

Eyewitness Video's Role as a Policy-Oriented Mechanism for Human Rights

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Abstract

This paper examines eyewitness video's role as a policy-oriented mechanism for human rights by mapping out why and how human rights collectives have been aspiring to professionalize video activism. It shows how the systematic approaches to video production, standards, and training help these collectives tap more prominently into the institutional and legal environments where human rights agendas are developed, discussed, and implemented. The paper argues that the professionalization efforts result in a proxy profession that places activist and other eyewitness videos into institutional and legal service. These pragmatic policy achievements, however, may come at the expense of using video more creatively to advocate for bold programs for human rights and social change.

Keywords: eyewitness video, human rights, Amnesty International, Human Rights Watch, Syrian Archive, WITNESS.

1. Introduction

Images have long been at the heart of human rights activism. Sharon Sliwinski (2011) even argues that "the conception of rights did not emerge from an abstract articulation of an inalienable human dignity, but from a particular visual encounter with atrocities" (p. 58). The examples are numerous. Mark Twain characterized the Kodak camera as an incorruptible witness in the context of the Congo reform movement, which first used the phrase "crimes against humanity" in 1890 to describe King Leopold II atrocities in the country. The photographs depicting the resulting abuse and trauma provided content for policy debates in British Parliament in 1903 (Sliwinski, 2006). Film, like photography, was also used as an early tool for what is now seen as human rights advocacy. The campaign to raise awareness about and provide relief to the survivors of the Armenian genocide was organized around screenings the film *Ravished Armenia* (dir. Oscar Apfel, 1919), which were accompanied by a conversation with a survivor (Torchin, 2012).

The interlinking of visual imagery with human rights concerns is evident in the work of Taller de Gráfica Popular (TGP), a print art collective in Mexico. As early as 1938, TGP produced multiple posters and held public lecture series that supported the Anti-Nazi League. In 1943, TGP produced a series, which included the first known image of the Holocaust outside of Europe: Méndez's renowned linocut *Deportación a la Muerte* (Craven, 2002). The image depicts the horrific moment of deportation to the concentration camps, with two Nazi soldiers shown how

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they are about to close a train wagon crowded with people. The Universal Declaration of Human Rights was indeed drafted in 1948 in the wake of the mass circulation of photographs depicting the horrors of the concentration camps during the Holocaust. A year later UNESCO organized a traveling human rights exhibition to visually represent the significance of the declaration.

Since then, the global human rights community has continued to implement new visual technologies. Satellite images, for example, became key evidence for revealing mass graves in Bosnia during the Yugoslav wars in the 1990s (Parks, 2001). Over the last two decades, social movements around the world have turned to video as an important vehicle for witnessing human rights abuses like the Saffron Revolution in Myanmar, the Green Movement in Iran, and the Black Lives Matter in the U.S. In other words, visual imagery has long mattered for human rights activism, and video is the latest tool in those efforts.

Human rights collectives have been borrowing from this long-standing and wide-ranging tradition, seeking to professionalize human rights video activism so they can better leverage video's evidentiary, policy, and advocacy potential in serving human rights goals. *Human rights collectives* is an umbrella term for the diverse range of human rights organizations, activist groups, and networks that constitute today's global human rights movement like Amnesty International (thereafter Amnesty), Human Rights Watch (HRW), Forensic Architecture, Syrian Archive, University of California at Berkley's Human Rights Center (HRC), and WITNESS. Following Tina Askanius's (2020) practice-based framework, *human rights video activism* denotes a various set of practices that document and voice critique against global instantiations of civil, political, economic, cultural, social, and environmental injustice.

This paper examines eyewitness video's role as a policy-oriented mechanism for human rights by mapping out why and how human rights collectives have been aspiring to professionalize video activism. It shows how the systematic approaches to video production, standards, and training help these collectives tap more prominently into the institutional and legal environments where human rights agendas are developed, discussed, and implemented. The paper argues that the professionalization efforts result in a proxy profession that places activist and other eyewitness videos into institutional and legal service. These pragmatic policy achievements, however, may come at the expense of using video more creatively to advocate for bold programs for human rights and social change.

