irevolution.wordpress.com/2009/04/01/peer-producing-human-rights/>. Meier argues that the challenge of crowdsourcing is not a problem of accuracy but rather of volume. "Accuracy, in many instances, is a function of how many data points exist in our dataset" (*ibid.*). He recognizes, however, that "this method also faces some challenges since the success of triangulating crowdsourced human rights reports is dependent on volume" (*ibid.*).

information thus may be best suited for reporting on abuses that are public, clearly and directly violate human rights or humanitarian law, and require fairly discrete types of reporting, such as whether or not an attack or other act of violence occurred. For example, the platform provided by Ushahidi, which allows groups to collect and visualize information about crisis situations, provides a promising model for generating peer-produced reporting in situations of crisis; it may be less effective, however, at generating reports when violations are invisible, systemic, or hidden.⁸⁵

Participants could also evaluate the accuracy of contributions based on internal consistency. Internal measures of validation, however, are only a limited indicia of reliability because of the risk of manipulation. For example, individuals who wanted to spread false allegations about a particular government or group, or to falsely refute such allegations, might make multiple entries (which would therefore corroborate each other) regarding a specific incident. Once picked up by other sources, such allegations “may take on a life of their own.”⁸⁶ Whether because of the risk of manipulation or the lack of sufficient volume to provide corroboration, NGOs seeking to rely on the information produced by such a model may feel compelled to verify reports, thus undermining some of the advantages that might otherwise be provided by peer production.⁸⁷

Alternatively, it is possible that a site collecting first-hand reports of violations would become nothing more than an opinion site. Clay Shirky has explained, for example, that the Los Angeles Times project to open its opinion pages to peer-produced pieces ended up becoming a site for battling opinions because it did not provide an adequate reason for people to contribute.⁸⁸ Without the restraining influence of a common purpose, for example, producing a report or working toward a common advocacy goal, a project focused on collecting primary information may fall prey to a similar problem as contributors focus on providing their individual opinions of what happened and what should be done about it rather than engaging in a common enterprise.

⁸⁵ “About: Introduction and History,” online: Ushahidi <<http://www.ushahidi.com/about>>.

⁸⁶ Robert Charles Blitt, “Who Will Watch the Watchdogs? Human Rights Nongovernmental Organizations and the Case for Regulation” (2004) 10 *Buff. H.R.L. Rev.* 261 at 350 (discussing AI’s 1990 report about Iraqi soldiers removing babies from incubators after the invasion, a story that later turned out to have been fabricated by a marketing agency employed by the Kuwaiti government); see also Clark, *Diplomacy of Conscience*, *supra* note 23 at 33.

⁸⁷ Both Ushahidi and Swift, a related project that aims to provide a “general purpose toolkit for crowdsourcing the semantic structuring of data so that it can be reused in other applications and visualizations,” (see “Swift Developer Site,” online: Swift <<http://swiftapp.org/>>), appear to rely at least in part on human verification of reports (*ibid.*); see also “About Us,” online: Ushahidi <<http://legacy.ushahidi.com/about.asp>> (“We are working with local Kenyan NGO’s [sic] to get information and to verify each incident”). Adding a layer of human filtering reintroduces some of the centralization and professionalization that participatory models were intended to avoid. For a discussion of the inverse relationship between the number of individuals involved in a collaborative project and the decision-making authority possessed by any one of them, as well as suggestions for how to overcome this tension, see Land, *supra* note 6. By adding filters, Swift and Ushahidi appear to be using a form of modified crowdsourcing, since individual responses are not simply aggregated but also sorted according to particular criteria: see Noveck, *supra* note 7 at 18 (noting that “crowdsourcing generally refers to aggregating the responses of individuals across a network”).

⁸⁸ Shirky, *supra* note 7 at 285-86.

The twin problems of accuracy and opinion might be resolved, however, by shifting the purpose for which the information is used from identifying violations to capacity building. NGOs are increasingly engaging in research not for the purpose of publicizing violations, but in order to gather information about specific problems and identify potential solutions.⁸⁹ As Morton Winston observes, “most policy makers and members of the political elite *know* the facts already; what they want to know is what they should *do* about them.”⁹⁰

The project Healthcare Information For All by 2015 (HIFA2015) is an example of an organization dedicated to collecting information for capacity building purposes. One of the goals of HIFA2015 is to provide an on-line forum where participants can identify problems and contribute solutions regarding the availability of health information and the effect that barriers to accessing health information have on their work.⁹¹ Over time, the accumulated wisdom of the group will become a knowledge databank that can be used in advocacy efforts. Information collected via the Ushahidi platform could similarly be used to identify and prioritize needs and develop and coordinate appropriate responses in situations of humanitarian crisis.

