



## International Human Rights Fact-Finding in the Twenty-First Century

Conference | Center for Human Rights and Global Justice  
NYU School of Law | 40 Washington Square South | November 1-2, 2013

DAY ONE: Friday, November 1, 2013

### **PANELIST REGISTRATION (8.00am)**

Greenberg Lounge (40 Washington Square South)

### **PARTICIPANT REGISTRATION (8.30am)**

Greenberg Lounge (40 Washington Square South)

*Coffee and light breakfast (provided)*

### **WELCOME AND INTRODUCTION (9.00am – 9.10am)**

*Speakers:* **Philip Alston** (NYU) and **Sarah Knuckey** (NYU)

### **SESSION ONE: Keynote Address (9.10am – 10.00am)**

*Speaker:* **Thomas Hammarberg** (EU Special Representative on human rights to Georgia): The Future of Human Rights Fact-Finding

*Coffee (provided)*

### **SESSION TWO: Human Rights Fact-Finding: Politics and Imperialism (10.30am-12.15pm)**

This session examines critiques of fact-finding that mount a fundamental challenge to the practice. Critiques leveled with frequency at the human rights field include that it can enact or further imperialism, support unjust hierarchies, or that it is wielded as a political tool. This session brings the questions of imperialism and politics to bear specifically on the practices and goals of human rights fact-finding. Which of the methods, principles, and aims of fact-finding are most problematic? To what extent are fact-finding missions and mandates politically motivated, and does that fatally damage the enterprise? What could a non-imperial or non-elitist fact-finding mission look like?

*Moderator:* **Sarah Knuckey** (NYU)

*Speakers:*

**Frédéric Mégret** (McGill University): Do Facts Exist, Can they Be 'Found', and Does it Matter?

**Obiora Okafor** (Osgoode Hall Law School): A TWAIL Perspective on International Human Rights Fact-Finding

**Dustin Sharp** (University of San Diego): Human Rights Fact-Finding and the Reproduction of Hierarchies

**Fionnuala Ní Aoláin** (University of Minnesota; University of Ulster): A Feminist Critique of Fact-Finding

**Daniel Bonilla** (Universidad de los Andes): Legal Clinics in the Global North and South: Between Equality and Subordination

*Lunch break*

**SESSION THREE: Victims and Witnesses in Human Rights Fact-Finding: Empowerment or Extraction? (1.30pm-3.00pm)**

Most human rights fact-finding is heavily reliant on accounts provided by alleged victims and witnesses, and many investigators spend much of their time interviewing and assessing witnesses in order to determine the nature of alleged abuses and construct a narrative of events. Subsequent advocacy often seeks to ‘tell the story’ of particularly sympathetic victims, and to ‘give voice to the voiceless.’ This session examines the role of witness evidence in fact-finding and the complex relationship between fact-finders and witnesses. How is testimony obtained, how is it used to construct human rights narratives, and what problems result? To what extent is fact-finding extractive? How can the need for objective and independent investigations be balanced with the interests and rights of witnesses and victims, particularly around autonomy, security, consent, and re-traumatization? How successful are recent efforts to democratize fact-finding, empower victims, and/or improve the gathering of reliable testimony?

*Moderator:* **Adam Brown** (Sarah Lawrence College; NYU)

*Speakers:*

**Théo Boutruche** (REDRESS): The Relationship between Fact-Finders and Witnesses in Human Rights Fact-Finding: What Place for the Victims?