2. Methods

This paper is adapted from a longer book project, spanning ten years of qualitative research. Specifically, the methodology is based on 60 interviews with staffers at the above-mentioned human rights collectives as well as attorneys, archivists, and audiovisual specialists at the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Court (ICC). The interviews, ranging between sixty and ninety minutes, were conducted in-person or online and consisted of broad and open-ended questions. The interview data is supplemented with site visits to the organizational headquarters in New York City, Washington DC, London, Brussels, and The Hague. The methodology also includes textual analysis of over 400 videos in addition to organizational documents, training guides, video resources, and court trial transcripts (for more information see Ristovska, 2021). By charting the institutions, agents, and practices that set video to work as a tool for human rights policy making, this paper maps the power and limitations of the professionalization dynamics shaping a particular iteration of human rights video activism today.

3. New institutional ecology for human rights video

Although the proliferation of human rights videos stems from a rich history of visual activism around the world, activist videos today feature more prominently across institutional and legal environments that have tended to disregard such content as a form of legitimate evidence (e.g., Fuller & Weizman, 2021; Richardson, 2020). The unreliability of visual materials, their emotional resonance, and the partisan underpinning of activist footage have been typically invoked as grounds for evidentiary dismissal. This classification of video, though, is slowly starting to change. To give just one example, over 30 years ago, Los Angeles resident George Holliday saw police officers beating an African American man called Rodney King. From the balcony of his apartment, Holliday recorded a video of the incident, which was then widely circulated by mainstream media channels. The recorded event also led to street riots and brought the policemen to trial on charges of assault and excessive use of force.

The use of this eyewitness video is important for another reason as well. It precipitated a shift in the role and scope of visual evidence not only in the law but also across journalism, political advocacy, and human rights practice. Yet U.S. courts still lack unified guidance for the use of video as evidence (Feigenson & Spiesel, 2009; Ristovska, 2020), and back then there was a hesitation about the power of such videos even in the journalistic community. According to one journalist at the time, eyewitness images were sensationalist, valuable in local news only when depicting "fires, car crashes and other minor disasters" (Cobb, 1995: n.p.). Popular shows such as ABC's *America's Funniest Home Videos* and NBC's *Unsolved Mysteries* were quickly labeled "pseudo-news shows ... sensationalizing TV news, with more emphasis on moral disorder and a leaning toward the subjective" (Walker, 1991: para. 3). Eyewitness videos were seen as good for ratings, and the Poynter Institute was concerned that "[i]t's hard enough for journalists to monitor the work of other journalists, but when you add to that the work of amateurs, the situation becomes impossible" (cited in Cobb, 1995: n.p.).

WITNESS, in contrast, interpreted the Holliday tape as a game changer for human rights practice, thus seeking to develop and maintain verification and ethical standards for eyewitness videos. It built the human rights channel the Hub as a repository of online human rights videos in 2007, not long after the launch of YouTube in 2005. The goal was to advocate "for a new global standard for human rights video online" (Thijm, 2010: para. 5). Yet according to Sameer Padania, the Hub manager at the time, this was not an easy task:

It is very clear now that we were doing journalism. ... We were trying to gather video from around the world, wherever it came from, and then place [a] metadata frame around it. We needed that metadata to reflect the kind of human rights values and challenges that we were trying to wrestle with at the time. We were [among] the first people to do this. Nobody had ever done it before. Most people told us that we were either irresponsible or going to fail terribly. ... We were juggling a lot of [factors] around that, trying to understand how this kind of video could be used. Most people were pretty dismissive of it (Skype interview, 28 July 2015).

