Ethical Standards for International Human Rights Lawyers

Morial Shah*

Abstract

This Article explores ethical codes governing international human rights lawyers, analyzes shortcomings in those codes, and proposes an alternate regime. International human rights lawyers face unique challenges related to client identity, victimhood narratives, and varying cultural practices. Existing jurisdictional codes, institutional guidelines, and rules of special tribunals inadequately address such challenges. More broadly, solutions in the literature fail to sufficiently address problems related to client identity and competing cultural norms. This Article presents a regime that builds on existing codes and develops minimum standards for international human rights lawyers.

Table Of Contents

* Morial Shah is a Law Lecturer at the Institute of Business Administration (IBA), Karachi.

"In England, in South Africa, almost everywhere I have found that in the practice of their profession lawyers are consciously or unconsciously led into untruth for the sake of their clients. An eminent English Lawyer has gone so far as to say that it may even be the duty of a lawyer to defend a client whom he knows to be guilty. There I disagree. The duty of a lawyer is always to place before the judges, and to help them to arrive at, the truth, never to prove the guilty as innocent." M. K. Gandhi.[1]

"But it is steadfastly to be borne in mind that the great trust of the advocate is to be discharged within and not without the bounds of the law. The office of an advocate does not permit, much less does it demand of him for any client, the violation of any law or any manner of fraud or chicanery. In doing his professional duty to his client he must obey the voice of his own conscience and not that of his client."[2]

"We are (soon to be) lawyers. People trust us with their stories. They trust us with their words. With their lives. Should we make this kind of order out of that kind of chaos? It is another difficult argument, one that must be made by each individual for and by themselves. My answer is yes, because people entrust us with that responsibility; entrust us to transmute their suffering into truth and acknowledgment and maybe reconciliation; entrust us to work justice

1. *How to Spiritualize the Profession*, YOUNG INDIA, Dec. 22, 1927, at 427, 428.
2. THE PAKISTAN LEGAL PRACTITIONERS AND BAR COUNCILS RULES, 1976, ch. XII, r. 156 (PAK. BAR COUNCIL 1976).

and make peace. We are not obligated to complete this work, but neither are we free to abandon it." Megan Ines, University of California, Berkeley, School of Law.[3]

INTRODUCTION

International human rights lawyers operate on the frontiers of the legal profession. Frequently underpaid, often operating under stressful conditions, and regularly representing those most marginalized, international human rights lawyers appear to devote their lives to messianic altruism. But is their work as noble, ethical, and just as it appears? Specifically, what rules of professional conduct do international human rights lawyers follow? In circumstances where international human rights lawyers are relatively unconstrained by standards of professional conduct, they may sometimes undermine the very human rights principles they seek to defend. The current ethical regime governing international human rights work leaves much to be desired. This Article examines existing guidelines and suggestions to propose a principled framework that takes into account cultural differences and human rights principles.[4]

Part I contextualizes this discussion with reference to the international charity sector's current challenges, explains the different roles played by international human rights lawyers, and provides an overview of national and international codes of professional conduct as they relate to international human rights work. Part II examines the ethical tensions associated with international human rights work, assesses previous guidelines, and provides options for the path forward. In the final analysis, the tension between the means and ends of international human rights work persists, but it is not unresolvable.

I. WITH CLEAN HANDS

A. CONTEXT—CHARITABLE VICTIMIZATION

Within the first few months of 2018, Oxfam GB, International Committee of the Red Cross ("ICRC"), Save the Children, Plan International, and other charities found themselves involved in sex scandals. These scandals raise important questions about the ethical obligations of concerned international human rights or humanitarian lawyers and organizations.

Early in 2018, a feature story in *The Times* revealed that Oxfam workers abused their position of trust to exploit people they were supposed to be helping.[5]

---

3. Megan Ines, *I had a Very Pretty Introduction Planned*, International Human Rights Law Clinic, University of California, Berkeley, School of Law, https://www.law.berkeley.edu/files/IHRLC/I_had_a_very_Pretty_-_Megan_Ines(1).pdf [https://perma.cc/RJ7Q-2ZTA].

4. Human rights throughout this Article refer to the standards established by the Universal Declaration of Human Rights. G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948), http://hrlibrary.umn.edu/instree/b1udhr.htm [https://perma.cc/7LNQ-9TLK].

5. Sean O'Neill, *Oxfam in Haiti: It Was Like a Caligula Orgy with Prostitutes in Oxfam T-Shirts*, THE TIMES (Feb. 9, 2018), https://www.thetimes.co.uk/article/oxfam-in-haiti-it-was-like-a-caligula-orgy-with-prostitutes-in-oxfam-t-shirts-p32wlk0rp [https://perma.cc/WE7R-8567].

They prostituted the vulnerable survivors of the Darfur genocide, Haitian earthquake, and possibly other disasters. Victims, including underage children, had to prostitute themselves to get access to humanitarian aid.[6] Until *The Times* published its story, Oxfam bosses managed to keep the results of their 2011 inquiry private. Subsequently, Oxfam's deputy chief executive admitted that Oxfam sent its team to Haiti even though it knew about the team's past prostitution-related misconduct in Chad.[7]

Following the Oxfam scandal, The Charity Commission of the U.K. enhanced its scrutiny of charities and several charities opted to disclose misconduct.[8] The ICRC announced that twenty-one of its staffers paid for sexual services between 2015 and 2018, in violation of ICRC's Code. But in its statement, the ICRC did not clarify whether its staff exploited vulnerable civilians in the conflict zones where ICRC operates. It also did not clarify whether it reported its employees to relevant law enforcement authorities for criminal proceedings.[9] For its part, Save The Children fired its CEO and apologized for his sexual misconduct.[10] Plan International, a children's charity, revealed that over the course of 2017–2018, six of its staffers were involved in child sexual abuse. It also reported nine cases concerning its staff's sexual harassment or misconduct involving other adults during the same period.[11]

Reports covering the U.N. highlighted similar problems. Through a special report, *The Foreign Policy Magazine* detailed the U.N.'s "faulty forensics on sexual misconduct and culture of impunity they produce."[12] Since many senior U.N. staffers enjoy diplomatic or functional immunity, they cannot be sued or tried in national courts. U.N. tribunals demand clear and convincing evidence, a higher standard than the balance of probabilities or preponderance of evidence standard

---

6. Robert Booth, *Oxfam Warned It Could Lose European Funding Over Scandal*, THE GUARDIAN (Feb. 12, 2018), https://www.theguardian.com/world/2018/feb/12/haiti-demands-oxfam-identify-workers-who-used-prostitutes [https://perma.cc/H6YU-6RVJ].