**Shreya Atrey** (University of Oxford): The Danger of a Single Story: Introducing Intersectionality in Fact-Finding

**Rosette Muzigo-Morrison** (ICTR): Victims and Witnesses in International Criminal Prosecutions

**Daniel Rothenberg** (Arizona State University): The Complex Truth of Testimony: A Case Study of Human Rights Fact-Finding in Iraq

**Laura Marschner** (University of Zurich): Implications of Trauma on Testimonial Evidence in International Criminal Trials

*Coffee (provided)*

**SESSION FOUR: Fact-Finding for Advocacy, Enforcement, and Litigation: Purposes and Cross Purposes (3.30pm – 5.00pm)**

Fact-finding can be carried out for a wide range of purposes: to investigate whether allegations of abuse are substantiated, to determine individual and state responsibility for abuses, to assess whether litigation should take place, to pressure other actors to take preventative or enforcement action, or as part of the litigation process itself. This panel analyzes the relationship between fact-finding, enforcement mechanisms, and litigation. The differing goals and mandates of various fact-finders, as well as institutional competition and siloing, can fragment information and undermine accountability efforts. What are the opportunities and challenges of simultaneous or sequential fact-finding for different purposes, particularly with respect to the use of facts for purposes other than that for which they were gathered? What are the impacts on the rights of alleged victims/witnesses and perpetrators? What fact-finding practices can best contribute to effective complementarity, and what are the prospects for information sharing between overlapping fact-finding mandates?

*Moderator:* **Michael Posner** (NYU)

*Speakers:*

**Alex Whiting** (Harvard Law School): Perspectives from the International Criminal Court

**Larissa van den Herik and Catherine Harwood** (Leiden University): Commissions of Inquiry and the Charm of International Criminal Law: Between Transactional and Authoritative Approaches

**Carsten Stahn and Dov Jacobs** (Leiden University): The Interaction between Human Rights Fact-Finding and International Criminal Proceedings: Towards a (New) Typology

**Pablo de Greiff** (ICTJ; UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence): Truth without Facts: On the Erosion of the Fact-Finding Function of Truth Commissions.

*Speakers' Dinner (by invitation) (Dinner address by **Ken Roth** (Human Rights Watch))*

## DAY TWO: Saturday, November 2, 2013

### **SESSION FIVE (A): Understanding and Improving Fact-Finding through Interdisciplinary Expertise and Methodologies (9.15am-10.45am)**

Human rights fact-finding methods, and the conclusions drawn from investigative work, have come under increasing critical scrutiny from governments and independent observers. Partly in response to such critiques, social science methods have increasingly influenced the way human rights fact-finders acquire and synthesize information. This panel will examine the methodological critiques and techniques being brought to bear on human rights fact-finding from other disciplines. How have human rights practitioners responded? How do such methods enable the field to better—or differently—see or prove human rights abuses? Do such changes come at a cost?

*Moderator:* **Fredy Peccerelli** (Guatemalan Forensic Anthropology Foundation)

*Speakers:*

**Margaret Satterthwaite** (NYU) and **Justin Simeone** (Georgetown University; Princeton University): A Conceptual Roadmap for Social Science Methods in Human Rights Fact-Finding

**Alex Vitale** (Brooklyn College): Benefits and Challenges of Incorporating Social Science Methodologies in Human Rights Investigations

**Brian Root** (Human Rights Watch): Numbers are Only Human: Lessons for Human Rights Practitioners from the Numeracy Movement

**Joanne Mariner** (Amnesty International): Human Rights Research: Quantitative Challenges

### **SESSION FIVE (B): Fact-Finding Case Studies: Cross-Cutting Themes (9.15am-10.45am)**

This session provides detailed examination of specific fact-finding missions and investigations, analyzing their investigation mandates, purposes, methods, evidence, obstacles, relationship to other advocacy or legal efforts, and impacts. Through close study of investigations into a specific country, issue, or right, or study of a particular investigation form, the papers provide insight into how the discreet themes addressed in the other panels operate together in practice, and in particular contexts. The papers address a wide array of investigations, including of prison conditions in the United States, violence in the eastern Congo, Syria's UN commission of inquiry, and draw out lessons for future investigations.