Focusing on capacity building as the goal of a collaborative project might lessen the risk that the project would be manipulated or degenerate into battling opinions because of the different purpose of reporting in this context. The purpose of reporting in the context of capacity building is not to establish what happened, but rather to collect information about particular problems and generate solutions. As a result, the information collected is more often in the form of opinion testimony from key informants rather than the kind of primary material that needs to be verified for accuracy.

Corroborating the information provided by key informants is still critical in order to accurately identify systemic failures. However, since reporting does not purport to represent a kind of verifiable truth about the existence or non-existence of a particular set of facts, the issue of accuracy is somewhat less acute. Accuracy might also be further ensured by establishing mechanisms, such as requiring participants to register and identify themselves when they post information, that would help minimize the risk of manipulation of the system. Requiring the adoption of an on-line user name, whether or not related to one’s off-line identity, might reduce the risk of abuse by allowing other participants to view the entirety of that user’s contributions and enabling the user to build a reputation for credible contributions.

Issues with respect to witness protection are also reduced in the context of fact-finding for capacity building because those participating are more likely to be key informants (experts, activists, other professionals) than victims or witnesses of human rights abuses. Although key informants are also often in danger of retaliation, the need to ensure confidentiality might be somewhat lower than in the context of direct witness interviews. Those who do not feel they

⁸⁹ See Claude E. Welch, Jr., “Conclusion,” in Welch, *supra* note 9, 261 at 276 [Welch, “Conclusion”].

⁹⁰ Winston, *supra* note 15 at 37 [emphasis in original].

⁹¹ Healthcare Information For All by 2015 (HIFA2015), *A Global Campaign: Healthcare Information for All by 2015: Foundation Document* (2007) at 6-7, online: HIFA2015 <<http://www.hifa2015.org/publications/>>.

can safely identify themselves can contribute anonymously and their contributions can be evaluated with their anonymity in mind.

There are two central problems that remain under this model. First, the scope of information collected may be inconsistent or subject to a form of selection bias. If only those who have access to the Internet are able to contribute, this might introduce significant bias considering that most victims and eyewitnesses of human rights violations are members of vulnerable populations with limited, if any, such access. (As Patrick Meier notes, however, the availability of mobile technologies is likely to decrease this barrier over time.⁹²) In addition, there is no guarantee that coverage will be consistent; it is likely to be difficult to obtain contributions from very poor areas or conflict zones. As a result, although this model would help address some of the capacity problems faced by human rights organizations, there would still be a need for individuals to collect testimony from individuals without access to the Internet or in inaccessible areas.

Second, such an approach, by itself, also lacks the deep participation that can help mobilize ordinary individuals to become involved in human rights advocacy. Individuals are unlikely to develop the kind of sustained commitment that would be necessary for such a project if they are not given a voice in the direction of the project itself. In addition, unless paired with mechanisms to provide feedback from individuals taking part in the project to the organizations relying on their data, communication would be one way, thus replicating the imbalance that has been criticized in partnerships between organizations in the global north and south.⁹³

C. COMMUNITY-BASED COLLABORATIVE REPORTING

Each of the models described thus far assumes that projects based on open models of production must necessarily be paired with a professional organization in order to ensure the kind of centralized control that is necessary to transform raw data into effective advocacy. In both models, the collaborative project functions more as a source of information than a vehicle for advocacy. As a result, each model suffers from an important and critical defect, namely, failure to fully realize the participatory and democratic potential of collaborative production.

There is, however, a third option that captures more of the possibility presented by models of peer production. This third model, community-based collaborative reporting, is premised on the assumption that reporting can be opened to broader participation while minimizing the risks of inaccuracy and inadequate protection of witnesses if those participating are trustworthy. When we trust the source of the information, we are more likely to feel comfortable in assuming that the source collected accurate information, reached reasonable conclusions, and protected the safety of those interviewed. One of the most common ways to establish trust is to ensure that the individual in question received adequate training and

⁹² Meier, *supra* note 84.

⁹³ Makau Mutua argues, for example, that within such partnerships, issues that are of a priority to organizations in the south may be suppressed in order to foster a perception of unity: see Makau Mutua, "Standard Setting in Human Rights: Critique and Prognosis" (2007) 29 Hum. Rts. Q. 547 at 608.

demonstrated a commitment to the project. For example, HRW's research is credible in large part because of the rigorous training and supervision that researchers receive and their commitment to the organization's work.

