More of the Same? Human Rights in an Age of Inequality

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Reading the introduction to Kathryn Sikkink’s latest book, “Evidence for Hope,” one cannot help but feel optimism. Sikkink’s book defends a powerful thesis: Human rights work, and they will continue to work. The arc of the moral universe is long but it bends toward justice, as long as we keep fighting the good fight for human rights. And, crucially, Sikkink aims to show that this optimism needn’t rest on faith alone. It can be justified by the best empirical evidence we have on the effects of human rights law and the human rights movement.

Sikkink’s argument for this conclusion may be divided into two parts. First, we have evidence that human rights (which I treat here as shorthand for human rights law and the human rights movement) have been effective in bringing about positive change in the past. (Call this the “backward-looking” part of her argument.) Second, we have no good reason to doubt that they will continue to do so in the future. (Call this the “forward-looking” part.) In this review I will consider the two parts of Sikkink’s argument in turn, dealing at greater length with the issues raised by the second.

Sikkink devotes the first half of the book to answering a recent wave of scholarship that questions whether past human rights efforts have been effective in bringing about lasting change. For instance, she rebuts arguments that say that human rights only work in the interests of the powerful, or that attribute whatever progress made to other factors. In response to these critics, Sikkink offers an impressively comprehensive overview of the empirical literature on human rights. Armed with this mountain of evidence, she shows that many recent critiques of human rights are seriously flawed. Much of the force of this discussion derives from Sikkink’s careful attention to the empirical challenges that arise in assessing the causal impact of human rights, and to the mechanisms by which any such impact would be brought about. Sikkink emphasizes, for instance, that moderate progress is the business of human rights. Consequently we must assess changes over a sufficiently long time-horizon before we can draw any conclusions about whether
human rights succeed in their aspiration, and not create impossible standards, or keep moving the goalposts.

In this backward-looking part of the book, Sikkink has the better of those who deny human rights have made things better. She provides a careful presentation of the current state of our empirical knowledge of human rights: what has worked, what has not worked, and why. Human rights have not always worked; but, Sikkink shows, there is a lot of evidence to suggest that on average, they have. Indeed, once one takes in all the evidence that Sikkink collates, one might almost think that those who deny that human rights have made any difference are too easy a target for a scholar of Sikkink’s stature.

Let me now turn to the second, forward-looking part of Sikkink’s argument, which seeks to extrapolate from past success to hope for the future. If one accepts Sikkink’s evidence that human rights have made positive contributions in the last seven decades, then those skeptical of the future should be able to explain what has changed in recent years so as to now hinder further progress. So what new obstacles have arisen that might plausibly be thought to stand in the way of the human rights movement’s continuing success?

One reason for doubt about the future may be the recent political backlash against human rights in many countries, like Egypt, Russia, Turkey, Venezuela or even the U.S., where few would have expected such a shift even just a few years ago. The political headwind human rights now face may seem to make their future effectiveness much less likely. Sikkink recognizes the backlash, but considers it temporary. Indeed, such a backlash is, she proposes, a natural part of human rights progress. Instead of focusing narrowly on current problems, we should, she argues, expand our historical lens. Once we do, we can see that the current setbacks are part of an overall positive development. As Sikkink puts it in the conclusion of her book, “scholars too will look back at this period as a watershed in the path towards protecting human rights.”

Importantly, Sikkink’s response to the current backlash is not ad hoc, but instead derives from a deeper theoretical view of how human rights struggles play out over time. In much of her previous work, such as *The Persistent Power of Human Rights*, she presents and defends models of how human rights norms spread. This process begins with norm entrepreneurs seeking to change the status quo, and pushing states through advocacy to adopt the new norm. When key states adopt the new norm, other states that wish to be part of the same “club”—in the case of human rights, “to be (seen as) a legitimate member of the liberal order”—also publicly endorse the norm. Consequently even states not truly committed to human rights may join human rights treaties; yet this triggers more mobilization from domestic and transnational advocates that now push these states to live up to their commitments. Through this process, norms become internalized over time, and eventually states change their behavior for the better. In the book here under review, Sikkink tells us that the backlashes we see are mere bumps on the road to success, part of the dialectic back-and-forth that is to be expected on her model of norm diffusion.