*Moderator:* **Max de Mesa** (Philippine Alliance of Human Rights Advocates)

*Speakers:*

**Taylor Pendergrass** (NYCLU): Human Rights Fact-Finding in the Shadows of America's Solitary Confinement Prisons

**Valentina Falco** (MONUSCO): Contemporary Peace-keeping Mandates and the Challenges for Human Rights Fact-Finding: A Field Perspective from DRC

**Erin Gallagher** (Physicians for Human Rights): UN Commissions of Inquiry: Syria on the Ground

**Jens Meierhenrich** (London School of Economics and Political Science): The Politics, Power, and Pathologies of International Commissions of Inquiry: A Comparative Analysis, 1992-2013

**Allison Corkery** (Center for Economic and Social Rights): Investigating Chronic Violations: A Case Study on Economic, Social, and Cultural Rights in Guatemala

*Coffee (provided)*

### **SESSION SIX: Fact-Finding with Crowd Sourcing, Social Media, and Big Data (11.15am-12.45pm)**

The human rights field lags behind many others in its uptake of new information and communication technologies, although crowd-sourcing, crowd-seeding, crisis-mapping, social media, and big data are increasingly being used to obtain information on alleged human rights abuses. Some have argued that these new technologies can radically expand and deepen available information, and can also democratize fact-finding processes. Some organizations are dedicated to expanding victim or witness documentation of rights violations, or to increasing the ability of anyone to engage in 'acts of fact-finding'; others are supplementing traditional approaches with newer

sources of information; while still others are using crowd-sourced data for new types of analysis. Yet many have also raised doubts and concerns about the efficacy, utility, accuracy, reliability, safety, and ethics of these new technologies for fact-finding. What do these doubts reveal about the landscape of traditional fact-finding itself? How are new sources or methods being used, and how might they replace or supplement traditional investigative techniques in the future? Is the field adequately attending to the privacy, consent, accuracy, and reliability issues raised by social media-sourced information?

*Moderator:* **Sam Gregory** (WITNESS)

*Speakers:*

**Molly Land** (University of Connecticut): Democratizing Human Rights Fact-Finding

**Patrick Ball** (Human Rights Data Analysis Group): The Bigness of Big Data: Samples, Models, and the Facts We Might Find When Looking at Data

**Jay Aronson** (Carnegie Mellon University): Mobile Phones, Social Media, and Big Data in Human Rights Fact-Finding: Possibilities, Challenges, and Limitations

**Susan Wolfenbarger** (AAAS): Remote sensing as a Tool for Human Rights Fact-Finding

**Patrick Meier** (Qatar Foundation Computing Research Institute): Big (Crisis) Data: Humanitarian Fact-Finding with Advanced Computing

*Lunch break*

**SESSION SEVEN: Does Human Rights Fact-Finding Need International Guidelines? (2.00pm-3.45pm)**

Unlike many other fields which have embraced standardized training, professional and ethical guidelines, codes of conduct, governing legislation, review and discipline boards, or simply minimum acceptable standards, the human rights field has subjected itself to few such measures. This applies notably in relation to fact-finding, even though some attempts have been made to create shared principles or guidelines. This informal, arguably undisciplined approach has recently come under sometimes scathing critique. Is there a need for guidelines or international norms for fact-finding? Why does the field resist standardization in this area, and is it justifiable? Is it possible to conceive of guidelines that would not be imperialistic, too bureaucratic, stifling, incompatible with grassroots efforts, or too general to be useful?

*Moderator:* **Luc Côté** (MINUSTAH)

*Speakers:*

**Steve Ratner** (University of Michigan): International Standards for Accountability: Guidelines in Human Rights Fact-Finding

**Cherif Bassiouni** (DePaul University; Istituto Superiore Internazionale di Scienze Criminali): The Siracusa Guidelines – Steps Towards Guidelines

**Rob Grace and Claude Bruderlein** (Harvard University): Developing Norms of Professional Practice in the Domain of Monitoring, Reporting, and Fact-finding

**Diane Orentlicher** (American University): International Norms in Human Rights Fact-Finding

**Bob Reid and Michelle Jarvis** (ICTY): Fact-Finding in the Twenty First Century – Drawing Lessons from the ICTY to Promote Standardized and Comprehensive Guidelines.

**CLOSING SESSION: Reflections (4.00pm-5.00pm)**

*Speakers:* **Philip Alston** (NYU); (TBC)