7. *Oxfam's Penny Lawrence Quits Over Charity's Scandals*, AL JAZEERA (Feb. 12, 2018), https://www.aljazeera.com/news/2018/02/oxfam-deputy-resigns-aid-mission-sex-scandals-180212162409728.html [https://perma.cc/6JC4-AU4X].

8. *Actions to Tackle Exploitation and Abuse Agreed with UK Charities*, U.K. DEP'T OF INT'L DEV. (Mar. 5, 2018), https://www.gov.uk/government/news/actions-to-tackle-exploitation-and-abuse-agreed-with-uk-charities [https://perma.cc/EPH7-DR25].

9. Yves Daccord, *Taking Action to Prevent and Address Staff Sexual Misconduct*, INT'L COMM. OF THE RED CROSS (Feb. 23, 2018), https://www.icrc.org/en/document/taking-action-prevent-and-address-staff-misconduct [https://perma.cc/3G8P-Z4RL].

10. Ben Westcott, *Save the Children Promises Review After Claims Against Former CEO*, CNN (Feb. 21, 2018), https://www.cnn.com/2018/02/21/europe/save-the-children-ceo-forsyth-intl/index.html [https://perma.cc/5Z9P-TSHS].

11. *Plan International Charity Reveals Child Sex Abuse Cases*, BBC NEWS (Feb. 24, 2018), http://www.bbc.com/news/uk-43179696 [https://perma.cc/8PZT-9Y4F].

12. Lauren Wolfe, *U.N. Sexual Assault Investigations Die in Darkness*, FOREIGN POLICY (Mar. 8, 2018, 11:51 AM), https://foreignpolicy.com/2018/03/08/how-u-n-sexual-assault-investigations-die-in-darkness [https://perma.cc/98NQ-LBS6].

used for civil cases in the U.K. or U.S.[13] One U.N. investigator explains that this approach creates an "accountability vacuum"; cases concerning assault and harassment of U.N. staffers or others go before U.N. tribunals to die.[14]

These revelations barely scratch the surface of the degree and extent of wrongs involved. The emerging picture is deeply problematic. Sexual offences are heinous crimes in general but there is something particularly atrocious about children's charities sexually abusing children, natural disaster charities sexually exploiting disaster survivors, and aid workers sexually exploiting those in need of aid. These organizations all employ lawyers or seek their counsel. Many of those lawyers fall within the broad umbrella of domestic and international human rights or public interest lawyers. In the midst of these crises, not enough people paused to ask: What were the lawyers doing?

The crisis we face concerns ethics and language. Just because lawyers are adept at avoiding committing illegal acts does not mean they do no wrong. "Complicity" is not an irrelevant word here.[15] How do we describe lawyers' wrongs in this context and develop language that allows us to hold to account lawyers, especially those claiming to defend international human rights? For lawyers operating within specific jurisdictions, we have detailed codes to discipline their conduct. These codes are based on the idea that legal work requires higher standards of ethical conduct.[16] Given that international human rights lawyers are entrusted with especially sensitive matters by some of the world's most vulnerable people, their conduct should be governed by basic and universal standards discussed in Part II. With this in mind, the rest of this Part investigates the different roles lawyers adopt, the various codes applicable to their practices, and the limitations of those codes.

B. DIFFERENT HATS, SAME BODY

International human rights lawyers take on several interchanging, interconnected roles. I borrow from Rachel Barrish's framework to identify four main categories: (i) The domestic and transnational human rights lawyer: This lawyer works in domestic courts, as well as international ones when the need arises. Several litigators fall into this category. (ii) The regional lawyer: This lawyer appears before specific regional human rights commissions and bodies. (iii) The international human rights lawyer: This lawyer focuses specifically on

13. *Id.*

14. *Id.*

15. *See* Mark A. Sargent, *Lawyers in the Moral Maze*, 49 VILL. L. REV. 867, 867–68 (2004) (discussing the way the Securities and Exchange Commission is trying to prevent lawyers from being passively complicit in managerial wrongdoing).

16. Lawyers were considered guardians of rights and liberties. *See* ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 273 (Phillips Bradley ed., Henry Reeve trans., Alfred A. Knopf, Inc. 18th ed. 1991) (1862) ("In visiting the Americans and studying their laws, we perceive that the authority they have entrusted to members of the legal profession, and the influence that these individuals exercise in Government is the most powerful existing security against the excesses of democracy.").

international human rights practice before international courts and tribunals, especially on behalf of international organizations. (iv) The international human rights activist, advocate, or international charity employee: This lawyer does not litigate before specific courts or forums, but rather, uses his or her understanding of laws and policies to advocate for certain causes.[17] Lawyers in all four categories face special ethical challenges analyzed in succeeding sections below. Given the challenging and unclear nature of the space in which the international human rights activist operates, much of this Article focuses on lawyers falling within category (iv).

C. PROFESSIONAL CODES OF CONDUCT

1. JURISDICTIONAL RULES—ABA *MODEL RULES OF PROFESSIONAL CONDUCT*

For transnational litigators operating simultaneously between different countries and international forums, questions about applicable professional rules arise.[18] Within the U.S., rules of professional responsibility mainly focus on a lawyer's obligations to his or her client(s). The attorney-client relationship is sacrosanct. Under the American Bar Association's *Model Rules of Professional Conduct* ("*Model Rules*"), there is no obligation to reveal information that will save an innocent person from going to jail if doing so compromises the client's interests.[19] At the altar of client protection, American lawyers may permissibly be complicit with silence until it becomes objectively necessary for them to reveal information for preventing death, substantial bodily harm, or substantial injury to property or financial interests.[20]

Rules concerning third parties are relevant for human rights lawyers because they frequently deal with victims, communities, and survivors in circumstances where those victims or communities do not constitute their clients. Per Model Rules 4.1–4.4, attorneys may not knowingly make false statements or fail to disclose material facts to third parties.[21] In circumstances where the unrepresented persons have misunderstood their relationship with the attorney and the attorney knows or reasonably should know, the attorney must correct that misunderstanding.[22] Attorneys are also forbidden from giving legal advice to third-party victims

17. *See* Rachel Barrish, Professional Responsibility for International Human Rights Lawyers: A Proposed Paradigm (2007) (unpublished manuscript) (on file with author).