The difficulty with this response is, however, that it is ultimately incomplete. The existing models of norm evolution do not deal with backlash with sufficient care. What we need is an account of the conditions under which such predictable backlash in fact prevents the spread of norms, and the conditions under which the backlash can be overcome. Not all norms will succeed; and there is a lack of theory and evidence exploring backlash and norm failure in the literature. To be sure, progress has been made, but can it be sustained? Or are the conditions that allowed for that progress under threat?
A more sophisticated worry about the future of human rights will thus not simply point to the current backlash but instead identify certain conditions without which human rights improvements are unlikely to be realized, and argue that these conditions are for one reason or another likely to be absent in the future.

This worry would take as its starting point the very findings of past successes that Sikkink presents in the book under review. And it would propose that, once we properly think through the causal mechanisms that lie behind the human rights improvements that Sikkink documents, we recognize the importance of certain structural preconditions of past successes. Where these structural preconditions are absent, we would expect the human rights movement to face significant obstacles in realizing its goals.

To make all of this more concrete, look closely at Latin America, widely seen as a case study in how norm entrepreneurs can successfully reshape the world. Sikkink’s empirical work on human rights and norms draws extensively on the Latin American experience; and Sikkink points to countries like Argentina, which turned from a dictatorship into a liberal democracy, in her discussion of how human rights norms develop.

But Latin America is also home to some countries where human rights efforts have been much less effective. Consider Mexico, which is currently in deep turmoil. In some of its regions, Mexico is essentially a failed state, unable to provide basic protection and essential state services. Crucially, the solution to abuses of human rights in Mexico today is not norm entrepreneurship and social mobilization, of the sort associated with the human rights movement. Mexico has a healthy and active civil society, has adopted legislation to implement the treaty requirements into domestic law, and created institutions to enforce and protect human rights, including a national human rights commission and 32 state commissions. All of this, however, has been insufficient to bring about change, and abuses are on the rise. The problem is that human rights norms, and indeed even human rights laws, may not translate into policy improvements on the ground because of deep structural problems in the Mexican legal and political system.

Sikkink may respond that Mexico is an outlier among the largely positive story of human rights in Latin America. But several other countries in the region are seeing similar increases in abuse, including Venezuela, El Salvador, Guatemala and Honduras. Human rights critics may have impossible standards, but Sikkink should be careful not to ignore crisis areas or to reduce them to outliers or bumps on the long road to progress.

Here may be one explanation of the problem that such countries face, which might in turn inform a more skeptical position about the future of human rights. The norms spread by the human rights movement effectively improve people’s lives where they are properly implemented by a country’s political and legal institutions. But where these institutions are resistant to human rights—or are too weak to effectively enforce human rights demands—the human rights movement will find it difficult to realize its goals.

Consider, first, political resistance to human rights. Human rights are not independent of shifts in political power. In my own work, I find that progress on human rights is highly dependent on the ideology of the government in power. While the human rights movement plays a crucial role in putting human rights on the political agenda by demanding that government actors respect these rights—where there is no demand for these rights, they are unlikely to be granted by those in power—it is by itself insufficient to bring about significant improvements, which instead depend on how receptive those in power are to such demands. It might be
thought that, while human rights can be implemented only if there is uptake from political actors, once they have implemented human rights in the domestic legal system, such rights are relatively secure. But in fact, whether human rights are respected depends significantly on the choices of the executive branch; and where checks on the executive branch are weak, a shift in political power can lead to a significant deterioration in human rights compliance.

We currently observe in the U.S. how a change from one president to another can have significant ramifications for the interpretations of rights and their implementations by federal bureaucrats. And yet in the U.S., executive power on these matters is relatively constrained both by other political actors and by the judiciary, which offers some protection against norm erosion and backsliding. By contrast, in Latin American political systems, the executive is ordinarily more powerful than their U.S. counterpart, and the institutions that could theoretically check them are weaker. If the success of human rights depends significantly on who is in power, then it does not seem unreasonably pessimistic to worry that many countries are just one bad president away from undoing much of the progress that the human rights movement has fought for so hard—such as in the case of Venezuela.

Related to this is the observation that in some countries, state institutions in general—and legal institutions in particular—are weak, and corruption is high. Under these conditions, consistent respect for rights is much harder to sustain, and progress can quickly turn into regress. So even if, say, the central government is committed to human rights, that may not translate into respect for human rights on the ground. Similarly, even if human rights are implemented through domestic legislation, their effect may be limited if the rule of law is weak and the judiciary lacks the power to effectively end impunity. So even if the human rights movement receives uptake from government actors, this may be insufficient to bring about effective change. In sum, activists are necessary, but not sufficient to bring about sustainable change.