Needless to say, the situation today is very different. Various institutions are turning to these videos out of practical necessity to offset different set of cultural, social, financial, and technological challenges (e.g., Dubberley, Koenig & Murray, 2020; Ristovska, 2019). For example, the increasing use of eyewitness video in news reporting, criminal investigations, and human rights advocacy has been the result of wide-ranging concerns such as journalism's inability to report directly from conflict areas like Syria and Myanmar, the costs associated with witness protection at international criminal courts and tribunals, and the emerging forensic sensibility across law and policy domains.

It is not so surprising, then, that when Amnesty launched the Citizen Evidence Lab in 2014, the Poynter Institute enthusiastically proclaimed that "Amnesty International is in the

verification game and that is good news for journalism" (Silverman, 2014). The Lab is an online platform dedicated to video verification training, skills, and resources. It includes guides on how to conduct effective online inquiries, tips for viewing and verifying online videos, case studies, and other resources and tools for authenticating and archiving activist and other eyewitness footage. Human rights workers and journalists have both used the platform. Moreover, human rights collectives have been training not only activists but also journalists on how to develop skills to better evaluate and use eyewitness videos in news reporting. The rising visual expertise of human rights staffers helps explain the emerging cross-hiring trends in journalism and human rights practice, with former Amnesty, HRW, and HRC staffers currently working for digital investigation teams at news organizations like the New York Times (for more see Ristovska, 2022).

The necessity for verification measures and investigative standards for activist and other eyewitness video is emerging from within a new media ecology where visual human rights content exists alongside other forms of contemporary media activism and social movement media. This interlinked media ecology consists of grassroots activists, a range of eyewitnesses who document unfolding incidents of violence, human rights collectives, journalists, governmental agencies, international courts, international investigative bodies, and corporate social media platforms. One example of this interaction involves a well-known legal case in the human rights community.

The ICC issued an arrest warrant in August 2017 for an alleged commander in Libya accused of having committed or ordered thirty-three murders in Benghazi. The warrant was based largely on footage uploaded to Facebook, which quickly took down one of the graphic videos for violation of its terms-of-service agreement by supposedly promoting terrorist propaganda. Removals like this one have become a rather common practice among social media companies, with governments around the world encouraging the trend (HRW, 2020). Not only is the definition of extremist content and terrorist propaganda a subject to political contestation in its own right (Tufekci, 2017), but also potentially important evidentiary materials for human rights work are also disappearing in this push for social media content regulation. Acknowledging the people who record and upload such footage at great personal risks, human rights collectives have expanded their work on video standards, advocating for policy measures and preservation mechanisms.

The ICC case is just one example that highlights the multivalent networks of interaction between different institutions, social media platforms, activists, and human rights collectives. What develops from this interaction is an institutional blending that can best be described under the sociological rubric of new institutionalism (e.g., Powell & DiMaggio, 1991), wherein institutions converge and transform because of facing similar circumstances—in this case the increasing role of video as a unique material for policy making. In other words, new institutionalism accounts for the circumstances that give rise to the institutional locus supporting the unfolding professionalization of human rights video activism.

As video attains legitimacy, it becomes a form of knowledge that various professions must address in an organized fashion. For example, the growing need for systematic use, verification measures, evidentiary standards, and interpretive schema for human rights video moves across journalism, the law, and political advocacy. Human rights collectives have seen this turn to video as a prosperous moment, adapting and shaping the values and practices central to video activism in ways that propose solutions to current institutional and legal problems. By doing so, they have pursued efforts to professionalize human rights video activism.