18. *See* Nell Moley, *Confronting the Challenges of Ethical Accountability in International Human Rights Lawyering*, 50 STAN. J. INT'L L. 359, 391–92 (2014).

19. *See* MODEL RULES OF PROF'L CONDUCT R. 1.2, 1.6 (2016) [hereinafter MODEL RULES] (discussing the duties of the client-lawyer relationship and confidentiality, for which such disclosure is not an exception to the rule that an attorney may not reveal confidential information without the consent of their client); *see also* Adam Liptak, *When the Law Prevents Righting a Wrong*, N.Y. TIMES (May 4, 2008), https://www.nytimes.com/2008/05/04/weekinreview/04liptak.html?mtrref=www.google.com [https://perma.cc/ENT2-8P7Q].

20. MODEL RULES R. 1.6.

21. MODEL RULES R. 4.1–4.4.

22. MODEL RULES R. 4.3.

or community members who are not their clients.[23] Attorneys can only recommend that such persons seek legal representation if they know or reasonably should know that the rights of unrepresented persons may reasonably conflict with those of their clients.[24] Rule 4.4 also prevents attorneys using means that have "no substantial purpose other than to embarrass, delay, or burden a third person."[25]

For the American attorney practicing in the transnational context, the choice of law provision is particularly relevant. Rule 8.5 was designed to provide guidance about which rules apply when U.S. attorneys are practicing in other countries, before international tribunals, or in other transnational contexts.[26] Standard attorney practices differ significantly between the U.S. and other jurisdictions. For instance, in the U.S., attorney advertising and contingency fees are standard practices.[27] In other legal systems, such practices are ethically frowned upon or regarded as illegal. In Pakistan, attorney advertising is generally prohibited.[28] In other foreign countries such as the U.K., preparing a witness for upcoming testimony is illegal, but in the U.S. doing so is common practice.[29] In such cases, it would be difficult or impossible for an attorney to abide by conflicting professional rules. Rule 8.5 aims to provide guidance about which rules to follow.

The comment on Rule 8.5 explains that Paragraph (b) seeks to minimize uncertainty and conflicts between differing rules of different jurisdictions or forums.[30] But uncertainty remains.[31] According to Paragraph (b)(1), tribunals, particularly those operating for international arbitration or those formed for an ad-hoc regional matter, may not necessarily "sit" in any particular jurisdiction. Their physical location may be the function of necessity or compromise, and have nothing to do with the laws of the jurisdiction in question. As Catherine Rogers explains, "U.S. lawyers practicing before the International Court of Justice or the Iran-U.S.

---

23. *Id.*

24. *Id.*

25. MODEL RULES R. 4.4(a).

26. MODEL RULES R. 8.5(b) ("Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows: (1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and (2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.").

27. *See, e.g.*, Catherine A. Rogers, *Lawyers Without Borders*, 30 U. PA. J. INT'L L. 1035, 1039 (2009).

28. *See* THE PAKISTAN LEGAL PRACTITIONERS AND BAR COUNCILS RULES, 1976, ch. XII, r. 135 (PAK. BAR COUNCIL 1976), http://pakistanbarcouncil.org/the-pakistan-legal-practitioners-and-bar-councils-rules-1976/. In Pakistan, lawyers licensed to litigate before courts are known as advocates.

29. *See* Rogers, *supra* note 22, at 1039; Kevin W. Smith, *Prepping, Not Coaching: The Ethics of Witness Preparation in Civil Litigation*, FARRIS, VAUGHAN, WILLS & MURPHY LLP, http://www.farris.com/images/uploads/Article_-_Ethics_of_Witness_Preparation.pdf [https://perma.cc/7KBF-VHF7].

30. MODEL RULES R. 8.5 cmts. 2, 3.

31. *See* Rogers, *supra* note 22, at 1053, 1057.

Claims Tribunal in The Hague do not expect to be governed by the ethical rules applicable in local judicial proceedings in The Netherlands."[32]

Further, Rule 8.5 allows lawyers qualified to practice in *Model Rules* to conform with less rigorous standards. To illustrate, a New York qualified attorney who is in Karachi, Pakistan, to appear before a human rights tribunal owes no duty of competent representation and lesser duties with regard to conflicts of interest, imputation of conflicts of interest, and communication under Pakistani Canons of Professional Conduct and Etiquette.[33] This example illustrates the problems associated with applying Rule 8.5 to the international human rights context where the gravity of concerns involved merits the highest standards of conduct. Similar concerns arise for Paragraph b(2). The comment on Paragraph b(2) inadequately addresses the issue of client expectations with regard to the conduct of U.S. trained attorneys abroad and minimum acceptable standards in the area of human rights advocacy.[34]

D. PROFESSIONAL CODES OF INTERNATIONAL COURTS AND TRIBUNALS

To resolve ethical concerns and introduce standards of conduct, some international courts and tribunals dealing with matters implicating human rights have developed professional standards. This section provides a brief overview of applicable codes for the International Criminal Court ("ICC"), International Criminal Tribunal For Yugoslavia ("ICTY"), International Criminal Tribunal for Rwanda ("ICTR"), and courts across the European Union. It also explores suggested codes such as the International Bar Association's Code of Ethics and the U.N.'s Basic Principles on the Role of Lawyers.

The International Bar Association ("IBA") was the first to adopt a suggested code of professional ethics for multijurisdictional practice. Its International Code of Ethics, adopted in 1956, is a suggested code of general application for lawyers operating across jurisdictions.[35] The Council of Bar and Law Societies of the European Union ("CCBE"), an international non-profit organization whose members include bar associations and law societies from forty-five European countries, adopted a Code of Conduct for European Lawyers in 1988. This Code is binding on lawyers whose bar associations are members of the CCBE. The Code embodies core principles at the heart of the European legal profession.[36]

---

32. *Id*. at 1048.

33. THE PAKISTAN LEGAL PRACTITIONERS AND BAR COUNCILS RULES, 1976, *supra* note 23, ch. XII, r. 135 (imposing less rigorous standards for conflicts of interest and imputed conflicts of interest and making no reference to communication or competence).

34. MODEL RULES R. 8.5 cmt. 4.

35. Martha Walsh, *The International Bar Association Proposal for a Code of Professional Conduct for Counsel Before the ICC*, 1 J. INT'L CRIM. JUST. 490, 492 (2003).

36. COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE, CHARTER OF CORE PRINCIPLES OF THE EUROPEAN LEGAL PROFESSION AND CODE OF CONDUCT FOR EUROPEAN LAWYERS (2013), http://www.ccbe.eu/NTCdocument/EN_CCBE_CoCpdf1_1382973057.pdf [https://perma.cc/AH7M-V953].