Establishing a centralized process of training and certification for a peer-produced collaborative reporting project would be unmanageable, however, requiring an enormous expenditure of resources. Instead of assuming that training and certification should occur centrally, however, a model of community-based collaborative reporting might rely on already existing resources, namely, the ever-growing number of local human rights organizations. Local human rights organizations might establish their own standards and certify researchers for participation in a reporting project. Although there will necessarily be variation among the standards, this approach would have the benefit of producing researchers who are well-versed in research methods appropriate for their location. For example, a researcher at a small NGO operating in a conflict zone needs a very specialized set of skills. The local organization would be able to provide assurances that the researcher received adequate instruction about fact-finding and interviewing techniques, methods for ensuring accuracy in reporting, and procedures for evaluating and minimizing potential risks to victims.

In basing credibility on the group with which the researcher is affiliated, community-based collaborative reporting adopts Beth Simone Noveck and David Johnson's proposal to "leverage group reputation to help group members build trust in interactions with third parties."⁹⁴ In systems in which it is prohibitively expensive (or simply impossible) to ascertain and verify the reputation of each individual, we can turn to the reputations of the groups of which the individual is a member in order to determine whether he or she should be trusted. Johnson and Noveck explain: "It will not be what we know about you, or even who you know, but, rather, what we know about your group(s), membership in which is held out as a signal of reliability or as providing reason to believe that the individual would have more to lose from wrongdoing than by honoring his promises and refraining from inflicting harm on others."⁹⁵ This model would use the organization's reputation to establish the trustworthiness of the individual's contributions. Although it may also be difficult to ascertain the trustworthiness of the organization, it is far easier than doing so for every possible individual participant.

Establishing mechanisms by which local groups would be able to vouch for the trustworthiness of their researchers would provide additional resources for reporting in a way that fosters greater participation. Although the lack of centralized direction may mean that coverage will still be uneven, such reports would benefit from participation of individuals with a wide variety of backgrounds and interests. Broader participation means that it is more likely that projects will attract individuals with specialized areas of expertise, and the ability of participants to self-select for projects lowers the transaction costs involved in allocating human resources. Because they would be connected to human rights NGOs, participants

⁹⁴ David R. Johnson & Beth Simone Noveck, "In Groups We Trust: Enabling On-Line Collaboration with Group-Backed Reputation" at 4 [unpublished, on file with author].

⁹⁵ *Ibid.* at 5.

would also be more likely to have access to the information and communication technologies necessary to contribute even in less accessible parts of the world.

Human rights NGOs already take steps to augment their capacity by establishing relationships with other NGOs around the world.⁹⁶ By involving local groups, such relationships accomplish some of the same goals as community-based reporting. Nonetheless, there are several reasons why community-based collaborative reporting would provide advantages over this model. To the extent there are north-south partnerships, such partnerships have been criticized as involving an unequal distribution of power, focusing primarily on the transfer of information from smaller NGOs in developing countries to larger NGOs in the developed world.⁹⁷ As a result, while additional information is generated in this manner, the information is still subject to distortions. Networking in this manner is also unlikely to provide the benefits of open models, since tasks are assigned centrally rather than on the basis of who is best qualified to take part.

Community-based collaboration, in contrast, would be more likely to avoid many of the problems of centralization. Control over the project would be decentralized, and researchers would have more ability to direct the project than would be the case where they are simply providing information to an international partner. It is also more likely that the resulting report will be more responsive to the needs of particular locales and take advantage of the unique experiences and expertise of the researchers. Of course, local NGOs may still choose to engage in a more limited way when local political conditions make it impossible for an organization to act on its own without fear of retribution. Fostering models of community-based collaborative fact-finding does not foreclose this possibility, but simply provides an alternative and decentralized means for collecting and disseminating information about human rights violations.

The organization Witness,⁹⁸ a human rights documentary NGO, and the Landmines Monitor, a report published under the auspices of the International Campaign to Ban Landmines⁹⁹ regarding compliance with the terms of the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*,¹⁰⁰ are useful models for community-based collaborative reporting. Information included in the Landmines Monitor, for example, is contributed by researchers from countries around the world: over 50 researchers were expected to contribute to the 2008 report. The Monitor notes that researchers “are non-governmental and come from a wide variety of backgrounds, including academia, advocacy, journalism, and research.”¹⁰¹ Like the Landmines Monitor, a model of community-based collaborative reporting would also bring together researchers from around the world and a variety of different backgrounds to work together to report on human rights violations.

⁹⁶ See Welch, “Conclusion,” *supra* note 89 at 267 (identifying a “clear current trend” for international NGOs to form coalitions with local NGOs).