4. The professionalization of human rights video activism

Professionalization is widely understood as a process by which occupations define the nature and extent of their work (Elliott, 1972; Larson, 1977; Waisbord, 2013). It typically leads to the development of autonomous professions like medicine and the law, which sociologists use as prime examples. Although human rights video activism has traditionally existed as an occupational craft, two key developments facilitate its unfolding professionalization. On the one hand, the increasing incorporation of activist and other eyewitness videos across journalistic, legal, and political domains has created interconnected institutional circumstances that demand practices and doctrines that can account for this type of evidence. Human rights collectives have embraced professionalization as a means by which they can place their work strategically across institutions. On the other hand, different civil groups and social movements have turned into NGOs to secure better access to funding structures and decision-making processes, becoming key representatives of civic voices across institutions (Lang, 2013). By some accounts, this so-called NGO-ization process has been vital to the global prominence of the human rights movement (Neier, 2012). It has also been important for the professionalization dynamics shaping visual human rights practice.

Through their aspirations to professionalize video activism, human rights collectives claim visual expertise over the production, verification, and use of various images of suffering while their NGO status is critical for providing organizational home and economic support for video activism writ large. In what follows, the paper discusses the professionalization efforts, which include the development of systematic approaches to video production, standards, and training, all geared towards distinct audiences and stakeholders.

4.1 Video production

Human rights video production is thought to require a specialized set of knowledge and skills so that the resulting videos can contribute to policy debate, justice, or social change. Human rights collectives thus think through mechanisms that take into account the whole video-making process. They maintain that, beyond technical and storytelling competence, the deployment of video in human rights work means learning how to tailor the content, style, and distribution plan according to the audience who can take a particular course of action. According to Daniel Eyre, a former researcher at Amnesty:

Your objectives and the audiences you want to reach are the primary considerations in how you decide to tell a story; ... then that can be shaped in different ways according to what kind of video material you have and also [according to the] different priorities within Amnesty. We always have a debate about what our key messages are and that will often reflect people's priorities for the audience. So, some people will be more oriented towards reaching government officials; some people [will be] more oriented to reaching the domestic or international media and the international public; and some people will be more oriented towards reaching Amnesty's membership. So, there can be different priorities in terms who you want to reach with the story. But the audience is one of the main driving factors behind how the story is structured (Skype interview, 14 August 2015).

In other words, professionalization is pursued as a guiding mechanism for the production of human rights videos that meet the criteria of different institutional milieus and that engage public venues when necessary. Kelly Matheson, former senior attorney and program manager at WITNESS, similarly emphasizes the importance of making videos "that the BBC can verify and broadcast, the UN Security Council could rely on, commissions of inquiry might use and that courts could be able to use ... for long term justice and accountability" (interview, New York City, 22 July 2015). This kind of prospective reasoning is seen as the best way to ensure that

video lives up to its policy potential. As a result, to professionalize video activism, human rights collectives often incorporate production strategies that mimic the professional paradigms or needs of the targeted audiences.

WITNESS, for example, has trained and equipped activist groups to submit video evidence to the ICTY (video interviews with survivors of a massacre) and to the tribunal in Rwanda (video recording of the exhumation of genocide victims). Bukeni Waruzi, a former senior program manager for Africa and the Middle East at WITNESS, shot a video of child soldiers serving in the Democratic Republic of Congo (DRC). Born and raised in the DRC, he was personally invested in exposing the human rights violations there. He edited two separate versions of the footage – one for the local communities, who were generally approving of the recruitment of children, and another for the ICC. Waruzi told me:

The video I made for the communities in the DRC was totally different from the video I made for the ICC. The difference, of course, is driven by the audience. ... I wanted [the parents] to take a stand after they saw the video in terms of preventing the recruitment, discouraging their children from joining the militia. ... When you go to the ICC, you want the ICC to understand the necessity of prosecuting those who are recruiting child soldiers" (interview, New York City, 6 August 2015).

His statement iterates the centrality of audience differentiation for unfolding video activism patterns. Waruzi's video, *A Duty to Protect: Child Soldiers in the Democratic Republic of Congo*, was used as evidence to establish the age of the soldiers during the ICC trial.