More broadly, at the international level, the Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders adopted Basic Principles on the Role of Lawyers ("U.N. Principles") in 1990.[37] Although these principles do not constitute a code, they generally recommend that countries adopt codes and establish disciplinary mechanisms. The U.N. Principles embody widely recognized duties such as competence, loyal representation of clients' interests and protection of clients' interests. Curiously however, they state: "Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law . . . ."[38] In doing so, do these principles create a human rights-based exception to attorney-client privilege? It appears that they do. But civil law countries may resist this standard, as explained below.

Considering Ad-Hoc tribunals, the hastily set up ICTY and ICTR initially lacked codes for international criminal and human rights lawyers. In 1997, the Code of Professional Conduct for Counsel Appearing Before the ICTY entered into force. Subsequently, in 1988, the Code of Professional Conduct for Defence Counsel Appearing Before the ICTR entered into force.[39] Since these codes were introduced after the courts were formed, they address specific ethical problems facing counsel appearing before these courts. For instance, these codes were able to resolve issues such as differences in practice over the splitting of legal fees and related matters.[40]

1. DOUBLE DISCIPLINE?

But these codes do not resolve all professional responsibility problems practitioners face. The *Barayagwiza* case is illustrative: Two lawyers represented Barayagwiza.[41] They were qualified in the U.S. and Canada respectively. Barayagwiza instructed them to stop representing him. Based on his request, the lawyers filed a motion asking to be withdrawn from the case. The lawyers pleaded that they were obliged to follow their client's instructions, in line with the professional codes of their local bars and the ICTR Code.[42] The Trial Chamber denied their motion, finding that the ICTR Rules of Procedure and Evidence only permitted counsel to withdraw in exceptional situations, which did not exist in their case. Moreover, the ICTR Code required that the

37. Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders, *Basic Principles on the Role of Lawyers*, U.N. Doc. A/CONF.144/28/Rev.l (1991), https://digitallibrary.un.org/record/1296532/files/a-conf-144-28-rev-1-e.pdf [https://perma.cc/YR9Z-CHVG].

38. *Id*. at 121.

39. Walsh, *supra* note 30, at 493.

40. *Id*.

41. Prosecutor v. Barayagwiza, Case No. ICTR-97-19-T, Decision on Defence Counsel Motion to Withdraw (Int'l Crim. Trib. for Rwanda Nov. 2, 2000).

42. *Id*. para. 19.

client unequivocally revoke instructions to counsel.[43] That circumstance did not exist in their case. The decision "left counsel in breach of the ICTR Code as well as their own codes and liable to disciplinary action."[44] For the international human rights practitioner, this tension between local codes and those of tribunals could give rise to confusion and burdensome obligations.

2. APPLICABLE STANDARDS?

By the time the IBA was asked to step in to draft a code for the ICC, it had the advantage of knowing the shortcomings of codes for Ad-Hoc Tribunals. The Code for the ICC spells out lawyers' responsibilities with regard to confidentiality, conflicts of interest, and prospective clients.[45] With regard to confidentiality, competing visions emerged. In some civil law countries, privilege is absolute. But many common law countries permit breaches of confidence where a crime is imminent.[46] The current compromise consists of using balancing language from the ICTY Code, allowing some discretion to waive privilege, but only in the most limited circumstances. Nonetheless, whether the existing compromise is sufficiently suited to an international human rights practice remains unclear. For the protection and promotion of human rights, international standards should seek to build in clear exceptions that incorporate balancing of rights approaches within attorneys' duty of confidence.[47]

Duties regarding competing interests of the client and promoting justice also provoked debate. For lawyers from civil law jurisdictions, it was not acceptable for interests of justice to prevail over interests of clients.[48] Common law trained lawyers were more receptive to the idea of letting "interests of justice" prevail. The ICTY Code did not resolve this issue. The language of the ICC's Code suggests that "counsel's duty to client is paramount."[49] For international human rights lawyers, professional codes should take account of the interests of justice approach, at least as far as those interests involve the protection of human rights.

3. INCORPORATING HUMAN RIGHTS DUTIES: COMPETING GLOBAL VISIONS

Despite attempts to codify lawyers' professional duties, problems persist. At the global level, the IBA's rules are suggestive, not mandatory. The European Code only applies to lawyers working in the EU. Codes of the ICC, ICTY, and ICTR are specific to those tribunals. The U.N. principles are suggestive, but it is unclear whether countries, particularly civil law jurisdictions, would accept the

43. *Id*. para. 27.
44. Walsh, *supra* note 30, at 495.
45. *Id*. at 498–500.
46. MODEL RULES R. 1.6(b)(2).
47. Walsh, *supra* note 30, at 499.
48. *Id*. at 498.
49. *Id*. at 499.

obligation to uphold human rights, even at the cost of attorney-client privilege. Although it is possible to see that any human rights-based exception to attorney-client privilege would make it hard for criminal defendants to receive effective counsel, in light of the U.N.'s principles, it may be worth examining whether the obligation to promote human rights, particularly for international human rights attorneys, could be balanced with their duty of confidentiality. To some degree, U.S. and common law rules of most countries allow lawyers to breach confidence when they find out that a crime causing death or substantial harm is imminent. It may be possible to draft professional rules that specifically accommodate an "imminent violations of human rights" exception to attorney-client privilege within their existing framework. Nonetheless, it remains unclear whether civil law jurisdictions would accept this qualification on attorney-client privilege or whether all countries will necessarily agree on universal human rights standards for lawyers.

E. ENTITY-BASED SELF-REGULATION

Considering the lack of formal rules in this area, many organizations working on human rights develop their own guidelines and codes, binding and non-binding. The rules vary depending on the kind of organization and the nature of work involved. This section presents the ethical rules of some government agencies, the U.N., and international NGOs.

1. GOVERNMENT AGENCIES

Federal employees in the U.S. are subject to several ethical regulations. All employees conducting human subjects research must receive approval from Institutional Review Boards ("IRB"). Given differences in the type of work, different agencies have different internal rules. For this Article, practices of the U.S. Agency for International Development ("USAID") and the U.S. State Department are relevant.

