City Research Online

City St George's, University of London

Citation: Hoover, J. (2012). Human Rights Contested. Journal of Intervention and Statebuilding, 6(2), pp. 233-246. doi: 10.1080/17502977.2012.672692

This is the unspecified version of the paper.

This version of the publication may differ from the final published version. To cite this item please consult the publisher's version.

Permanent repository link: https://openaccess.city.ac.uk/id/eprint/2198/

Link to published version: https://doi.org/10.1080/17502977.2012.672692

Copyright and Reuse: Copyright and Moral Rights remain with the author(s) and/or copyright holders. Copies of full items can be used for personal research or study, educational, or not-for-profit purposes without prior permission or charge, unless otherwise indicated, provided that the authors, title and full bibliographic details are credited, a hyperlink and/or URL is given for the original metadata page and the content is not changed in any way. For full details of reuse please refer to City Research Online policy.

City Research Online: http://openaccess.city.ac.uk/ publications@citystgeorges.ac.uk

Human Rights Contested

Human Rights in a Posthuman World: Critical Essays by Upendra Baxi. Oxford: Oxford University Press, 2009. Pp. 266 + xvi + index. £12.99 (pbk). ISBN 978-0-19-806176-2.

Surrendering to Utopia: An Anthropology of Human Rights by Mark Goodale. Stanford, CA: Stanford University Press, 2009. Pp. 180 + xii + appendices + notes + bibliography + index. £17.50 (pbk). ISBN 978-0-8047-6213-7.

The Divided World: Human Rights and Its Violence by Randall Williams. Minneapolis, MN and London: University of Minnesota Press, 2010. Pp. 158 + xxxii + notes + index. £15.00 (pbk). ISBN 978-0-8166-6542-6.

After Evil: A Politics of Human Rights by Robert Meister. New York, NY: Columbia University Press, 2011. Pp. 526 + x + notes + bibliography + index. £41.50 (hbk). ISBN 978-0-231-15036-1.

The central tension of human rights is that they propagate a universal and singular human identity in a fragmented political world. No one writing about human rights ignores this tension, but the most important question we face in judging the value of human rights is how to understand this tension and the divisions it creates. The expected divisions between good and evil, between moral universalists and dangerous relativists, between dignified interventionists and cowardly apologists, have long given shape to human rights, as both an ideal and a political project. These divisions can be seen in the forms of moral authority cultivated by groups like Amnesty International, an organisation whose fight against evil Stephen Hopgood has analysed to great effect (2006). They can also be seen in the always-ongoing defence of the universality of human rights, a project that has no more able defender than Jack Donnelly (2003). And the fraught question of intervention has been answered by many voices over the past decade, some confident and fulsome like Fernando Téson's call for the moral use of military intervention (2005), others more measured like Nicholas Wheeler (2003), and still others marginal and dissident – Anne Orford's recent work is a prime example (2011).

Seeing the problems of (and for) human rights in these habituated ways has dulled our critical judgment, as few want to defend evil or violent particularisms or advocate passivity in the face of suffering. Even among serious and determined critics our inherited divisions are problematic. This is the case whether we think of human rights as the imposition of Western cultural values (Mutua 2002), or in terms of capitalist ideology serving the interests of neo-liberal elites (Evans 2011), or as an expression of exceptional sovereign power at the domestic and global levels (Douzinas 2000). The ways that these divisions deal with the tension at the heart of human rights misses their ambiguity in significant ways. Rather than trying to contain the tensions between singularity and pluralism in a clear and definitive accounting, the authors of the texts reviewed here allow them to proliferate. Rather than trying to resolve the problem of human rights, they attempt to understand human rights in their indeterminate dissonance while exploring what they might become.