Perhaps the most important reason to worry about human rights in Latin America is a deeper political problem: the existence of enormous economic inequality. Setting aside for the moment whether inequality is normatively problematic as such, and should for that reason alone be among the concerns of the human rights movement, there are at least two ways in which inequality harms the institutions on which human rights progress depends. First, there is a very strong correlation between inequality and corruption—and by extension, between inequality and a weak rule of law. To be clear, there is some dispute about which way the causal arrow runs here. But if inequality causes or sustains corruption, and thus negatively affects the rule of law, then this will make it difficult to effectively institutionalize protection for human rights in the long run. Weak rule of law is correlated with negative human rights outcomes; and the mechanism at issue is not difficult to discern: Victims of rights abuses do not seek legal redress if they do not trust their institutions, and state actors in turn know their government will shield them from prosecution.

Second, severe economic inequality will affect which candidates for political office are viable. Specifically, viable candidates will be those that come from or promote the interests of the super wealthy. And the super wealthy and their political benefactors in turn benefit from relatively weak institutions, in which money can effectively overcome any obstacle.

Inequality in Venezuela paved the road not for progress, but for a type of populism that ended in electoral authoritarianism. The return of neoliberal presidents, such as
Macri, Temer, and Peña Nieto, has not led to new progressive opposition but to a rise in populism. What were once seen as progressive leftists are now seen by many as establishment politicians that deploy populism for their own political gains (e.g. Lula, Lopez-Obrador, and Fernández de Kirchner). If, as I argue, it is government leadership that can respond to the demands of activists and build the strong institutions needed to sustain and guarantee rights, then it is less obvious that a rotation of neoliberal and populist leaders will bring about progress. The rise in inequality risks that political parties will be unable to successfully put forth candidates that will strengthen the state.

If economic inequality is indeed a serious obstacle to establishing and sustaining the necessary institutions, then those committed to human rights have good instrumental reason to push for greater economic equality. And here arises the question of whether the human rights movement is well positioned to take on such a push. Some critics of human rights worry that it is not. Samuel Moyn, for instance, has questioned whether the human rights movement can really put economic demands center-stage. Moyn offers a historical account of human rights according to which they succeeded as a transnational movement in the 1970s because competing ideologies failed. Notably, these ideologies offered visions of a distinctive economic order: communism and capitalism, respectively. Human rights succeeded, Moyn argues, precisely because they were presented as a genuine alternative: By focusing on physical integrity rights, the human rights movement could present a morally grounded ideology that was above cold war politics and the materialistic concerns behind it. This, in turn, raises the worry that the human rights movement may now find it difficult to put economic inequality center stage without becoming politicized in new ways and finding itself indistinguishable from the ordinary party politics and conflicting economic interests that it promised to transcend.

Sikkink rejects this view by noting that economic rights have always been part of the human rights program, which has achieved some successes on that front. But this does not suffice to dissolve the worry. Historically, a concern for economic rights was relatively peripheral, and it has seldom been the focal point of transnational advocacy. We have yet to see a transnational campaign for economic inequality or land rights of the sort that we have seen undertaken against slavery, torture, landmines, or human trafficking. Sikkink agrees that reducing inequality would benefit human rights, yet she does not treat it as a human rights issue for its own sake.

This is the real question at issue between those who are hopeful about the future of human rights, and those who, despite their recognition of human rights’ past successes, are skeptical: Can the human rights movement enter into debates about economic inequality, and bring to bear pressure towards greater equality, without losing some of the characteristics that have made it succeed in the past? Another way of putting the debate between Sikkink and her more sophisticated critics might be this: Rather than seeing such critics as naysayers, we might seem them as norm entrepreneurs in their own right, who wish to push the human rights movement towards taking on more directly the structural obstacles to improving people’s lives that are posed by economic inequality. They need, in other words, not be pessimistic about human rights as such, but only about a human rights movement that continues to try and transcend some of the bread-and-butter political issues that require addressing. If anyone should be at the forefront of demanding more from human rights movements, it should be scholars like Sikkink, who after all taught us that bold ideas can radically change the world, and that we should not settle for more of the same.
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