USAID conducts much of its operations overseas in developing countries. According to its guiding principles, USAID does not support research in situations in which "instability or other factors threaten adherence to ethically required safeguards."[50] When determining whether to undertake research, researchers must assess the relevance to USAID goals, policies, and feasibility.[51] They also require that results of any research be disseminated to local communities and other end users.[52]

The U.S. Department of State also undertakes most of its work overseas. Its manual provides relevant guidance on ethical and appropriate conduct. In

50. U.S. AGENCY FOR INT'L DEV., USAID RESEARCH: POLICY FRAMEWORK, PRINCIPLES, AND OPERATIONAL GUIDANCE 6 (1995), https://pdf.usaid.gov/pdf_docs/Pdacg263.pdf [https://perma.cc/968W-E57P].

51. *Id*. at 7.

52. *Id*. at 10.

particular, it recognizes that foreign service officers should acquaint themselves with "general rules of accepted social conduct" at their new posts.[53] For its annual Human Rights Report, the department publishes an annex listing steps taken to ensure credibility of human rights reports.[54]

In general, these guidelines and policies appear to protect the interests of third parties when federal employees or lawyers undertake research or other work in the international context. Nonetheless, these guidelines do not specifically deal with the unique challenges of undertaking international work impacting third parties. The current approach is suited to particular agencies and projects, but it does not develop universally replicable standards.[55]

2. U.N.

U.N. employees and lawyers are subject to different rules depending on the agency and context of their work. Although different agencies have their own ethical codes, those codes lack cross-agency coherence and the U.N. Office of Ethics provides limited publicly available guidance.

The Office of Ethics provides general ethical guidance for staff and U.N. agencies regarding issues such as conflicts of interest and staff conduct. It also has a reporting mechanism for senior U.N. staffers to report their financial information.[56] However, as far as individual reporting goes, the system does not require individuals who are not senior staffers to declare a conflict of interest.[57] This raises problems in some contexts. For instance, lawyers and related staffers at the U.N. Global Compact raise funds and conduct due diligence on companies for issues related to human rights, anti-corruption, labor, and the environment.[58] Sometimes, these companies include their former clients or companies where their spouses work. Unless these lawyers occupy senior executive positions, they lack the means to disclose conflicts of interests or excuse themselves because of duties owed to former clients.[59]

---

53. U.S. DEP'T OF STATE, 2 FOREIGN AFFAIRS MANUAL § 312 (1999), https://fam.state.gov/FAM/02FAM/02FAM0310.html#M312 [https://perma.cc/PT5V-GLVE].

54. U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., APPENDIX A: NOTES ON PREPARATION OF THE COUNTRY REPORTS AND EXPLANATORY NOTES (2018), https://www.state.gov/documents/organization/160526.pdf [https://perma.cc/78L3-QTPZ].

55. Moley, *supra* note 15, at 369.

56. *See Financial Disclosure Program*, UNITED NATIONS ETHICS OFFICE, http://www.un.org/en/ethics/disclosure.shtml [https://perma.cc/NFK6-GMLB].

57. Staff members who are D-1 level or above, responsible for procurement or investment, work in the U.N. Ethics Office, or work on the U.N. Pension Fund must file financial disclosure forms, in accordance with the U.N. Secretary General's Bulletin on "[f]inancial disclosure and declaration of interest statements." ST/SGB/2006/6, UNITED NATIONS (Apr. 10, 2006), http://www.un.org/en/ga/search/view_doc.asp?symbol=ST/SGB/2006/6 [https://perma.cc/U2SN-4FFB].

58. *See The Ten Principles of the UN Global Compact*, UNITED NATIONS GLOBAL COMPACT, https://www.unglobalcompact.org/what-is-gc/mission/principles [https://perma.cc/WW63-4FXN].

59. *See Our Integrity Measures*, UNITED NATIONS GLOBAL COMPACT, https://www.unglobalcompact.org/about/integrity-measures [https://perma.cc/AH8Z-FKW3].

Although the U.N. Ethics Office broadly defines conflicts of interests for both individuals and organizations, it has no reporting mechanism for organizational conflicts of interest.[60] Some U.N. agencies and offices have drawn criticism over organizational conflicts of interest. For instance, an NGO, Corporate Accountability, criticized the U.N. Framework Conventions For Climate Change ("UNFCC") for affording observer status to organizations representing the interests of climate change- denying companies.[61] Those organizations include World Coal Association and Competitive Enterprise Institute, representing Exxon Mobil and Chevron, among others.[62] Their "observer status" allows these organizations to host side events in the "civil society village" and sponsor conferences.[63] Critics argue the presence of such interest groups as observers creates a conflict of interest for the UNFCC.[64]

Specifically considering core human rights work, the U.N. Office of the High Commissioner for Human Rights codifies some ethical principles in its training manual. The manual covers instructions for human rights work including interviews, investigations, criminal prosecutions, human rights reporting, visiting persons in detention, monitoring abuse, and related matters.[65] In essence, it insists that U.N. staffers do no harm and avoid further traumatizing abused or at risk people or populations.[66] It also instructs staffers regarding respect for local populations and customs.[67] Although the manual covers ethical guidelines in detail, it lacks enforceability. In general, the U.N. needs to undertake further efforts to make detailed ethical codes applicable across U.N. agencies and introduce independent disciplinary mechanisms to enforce those codes.

3. INTERNATIONAL NGOS

International NGOs are at the forefront of human rights efforts globally. But as the International Council on Human Rights and Policy reminds us in its report on human rights organizations, "[I]t should never be assumed, simply because an

---

60. *See Ethics Advice and Guidance, Conflicts of Interest*, UNITED NATIONS ETHICS OFFICE, http://www.un.org/en/ethics/conflictofinterest.shtml [https://perma.cc/26SB-Q9FK].

61. *See How the Fossil Fuel Industry Influences the UNFCCC*, CORP. ACCOUNTABILITY, https://www.corporateaccountability.org/wp-content/uploads/2016/10/cai_conflictsofinterest_mediaprimer-V3-1.pdf [https://perma.cc/FMV8-BACA].

62. *Id.*

63. *See* Michael Slezak, *Fossil Fuel Lobby Could Be Forced to Declare Interests at UN Talks*, THE GUARDIAN (May 17, 2017), https://www.theguardian.com/environment/2017/may/17/fossil-fuel-lobby-to-declare-interests-at-un-talks [https://perma.cc/SK4L-9RMZ]; *see also* Murray Dobbin, *Can You Say "Conflict of Interest"? Not at the UN*, COUNTER PUNCH (Nov. 3, 2017, 1:50 AM), https://www.counterpunch.org/2017/11/03/can-you-say-conflict-of-interest-not-at-the-un/ [https://perma.cc/TX3X-SFNC].