Upendra Baxi's *Human Rights in a Posthuman World* carries forward his understanding human rights through a series of loosely connected essays. He begins with a number of issues left unresolved in his previous major work, *The Future of Human Rights* (2007), including the nature and purpose of theoretical inquiry into human rights, as well as consideration of the importance of the emerging idea of right to development, the challenge of what he calls the 'war on terror' and the 'war of terror' for a truly emancipatory human rights, and whether the idea of a posthuman world undermines the *human* rights project as such. His primary point is that when thinking about human rights we should avoid both the desire for a foundational theory *and* the comforts of a theory-less

practical understanding of rights, as both disable the critical and emancipatory potential of human rights. This insight is then developed throughout the core of the text, which looks at Amartya Sen's account of human rights and considers the difficulties and potentials of the emerging right to development. He praises Sen's theory but uses it to highlight the difficulty a general theory of human rights has in addressing the distinct forms of rightlessness and suffering experienced by the marginalised. Baxi's consideration of the right to development is important and well executed, as he looks at the limited promise of national development as an emergent right in the postcolonial period, which was then undermined by a market-oriented understanding of rights fit for an age of neo-liberal globalisation, to set up his argument for a politics *for* development as a human right. This alternative right to humane development stretches the existing legal regime by demanding participation for affected people and a conception of crimes against development, which could be brought against multinational corporations, while acknowledging that such a right would challenge the dominant structures of the global economy. This leads into his wider conclusion that human rights remain a contested project – made in part by and for powerful global actors, while also adapted and innovated by communities of resistance and struggle seeking to create wider solidarity and claim their dignity.

Mark Goodale's *Surrendering to Utopia* begins from a similar concern. Goodale is an anthropologist and centres his study on the historical engagement of the discipline with human rights. His goal is to defend human rights, but understood in an anthropological register that challenges philosophical approaches to rights and should lead us to rethink the political project of creating an international human rights regime. Anthropology, Goodale argues, offers an insight into the coercive power of human rights as practices that remake the social world in profound ways – this remaking, when conducted in a universalist mode that sees relativism as a threat to the possibility of morality and which treats culture as a possession rather than constitutive element of human identity, is necessarily destructive. Beyond offering a critique of human rights that brings together both the conceptual and practical challenges of asserting universal rights in a diverse world, Goodale also offers a defence of human rights, so far as they enable people to transform the everyday lives of struggling peoples in ways that empower them to shape their own ends. This hardly solves all the hard problems, as Goodale acknowledge that rights thinking is constituted by an individualistic modern subjectivity that may be resistant to reconstruction, and may in turn bend those that take up the practices of human rights into shapes they cannot accept. He nonetheless remains optimistic that human rights can serve the goal of emancipation while preserving plurality. In this he is less pessimistic than Baxi. Goodale highlights the possibilities of transnational human rights networks to counter our neo-liberal global order, while Baxi is more sceptical of the coercive function of international law and more aware of the difficult political struggle an emancipatory project faces when it challenges the international political order. For both authors, however, the focus on the practice of human rights draws their attention away from how the *idea* of human rights structures and limits our understanding of world politics and the possibilities of opposition.

Randall Williams, in *The Divided World*, and Robert Meister, in *After Evil*, explore the ideological limits of human rights in a way that tempers the hopes expressed by Baxi and Goodale. Williams examines the limits of human rights by considering the various division of humanity they generate. These divisions include Amnesty International's creation of the prisoner of conscience as the ideal victim of human rights in opposition to violent revolutionaries, which he argues is epitomised in the group's refusal to acknowledge Nelson Mandela as a prisoner of conscience because of his limited and considered endorsement of violence. Williams also looks at the exploitation of the murder of transvestites in Chiapas, Mexico by NGOs in the United States – murders which were ignored by LGBT human rights NGOs in the US as they were being committed but were later used as symbols of the barbaric conditions faced by the LGBT community in the global south, which is therefore in need of salvation from the civilized north. Williams then turns his attention to cultural articulations of these divisions. He first looks at the presentation of

postcolonial subjects as victims in need of rescue by their former coloniser in *Hotel Rwanda* and *Caché*, a divide that allows the sin of colonialism to be redeemed through humanitarian sentiments. Then he considers how responses to human right violations, particularly truth and reconciliation commissions and trials, reaffirm the necessity of the state and sanctify its violence while pacifying victims. To draw these insights out he looks at plays by Ariel Dorfman, (*Death and the Maiden*) and Claribél Alegria and Darwin Flakoll (*Death of Somoza*), which provide alternate vision of how victims responded to human rights violations. In rejecting the judicial settlement in post-Pinochet Chile that Dorfman's drama offers, Williams embraces Alegria and Flakoll's political response, which is represented in their play through the assassination of Anastasio Somoza Debayle as retribution for his crimes. This brings Williams to his Fanonian conception of combat theory, which rejects the notion of a human rights project administered by global elites and a cosmopolitan legal regime and insists on the necessity of political struggle to enable the devalued and excluded to make and claim their own humanity.