4.2 Standards

Standards are an important part of the efforts to professionalize human rights video activism because they embody the ideals and principles that guide the production of specialized knowledge. Human rights collectives have been developing and promoting standards for ethical, safe, and efficient video making as well as for video verification, investigation, and preservation. Such standards are critical at times when international court systems lack consistent measures for the use of video as evidence. Judges at international courts come from both common and civil law traditions that are different in their approaches to evidence, complicating the decision making on the admission of video as evidence and its weighing. According to Keith Hiatt (2016), "the ICC's flexible evidentiary standard allows it to take a holistic approach to weighing evidence. On the other hand, the flexibility has the effect of concealing the standard. The weighing happens in the judges' heads, not in written decisions" (p. 329). Human rights collectives thus work on standards that can ensure consistency in the legal treatment of video as evidence.

HRC, HRW, Syrian Archive, and WITNESS, for example, have collaborated with the ICC, the United Nations Office of the High Commissioner for Human Rights (OHCHR), the International, Impartial, and Independent Mechanism on international crimes committed in Syria, the Institute for War, Holocaust, and Genocide Studies, and other institutions to standardize verification and archival mechanisms for eyewitness video in order to strengthen its evidentiary potential in international criminal investigations and trials. To support the establishment of consistent standards, HRC and OHCHR published the *Berkeley Protocol on Digital Open Source Investigations: A Practical Guide on the Effective Use of Digital Open Source Information in Investigating Violations of International Criminal, Human Rights and Humanitarian Law in 2020.* The Berkeley Protocol follows two earlier UN initiatives: the Minnesota Protocol on the Investigation of Potentially Unlawful Death and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The editorial and advisory committees included not only legal experts but also human rights staffers. The Berkeley Protocol provides international standards and guidance for human rights investigators, including media outlets, civil society groups, national

and international agencies, and courts. Human rights staffers also sit on the ICC's Technology Advisory Board that guides the court on new forms of digital evidence like eyewitness video from social media.

Archival and preservation standards for video is another area where human rights collectives have been developing expertise. To address the problem with social media content moderation, for example, they often advocate for policy changes and best practices that preserve online imagery and other data that may be valuable as evidence of human rights violations. Syrian Archive has been at the forefront of thinking about appropriate archival models while HRW (2020) recommends following the model for child sexual exploitation online. In the U.S., social media platforms are legally required to take down such content and then to share a copy and the relevant metadata with the National Center for Missing and Exploited Children, which has a legal right to possess such materials indefinitely and to co-operate with law enforcement nationally and internationally. They believe this model could be adapted to address the disappearance of online videos of potential human rights concerns. By proposing and promoting various standards for video, then, human rights collectives are further solidifying their professional expertise.

4.3 Training

Formal training constitutes an important aspect of professionalization. Although there is no formal education for human rights video activism and its related practices, human rights collectives conduct online and in-person training internally for their staff and externally for others. Training helps shape human rights video activism ahead of time, suggesting that activism is no longer a practice that can be learned on the spot but one that should be understood in advance to ensure effective use of video across policy-relevant contexts. Through training, human rights collectives diffuse relevant knowledge that other video activists and human rights practitioners can apply.

Amnesty, for example, runs specialized programs like the Digital Verification Corps (DVC), a partnership with seven universities in the U.S., Canada, Mexico, UK, South Africa, and Hong Kong, that trains students on how to verify eyewitness imagery and then uses the students' work to support the reporting by Amnesty's research teams. This program "helps Amnesty deal with a huge amount of content at scale" while offsetting the lack of skilled labor in this area (S. Dubberley, WhatsApp interview, 24 July 2019). WITNESS has developed a specialized "video as evidence" program, training, and curriculum. The program is active in the Middle East, Brazil, Ukraine, India, and the U.S. According to Kelly Matheson, who developed the Video as Evidence Program, "activists really need to know a little bit about the law, and lawyers need to know a little bit about filming so they can communicate with each other" (interview, New York City, 22 July 2015). Training is intended to teach activists how reliability and relevance are established and how crimes are proved in court as well as to help judges and attorneys learn how to probe and ask pertinent questions about the video materials submitted as evidence.