64. *See How the Fossil Fuel Industry Influences the UNFCCC*, *supra* note 56.

65. U.N. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, TRAINING MANUAL ON HUMAN RIGHTS MONITORING, at 87–92, U.N. Doc. HR/P/PT/7, U.N. Sales No. E.01.XIV.2 (2001).

66. *Id.* (specifying practices for interviewing victims of torture and trauma; specifically, interviewers are instructed to avoid further traumatizing victims or witnesses).

67. *See id.*

organization has a mandate to protect human rights, that those the organization was established to protect or represent are being given appropriate attention and respect."[68] It further calls on human rights NGOs to "avoid exploiting or further victimizing members of the constituency."[69] Towards that end, the World Association of NGOs ("WANGO") issued a general Code of Ethics and Conduct for NGOs. This Code calls on NGOs to have clearly defined missions and to evaluate their activities against their stated missions or aims. Some NGOs have also adopted the International NGO Charter that calls for greater accountability and transparency. But several prominent NGOs, including the Human Rights Watch, have no formal guidelines or rules covering their practice.[70] Although they have letters, trainings, and established practices, they do not have a code of conduct.

In 2006, Amnesty International, Oxfam, and Greenpeace agreed to adopt a joint accountability charter governing their staff and operations.[71] The ICRC also has a code of conduct for its employees.[72] But the overarching problem with these charters and codes for international NGOs is this: it is unclear whether they create independently enforced disciplinary procedures or mechanisms. In light of recent scandals concerning Oxfam, the efficacy of these codes is particularly open to question.

4. ACADEMIC INSTITUTIONS—INSTITUTIONAL REVIEW BOARDS FOR HUMAN SUBJECT RESEARCH

In the aftermath of Nazi experimentation on human subjects, the Nuremberg Code and Helsinki Declaration detailed ethical obligations owed to human subjects of research.[73] Article 7 of the International Covenant on Civil and Political Rights further elaborated on the rights of persons to consent to any research.[74] Initially, discussions about human subject research focused on medical applications. But over the years, the discussions widened to include social science and legal research. Lawyers working with a group of victims as part of research for a court, tribunal, NGO, or academic institution may be participating in human

68. INT'L COUNCIL ON HUMAN RIGHTS POLICY, HUMAN RIGHTS ORGANISATIONS: RIGHTS AND RESPONSIBILITIES: FINAL DRAFT REPORT 2009 33 (2009), http://www.ichrp.org/files/reports/67/119_report.pdf [https://perma.cc/427B-3KUW].

69. *Id*. at 32.

70. Barrish, *supra* note 14.

71. Hugh Williamson, *Greenpeace, Oxfam, Amnesty Agree Code of Conduct*, FIN. TIMES (June 2, 2006), https://www.ft.com/content/fe3ecf5c-f268-11da-b78e-0000779e2340 [https://perma.cc/EV9Z-ELWJ].

72. Int'l Comm. of the Red Cross, Code of Conduct for Employees of the ICRC, RH DIR 14/02 (Feb. 27, 2014), https://www.icrc.org/sites/default/files/document/file_list/rh-dir-code-of-conduct-final.pdf [https://perma.cc/EVY3-DB95].

73. Sev S. Fluss, *The Evolution of Research Ethics: The Current International Configuration*, 32 J.L. MED. & ETHICS 596, 597, 599 (2004).

74. International Covenant on Civil and Political Rights art. 7, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 999 U.N.T.S. 171.

subject research. U.S. federal law provides for IRBs that oversee such research and set parameters for obtaining informed consent.[75]

Several universities mandate IRB approval for human subject research, regardless of whether federal law requires such approval. Nonetheless, many law school clinics do not need IRB approval, either because their work does not count as human subject research or because they operate through private institutions with private funding.[76] Clinical human rights practice typically involves fact-finding, interviewing, advocating, and litigating while working with non-profits and third-party victims. Although many law school clinics have special trainings, there exists no overarching agreement about what principles international human rights lawyers and advocates must follow.[77] Overall, lawyers and legal academics working through universities, tribunals, or other non-profits are not required to strictly comply with a rigorous ethical regime in all cases. Even if they seek and obtain approval from their IRBs, IRBs have no liability for any faulty research that they approve or means to monitoring overseas projects.[78] Having examined existing professional codes, the next section explores special ethical challenges related to the work of international human rights lawyers.

II. MEANS AND ENDS

A. INTERNATIONAL HUMAN RIGHTS LAWYERING RAISES UNIQUE ETHICAL CHALLENGES

Advocating for human rights in the international context raises a unique set of challenges, especially for lawyers serving as human rights advocates or activists. These lawyers are not necessarily subject to existing codes of conduct of established bar associations. Since their activities depart significantly from traditional legal work, it is questionable whether existing rules definitively answer their ethical concerns. Generally, tensions in this area broadly fall into the following categories: (i) client, cause, and victims triad; (ii) continuing victimization; and (iii) clashes between local culture and international human rights norms.

1. WHO IS THE CLIENT?

The question concerning the client's identity raises the biggest set of ethical challenges in this area. Do international human rights activists and lawyers serve a client, the victims, or the cause more generally? Or do they serve a client who represents the cause and the victims? Concerns in this area created academic support for client-centered lawyering. Proponents of client-centered lawyering contend that lawyers must recognize that a client "owns" the problem and its

75. *See* 45 C.F.R. §§ 46.101–46.124 (2012).
76. Moley, *supra* note 15, at 373–74.
77. *Id.*
78. *Id.* at 377–79.

solution.[79] Although this approach originated in U.S. legal circles, proponents argue that applying the client-centered approach globally could help solve ethical challenges associated with lawyering for international human rights.[80] To understand the individual client, Professor Dina Haynes proposes that lawyers understand that the client may: (i) be an individual person or group; (ii) pursue goals on behalf of itself/herself that impact the group; or (iii) pursue a matter on behalf of others who may be objects of a remedy.[81] Her approach is not without problems.

In cases where the client is an individual, such as an asylum seeker, the application of Professor Haynes' methodology is straightforward. But where groups are concerned, complications arise. For instance, when an anti-honor violence NGO approaches a human rights clinic in the U.S. to petition a human rights commission in a third country because of honor crimes occurring in the third country, who is the client? Is it the anti-honor violence NGO, the victims impacted in the third country, or the cause more generally? Answering this question is important. To the extent the goals and wishes of all three groups are similar, complications do not arise, but when objectives depart, international human rights lawyers must make critical choices.