Meister's text shares a number of reference points with Williams. The central idea it pursues is that human rights since the end of the Second World War have provided a limited and problematic response to the phenomenon of political evil – particularly slavery, colonialism, genocide and ethnic cleansing. He provides an historical account that places the phenomenon of mass political violence at the heart of the modern national project, such that virulent nationalism and programs to exterminate the "other" are logical consequence of a system built on the sovereignty of the nation-state. Human rights then come after evil because they are a universal response to the problem of difference created by the ethico-political ideal of legitimate authority; they redeem the state system by criminalising some forms of state violence and by offering protection to those excluded from membership. The practical import of this analysis is that the limited promise of human rights is made clear – they enact a political project intended to reconcile victims of violence and inequality to the beneficiaries of injustice through the punishment of those exceptional perpetrators who are assigned responsibility for evil. These dynamics are explored through a number of political events, including the Truth and Reconciliation Commission in South Africa, and the construction of the Holocaust as a defining moment of an international human rights movement. The conclusion that Meister drives home is that human rights as they are understood today reconcile us to the given rather than offer grander visions of justice. This calls for a political project that can take us beyond the avoidance of evil – and if human rights are to provide a vision of justice beyond evil they will have to start from a dissident perspective that rejects the desirability of being reconciled to the order of things.

Collectively these texts offer a number of insights. To create and invoke the idea of humanity is not a political activity that is unique (either now or in the past) to the 'West'. The people most dramatically injured by global capitalism sometimes fight their oppression by innovating and using human rights. Political exceptions – the exclusion of outsiders, humanitarian wars and imperialist conceits – are certainly enabled by the same sovereign power that grants rights to its subjects, but this is only a partial telling of the tale - a telling that leaves out how human rights can reshape political authority and enable struggles in unexpected ways. The work of these authors pushes us to reject the familiar divisions we use to understand the irresolvable tension at the centre of human rights and accept the productive possibilities of that tension. If human rights will always be invoked in a politically divided world, and will always create further divisions with each declaration and act that realises an ideal universalism, then our focus should be on who assumes (and who can assume) the authority to define humanity, the consequences for those subject to such power, and the ends toward which such authority is directed.

Starting from this alternative approach is important for the simple reason that it alters the viewpoint from which we evaluate human rights, as we are no longer stuck, as a matter of the terms of discourse, defending particularism, relativism or passivity, and instead we are enabled to

challenge the idea that some human beings have a unique privilege to intervene and bring salvation to others and to determine the meaning of human rights, while also affirming the political agency of women and men taking up the tool (or weapon) of human rights to preserve their dignity. All four authors ask us to re-focus in this manner and for that reason the works themselves are openings rather than definitive statements. I ask three general questions of the authors in order to further explore the openings provided: How are human rights made? Who are human rights for? What do human rights promise? In answering these questions through these texts I suggest connections and differences, highlight deficiencies and insights, and try to encourage further developments on the beginnings they present to us.

How Are Human Rights Made?

To ask how are human rights *made* is to already take a position, one that sees human rights as social constructions rather than divine laws or principles of transcendent reason. To start from this position is to be sceptical of metaphysical deductions of moral norms, but this scepticism is broadly accepted at least since Richard Rorty suggested that a human rights culture is just one of the cultures that humanity has made for itself (1998, pp.167–85). Secure, tolerant, concerned, and relatively rich liberals make Rorty's human rights culture; they have used some of their wealth and security to develop a culture that is defined by their desire to prevent the suffering of human beings, wherever they may be located geographically and culturally, and which, he thinks, should be spread as widely as possible. In their own way each author picks out inadequacies in Rorty's ironic liberalism by raising questions about what the human rights culture is good for, who speaks for it, and how it is made.