⁹⁷ See *ibid.* (“Nor have the newer, smaller human rights NGOs in developing countries felt themselves to be equal partners with their northern sisters”).

⁹⁸ See online: Witness <<http://www.witness.org>>.

⁹⁹ See online: International Campaign to Ban Landmines <<http://www.icbl.org/>>.

¹⁰⁰ 18 September 1997, 2056 U.N.T.S. 211 (entered into force 1 March 1999).

¹⁰¹ “Landmine Monitor Contacts,” online: Landmine Monitor <<http://www.icbl.org/lm/contacts>>.

Witness, in turn, emphasizes the importance of building the capacity and expertise of local organizations and communities to create video documentaries on human rights issues by putting “cameras into the hands of everyday people around the world so that they can document abuses by authorities.”¹⁰² In addition to cameras, Witness provides the training necessary to engage in effective video advocacy. The efforts of Witness to democratize the project of video advocacy by disseminating the tools necessary to engage in this form of advocacy places the power of this medium in the hands of those best positioned to tell these stories. Community-based collaborative reporting would similarly emphasize the importance of building local expertise to engage in human rights reporting rather than centralizing the reporting activity with only a few organizations.

Although decentralized, a model of production based on researchers certified by NGOs is nonetheless limited in terms of participation. The ability to contribute to the collective project would be restricted to a subset of researchers authorized by the local NGO to engage in this activity. These local NGOs, in turn, may not be any more participatory than their international counterparts. The staff of domestic NGOs may be just as “divorced from the people on whose behalf they advocate” as their foreign partners.¹⁰³ At the same time, although the involvement of ordinary citizens will be limited, there will nonetheless be a greater diversity of views and range of expertise available, and with time, even greater decentralization will be possible as we develop better technological approaches to establishing trust at an individual level.

V. CONCLUSION

Citizen participation in human rights advocacy has the potential to both establish and deepen the connection between ordinary individuals and the processes of international law. By involving more people in efforts to protect international human rights, open models of production have the potential to tap into a significant source of grassroots activism and build a stronger and more sustainable foundation of support for human rights. Decentralizing fact-finding and reporting might, however, come at the risk of undermining the ultimate efficacy of the project. Accuracy and safety are difficult, if not impossible, to ensure without the kind of centralization that has caused the very disconnect to which such open models would respond.

This article advocates a model designed to respond to both of these concerns — a model of community-based reporting that would utilize the expertise of local organizations to provide independent researchers with the credentials necessary to demonstrate their trustworthiness. Although not completely participatory and still mediated through human rights NGOs, this model would nonetheless involve a greater variety of perspectives and

¹⁰² Henry Jenkins, “Human Rights Video in a Participatory Culture,” *MediaShift Idea Lab* (6 April 2008), online: PBS <<http://www.pbs.org/idealab/2008/04/human-rights-video-in-a-participatory-culture005.html>>.

¹⁰³ Mutua, *supra* note 93 at 593; see also Welch, “Conclusion,” *supra* note 89 at 267 (noting that just because an organization is “based in and staffed by nationals does not automatically mean a domestic NGO is representative of its society as a whole, or perhaps even of those whose rights have been threatened”).

expertise and more participation than has historically been the case in human rights fact-finding.

It is, of course, quite possible that, in practice, such a model may not be any better at achieving increased participation and continued efficacy than our current approaches. Experimentation, however, is necessary in order to understand the specific trade-offs that might be involved in closing the gap between citizens and human rights advocacy and developing solutions to minimize those trade-offs. One of the first steps that might be taken to foster such experimentation is to begin a conversation between those in the human rights movement and the technologists who affiliate themselves with the emerging access to knowledge movement.¹⁰⁴ The insights of technologists about the social consequences of technological design could yield useful insights about how one might design a fact-finding project to foster greater participation. Such a project could then be evaluated in terms of the criteria enumerated in this article: capacity, mobilization, accuracy (particularly the reputation for accuracy), and the protection of witnesses.

The democratic benefits of closing the gap between ordinary citizens and the norms and processes of international law could have a significant impact on efforts to promote and protect human rights around the world. Given limited resources and the dependence of advocacy on public pressure, it is more important than ever that the human rights movement investigate ways to mobilize the public to become involved in human rights advocacy. Only by doing so will the movement be equipped to meet the challenges of fact-finding in a world in which traditional naming and shaming may, by itself, be increasingly less effective in its ability to achieve changes to state conduct regarding human rights.

¹⁰⁴ For a discussion of this movement and its relationship with the human rights movement, see Molly Beutz Land, "Protecting Rights Online" (2009) 34 *Yale J. Int'l L.* 1.