Addressing this issue in her article, Barbora Bukovska explains the impact of the case *Koptova v. Slovak Republic*.[82] An international NGO brought this case under the International Convention on the Elimination of Racial Discrimination.[83] The case concerned two municipalities of Eastern Slovakia. In 1997, those municipalities enacted laws forbidding Romani families from registering and settling in those municipalities. The international organization sent a complaint to the U.N. Committee on the Elimination of Racial Discrimination. Under international pressure, the municipalities rescinded the discriminatory laws.[84] The international organization celebrated the Committee's ruling as a great victory and engaged in widespread international publicity. But the ruling changed nothing on the ground: in practice, Romani families were unable to register in those municipalities. The international organization did nothing to follow up.[85] When Barbora Bukovska contacted the international organization to follow up, they informed her that the matter had been sufficiently addressed at an

79. *See generally* DAVID BINDER & SUSAN PRICE, LEGAL INTERVIEWING AND COUNSELING: A CLIENT-CENTERED APPROACH (1977).

80. Dina Francesca Haynes, *Client-Centered Human Rights Advocacy*, 13 CLINICAL L. REV. 379, 379–416 (2006).

81. *Id*. at 395–96.

82. Barbora Bukovska, *Perpetrating Good: Unintended Consequences of International Human Rights Advocacy*, 9 SUR—INT'L J. ON HUM. RTS. 7, 14 (2008). *See generally* U.N. Comm. on the Elimination of Racial Discrimination, *Anna Koptova v. Slovak Republic*, U.N. Doc. CERD/C/57/D/13/1998 (Jan.11, 2000) (discrimination against Roma minority contrary to Article 5(d)(1)).

83. International Convention on the Elimination of All Forms of Racial Discrimination, *opened for signature* Dec. 21, 1965, 660 U.N.T.S. 195 (entered into force Jan. 4, 1969), http://www.refworld.org/docid/3ae6b3940.html (last visited Feb. 20, 2019).

84. Bukovska, *supra* note 77, at 14.

85. *Id*.

international forum and was no longer of interest to them.[86] This case illustrates the challenges of representing organizations divorced from victims.

Accordingly, Professor Haynes advocates in favor of considering victims as clients, noting that the "further away the advocate is from having a direct relationship with the persons affected by a human rights abuse, the harder it is to be client-centered in the decision making process, and the greater the risk for the advocate of "'othering,' essentializing, and otherwise making assumptions about the goals of the persons who have been, or are immediately at risk of being subjected to the abuse."[87]

Even if we think of victims as a class, there may be cases where the interests of individual groups of victims or subgroups of victims differ, making it hard to have a client-centered approach while representing diverse clients. Moreover, false expectations may arise if a lawyer represents himself as counsel to all victims. Additionally, in areas concerning acceptance of female genital mutilation ("FGM") and other cultural practices, a client-centered approach may raise ethical problems for international human rights lawyers. In some cases, it may not be possible to think of clients as victims. For instance, in honor killings cases, the victims are dead. It would be hard to adopt a client-centered approach where the clients are dead victims. In such cases, families or communities cannot be thought of as clients because families or members of the community are typically complicit in honor killings cases.[88] In those circumstances, it may be more useful for human rights lawyers to serve a cause, not a client, or to think of the cause as their client.

In general, serving a wider cause instead of a specific client comes with challenges of its own. The interests of real victims may be subordinated to some distant, hard-to-understand cause, creating mismatches between expectations and general community apathy for the lawyers involved. The case of the Harvard researchers interviewing Palestinian refugees for the higher cause of publication, at the cost of making traumatized refugees relive their trauma in exacting detail illustrates the problem associated with lawyers' singular commitments to higher causes.[89] Critics of Western human rights standards also admonish the choice of the cause and the strategies used. Per Professor Mutua's Savages/Victims/Saviors dynamic, human rights activists think of themselves as saviors protecting victims from savages, essentializing themselves, as well as others, in their frivolous

86. *Id.*

87. Haynes, *supra* note 75, at 399.

88. Morial Shah, Karo-Kari: Crime and Justice (June 2014) (unpublished dissertation, University of Cambridge) (on file with author and available at Squire Law Library, Faculty of Law, University of Cambridge).

89. Moe Ali Nayel, *Palestinian Refugees Are Not at Your Service*, THE ELECTRONIC INTIFADA (May 17, 2013), https://electronicintifada.net/content/palestinian-refugees-are-not-your-service/12464 [https://perma.cc/25EQ-G7SB].

attempt to solve problems they do not fully understand.[90] Overall, the cause-based approach does not entirely solve problems in this area and the client-centered approach does not work in all cases. A holistic approach to this problem requires incorporating a case-by-case analysis, with international human rights lawyers or activists clearly and categorically choosing as their client a person, persons, or cause, in different cases, depending on the context.

2. CONTINUING VICTIMIZATION

Human rights work searches for victims. It tells us stories of singular victims who are "weak, submissive, pitied, defeated, and powerless."[91] In doing so, human rights reports reduce peoples' multifaceted stories of struggle and survival into simple, pity-warranting stories. Professor Kennedy argues such reporting is "inherently voyeuristic or pornographic" no matter how carefully it is done.[92] It miniaturizes well-rounded, whole people to fit them into neatly checked victim boxes. Professor Mutua adds to the criticism, pointing out that the purported victim is presented as a "powerless, helpless, innocent whose naturalist attributes have been negated."[93] In reproducing reports containing these one-dimensional depictions of victimizations, human rights lawyers and activists contribute to perpetuating problematic narratives of victimhood.[94]

Critics also criticize international human rights organizations, advocates, and activists over the way they collect information. Human rights advocates may outsource interviewing to local NGOs or groups who may use questionable practices. In cases where linguistic barriers exist, miscommunication may cause confusion among interview subjects regarding the use of their information. In some cases, interview subjects may emerge feeling exploited and traumatized from the entire process.[95] As Barbora Bukovska explains, "When no practical remedy is seen on the ground, communities and individuals affected by the particular problem subsequently feel disillusioned, as they conclude that everybody wants to hear their stories but nobody wants to help them."[96] Addressing concerns in this regard may require changing the language of victimization and altering the way human rights advocates share stories of impacted persons or populations.