Upendra Baxi reminds us that

> When grassroots postmodernists summon us to a struggle against the "monoculture" of universal human rights and liberation from the re-colonizing "Global Project" of human rights, by "bringing human rights down from its pedestal" and the summons for resituating human rights "amidst other significant cultural concepts which define a "good life" in a pluriverse", they embark on a different theory project than those rights-weary thinkers who insist that the very idea of human rights is based on a moral mistake. (2009, pp.1–2)

Baxi's grassroots postmodernists are *not* Rorty's liberal ironists, even if they agree that rationally deduced moral principles are rarely adequate protection; they are often insecure, struggling, poor, abused and ignored, but they are not waiting for wealthy liberals to save them. Nor are these grassroots postmodernists critical philosophers like Giorgio Agamben, who deduces an irredeemable wrong written into the logic of human rights that necessarily preserves and justifies the exceptional power of sovereign authority (2000, pp.15–28). Rather they are women and men struggling to live with dignity, making use of human rights when it enables their ends and opposing human rights when they are pernicious. Baxi calls on us, for example, to see how impoverished people have made use of rights language and institutions to oppose the deprivation imposed on them, while also knowing full-well that human rights are the language of a neoliberal political and economic order complicit in, if not responsible for, their suffering. This is the key shift these texts share, a move away from seeing human rights as a product of 'Western' culture; or the domain of lawyers, politicians and international civil society representatives who draft international human rights declarations and treaties; or as a gift given by moral philosophers, good-hearted activists or imperial powers bringing the benefits of civilisation.

Goodale anthropological approach provides a guide to understand how those far away, both geographically and ideologically, from centres of elite power make human rights for themselves.[1] He suggests that not only are international human rights norms 'vernacularized' as they move from elite cosmopolitan centres into the wider (and not necessarily less cosmopolitan) world, but that they are also made through everyday social practices of political struggle in non-elite centres and in marginal spaces of the international system. Goodale's work focuses on how Bolivian opposition groups have taken up human rights language, sometimes adapting international norms and at other times innovating their own, in order to challenge the violence of the state and the injustice of profound inequality. The political struggles he sees enabled by human rights go beyond the expected dynamic of direct claim making on the sovereign state authority, but reflect an awareness that the legitimacy of state violence and the persistence of economic inequality is enabled by the international order that speaks in its own human rights dialect. Further, Goodale argues that we should 'prioritize human rights in the vernacular', which is to argue 'that "human rights" (understood diffusely) must be both theorized and legitimated *in terms of* the groundedness of social practice, those mundane (yet often transformative) occurrences of what de Certeau called the "practice of everyday life."' (2009b, pp.13–14) This suggests looking to how those *subject* to international human rights law understand and reconstruct legal and moral norms, and to privileging human rights made and remade through everyday practices of political struggle. Both Baxi and Goodale go beyond constructivist human rights scholarship that focuses on the diffusion of norms from the international to the local (Risse et al. 1999). This move to consider how human rights are used and created by communities that are struggling for dignity, as well as how human rights enable linkages that form an alternative global network, risks appearing naïve, as a romantic narrative of authentic struggle realised through a universal appeal to shared humanity. Neither author succumbs to that risk, but in the critical company I have forced them to keep here, they appear at first glance to be *potentially* too sanguine.

However, human rights cannot simply be remade through creative acts of imagination; they are the artefacts of a particular colonial political history and they have been institutionalised in problematic ways. Remaking human rights is a *political* project, demanding struggle and the construction of new institutions – which is of special importance because human rights have been a central pillar of the post-Cold War liberal order and cannot be redeemed easily. As Meister argues, 'Today the invocation of human rights is often part of a political project fundamentally at odds with the revolutionary struggles based on human rights: it is the war cry of a self-described "international community" led by the victors in the cold war.' (2011, p.7) Liberal human rights are presented as a higher politics premised on the transcendence of vulgar politics through ethics, which renders violent struggle and political contestation into evils to be avoided because they always risk turning into exceptional and horrific violence and atrocity. In this time after evil, victims and beneficiaries of past violence are reconciled and the individuals responsible for evil are punished, avoiding the need for revolutionary changes that might upset power structures beyond limiting (but not eliminating) their capacity for violence and cruelty.