To summarize, this section has demonstrated how through video production, standards, and training developed to accommodate external professional dynamics and internal needs for legitimacy and impact, human rights collectives seek to professionalize video activism as a practice so they can better leverage video's potential to serve diverse evidentiary, policy, and advocacy functions. Yet the professionalization efforts are contingent upon other institutional environments and their professional logics. As a result, the professionalization is a primarily outward-looking process that does not involve the kind of licensing procedures, competence tests, and educational accreditations that are emblematic of traditional professions like medicine and the law.

In other words, the efforts to professionalize human rights video activism are incomplete, suggesting more of a professional orientation about what to do and what to avoid when using video for institutional and legal decision making. They amass to a process that gives rise to a proxy profession that puts its knowledge to use when brokering between various publics and the institutions that serve public needs. Though the proxy profession is unable to reach professional autonomy and independence, it can better exist within and alongside the environments through which human rights claims receive fuller recognition and restitution. As proxy professionals, human rights collectives can ensure video's potential to serve important policy functions by addressing the needs and mimicking the modalities and logics of other professions.

The term proxy draws from its literal meaning as substitute. By providing pragmatic solutions to various journalistic, legal, and policy challenges with evidentiary standards, verification mechanisms, investigative and archival protocols, human rights collectives put their visual expertise to work for other professions. In the process, they make human rights activist videos more likely to set news agenda; to provide medium and content for policy debate; to serve as legal evidence; to facilitate legal argument; to function as a forensic tool and record; to support the legal process; to offer a means of legal education; and to establish communications that influence how people understand the nature of rights (for further discussion see Ristovska, 2021: 44-46).

5. Discussion and conclusion

The proxy profession offers a pragmatic solution to broaden the reach of human rights videos across institutions. By virtue of its institutional and legal orientation, however, it is less able to retain the flexibility of video activism as a cultural practice that sustains human rights dialogue even in the face of institutional and legal stalemate. Through the proxy profession's institutional and legal legitimacy, human rights collectives help shape video activism strategically as a policy-oriented mechanism for justice and social change. In the process, these human rights collectives are becoming better positioned to validate video's testimonial capacity to produce institutionally and legally meaningful human rights claims than even the activists and other eyewitnesses on the ground who risk their own lives to produce and upload the footage. As a result, the proxy profession embraces a representative function which, despite its important policy achievements, is not immune to the long-standing neoliberal and geopolitical dynamics characterizing the human rights field.

The need to maintain institutional and professional legitimacy to enter the spaces where broader human rights agendas get developed as well as the competition for funding and responsibility towards donors to secure financial survival all motivate the proxy profession to prioritize measurable short-term goals over long-term structural changes. For example, Amnesty and HRW regularly utilize eyewitness videos to produce numerous investigations into Israel's violation of international laws of war without necessarily questioning the state of war itself. Similarly, numerous human rights collectives are doing important work to document potential war crimes in Ukraine. Yet the very existence of these crimes is a testament to the normalization of war even in the larger human rights activist community.

To conclude, this paper has shown how human rights collectives have pursued professionalization by providing pragmatic solutions to various journalistic, legal, and policy challenges with video. There are, however, notable tradeoffs when prioritizing institutional and legal venues to advocate for global human dignity. Thinking about war and conflict zones, for example, demonstrates how human rights collectives are confined to video work that exposes potential war crimes while normalizing the state of war. In this context, the proxy profession can expose injustice by rescuing the institutional and legal powers that tolerate, and indeed justify,

certain violations of human dignity. In the process, the claims, the stories, and voices of those who produce and upload eyewitness videos on social media directly from the scenes of trauma and violence may get lost or caught up in the global hierarchies of human life and the political economy surrounding the production and use of evidence. The proxy profession is thus limited in its ability to facilitate alternative spaces where moral and political communities come together to propose bold programs for human rights and social change.

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