---

90. Makau Mutua, *Savages, Victims and Saviors: The Metaphor of Human Rights*, 42 HARV. INT'L. L.J. 201 (2001).

91. Bukovska, *supra* note 77, at 10.

92. DAVID KENNEDY, THE DARK SIDE OF VIRTUE: REASSESSING INTERNATIONAL HUMANITARIANISM 29 (2005).

93. Mutua, *supra* note 85, at 203.

94. Bukovska, *supra* note 77, at 10.

95. *See* Nayel, *supra* note 84 (highlighting general confusion and disaffection created during the interview and fact-finding process).

96. Bukovska, *supra* note 77, at 12.

3. LOCAL CULTURE AND INTERNATIONAL HUMAN RIGHTS NORMS

Cultural differences add another layer of complexity to human rights work. In some cases, human rights advocates' understanding of human rights norms may conflict with the cultural norms of local communities. Theorists and practitioners generally describe ways in which advocates can adopt problem-solving, inclusive approaches to solve associated problems.[97] In their article on this issue, Daniel A. Bell et al. describe the following responses: (i) tolerating clashing beliefs; (ii) challenging local cultural norms; and (iii) revising principles and practices.[98] Tolerating clashing beliefs involves accepting peoples' different beliefs without respecting those beliefs.[99] Under this view, if a human rights organization's work concerns healthcare access, then the organization may choose to refrain from LGBTQ advocacy and focus on its mandate.[100] But the pitfall of this approach is that it views rights relatively and introduces a certain convenient avoidance of speech that should not be necessary.

Accordingly, the opposing view calls for challenging local cultural norms. Doing so may be unavoidable for organizations advocating against harmful cultural practices such as FGM and honor violence or those generally advocating for a universal vision of human rights. Challenging these norms may in some cases help marginalized community members.[101] In other cases, human rights advocates may have a flawed understanding of local practices or may receive criticism for imposing their own visions of what is right, just, and fair on local communities.[102]

Lastly, the organizational learning perspective suggests international human rights advocates and their organizations may choose to change their policies and practices based on input from non-Western cultures.[103] This approach has the advantage of integrating local feedback.[104] But its disadvantage is that it may make visions for human rights and best practices open for debate, creating uncertainty and generating confusion in the process.

Overall, it appears clear that tolerating clashing beliefs or having a "watch-and-learn" approach may be unhelpful for developing basic ethical standards in the human rights advocacy sector. Although we may wish to integrate multicultural views and approaches, human rights advocates should agree over basic

---

97. *See generally* Daniel A. Bell & Joseph H. Carens, *Ethical Dilemmas of International Human Rights and Humanitarian NGOs: Reflections on a Dialogue Between Practitioners and Theorists*, 26 HUM. RTS. Q. 300 (2004).

98. *Id*. at 303–09.

99. *Id*. at 304–05.

100. *Id*.

101. *Id*. at 307.

102. *Id*.

103. *Id*. at 308.

104. *Id*.

universal human rights principles and integrate them into duties owed to their clients.

B. ASSESSMENT OF PROPOSED SOLUTIONS

Responding to the lack of regulatory standards and distinct challenges in this space, scholars propose different solutions and guidelines. In his framework, Nell Moley presents guidelines mainly concerned with attorneys engaged in international human rights research. He suggests that these attorneys should: (i) "undergo training" before conducting fieldwork; (ii) "fully explain" their relationship to third parties; (iii) carefully construct research based on a harms and benefits balancing test; (iv) take steps to "minimize harm to subjects"; (v) "make the benefits of their work available to" subjects; and (vi) carefully treat "vulnerable populations".[105] In general, his guidelines present a good overall framework for human rights attorneys engaging in international fieldwork and research. But his guidelines do not address issues concerning human rights advocates who may be doing international media related advocacy, drafting laws, negotiating with stakeholders for policy changes, or dealing with concerns related to local cultures. In addition, his guidelines do not propose creating a disciplinary mechanism to hold international human rights lawyers to account.

In her paper on this issue, Rachel Barrish proposes a ten-pronged paradigm, drawing principles from law codes, medical ethics, and journalism. She proposes that the international human rights lawyer or activist: (i) possess competence and specifically enjoy adequate knowledge of foreign law, political circumstances, and cultural context of the client; (ii) maintain communications with the client; (iii) possess independence; (iv) do no harm; (v) carefully assess risks and benefits to the client; (vi) obtain fully informed consent; (vii) work with accuracy and objectivity; (viii) maintain cultural sensitivity; (xi) avoid conflicts of interest; and (x) promote accountability.[106]

Barrish's framework is more holistic than Moley's guidelines. It takes into account the different roles a lawyer may play in the international human rights context and helpfully integrates perspectives from medical ethics and journalism. However, it does not address concerns related to debates over the client's identity, conclusively resolve concerns arising from cultural differences, or sufficiently take into account issues related to continuing victimization of victims or the monopolization of their struggle.

This Article commends Barrish's suggestions and suggests that international human rights advocates also: (i) protect and promote universal human rights as understood in the Universal Declaration of Human Rights; (ii) comply with the duty of confidentiality in general, but not in circumstances where a human rights violation or crime causing substantial harm to persons, financial interests, or

105. Moley, *supra* note 15, at 385–89.

106. Barrish, *supra* note 14.

property is imminent; (iii) determine client or cause identity and serve the needs of that client or cause without compromising on human rights obligations; (iii) clearly explain the nature of their relationship to third parties; and (iv) maintain transparency about funding sources and financial interests. Organizations or associations incorporating these principles must enforce them through independent and impartial disciplinary mechanisms.

CONCLUSION

In Part I, this Article explored various professional regimes governing legal conduct. Different regimes had differing strengths and weaknesses, but they were specifically suited to the countries, tribunals, regions, or types of practice that they envisioned. Dynamic codes of professional conduct for international human rights practitioners were conspicuous by their absence. Part II recognized that legal practitioners of international human rights face unique challenges. Addressing those challenges requires modification of existing principles and codes.

From this standpoint, examining solutions from the literature helped identify persisting gaps in proposed regimes. Accordingly, this Article made some recommendations to address those gaps. The recommendations provided here are neither complete nor exhaustive. Until they are incorporated in future codes of conduct, they remain points of reference, guidance, and discussion. It is hoped that these recommendations will inform future debate and discussion on forming professional standards for international human rights lawyers, holding them to account.

Although several organizations and tribunals have codes of conduct for their staff, in the absence of independent, predictable, and uniform disciplinary mechanisms, their rules do not establish uniform accountability measures for international human rights lawyers. Further regulation should ensure that international human rights lawyers comply with best practices and minimum standards.