The limits of this politics do more than constrain us to a liberal-capitalist framework. They also reinforce the nationalist structure of state authority in contemporary world politics, which is tied to the logic of both colonialism and genocide. Colonial settlement makes the question of how the settler can live among 'savages' explicit, which is unavoidable so far as the sovereignty of a people is thought in terms of a moral sameness (civilisation) that is unsettled by insistent difference (barbarism). This dynamic not only gives us the civilising mission that continues to resonate in contemporary human rights discourse, but it also makes genocide thinkable.

> The settler's question is, "How can we live among these savages without civilizing them?" For the colonial project of civilization and governance to get under way, however, living *without* the "savages" must always be a conceivable option. It then

> follows that living without the settler must also be imaginable for a nationalist liberation struggle to occur as an outcome of colonialism. (Meister 2011, p.131)

What this suggests is that liberal human rights can oppose genocide but not the national and statist order that makes it possible. Human rights act as the redemption of the civilising mission, coming after the evils of colonialism and genocide have been repudiated and punished, but unable to offer any grander account of justice. Human rights are disabled in this way because they focus on preventing cruelty and violence in their specific and physical form foremost (rather than on structural violence and social deprivation), while also seeking to reconcile victims to the nationalist state order to pacify them, to make them into citizens capable of living with the beneficiaries of past injustice – if not the perpetrators of injustice. This means that while the most dramatic perpetrators of violence and cruelty will face punishment, the individuals and communities that uphold the existing order are redeemed and their roles as counterrevolutionary saviours confirmed in human rights practice.

Williams also links human rights to the colonial project and highlights the difficulty of challenging the given coordinates of political and social power within contemporary human rights discourse, suggesting that as 'long as the power to confer or withhold the recognition of the Other's humanity remains a decision made elsewhere, there will be no substantial alteration of the material conditions that serve as the basis for the very possibility of a distinction between the human and the inhuman.' (2010, p.100) The dominant politics of human rights is not easily contested or surpassed. Williams is pessimistic about the prospects of human rights to enable political change, such that any transformative potential they have will only be achieved by stepping outside the legal framework of international law, which he argues (invoking China Miéville (2006)) can only reaffirm the authority of the state, granting legitimacy to its violence while outlawing the use of violence in opposition. Meister likewise thinks that human rights must become part of a revolutionary politics that can see beyond the nation-state and the inequalities of contemporary capitalism if they are to be more than the ideology of the powerful.

Goodale and Baxi would agree with much of this , but the optimism one finds in their work grows out of their engagement with specific oppositional struggles and their focus on human rights made outside the direct control of powerful global elites. As Goodale suggests this leads to 'human rights' that 'remain fluid and essentially plural and depend not on a hypothetical set of principles articulated by a small sliver of the global community but on the social actors for whom human rights come to form part of their contextualized legal, moral, and political practices.' (2009b, p.106) Yet, even if we identify the legacies that have made human rights what they are, while also paying attention to the ways they are (and have been) made and used in pursuit of very different projects (Bhambra & Shilliam 2009), the question of what is to be done remains. The adoption of human rights by struggling peoples may be a necessary and at times effective strategy, but can it do anything to alter the order of things? Can they be *more* than political tools that enable the weak to grab the ear of the powerful in hopes of pleading for mercy without demanding substantive justice?

Who Are Human Rights For?

A primary contribution made by these texts is that they diagnose the way human rights have been used to consolidate a particular form of political and economic order while undercutting the justification for revolutionary violence. Williams says of Amnesty International's prisoners of conscience, who serve as archetypal victims of human rights abuse,

> the prisoner of conscience, through its restrictive conditions, performs a critical diminution of what constitutes "the political." The concept not only works to banish from recognition those who resort to or advocate violence, but at the same time it

> works to efface the very historical conditions that might come to serve as justifications – political and moral – for the taking up of arms. (2010, p.11)

Human rights, then, are for the *civilised* victims of the world, those abused by excessive state power, by anomalous states that have not been liberalised – they are not for dangerous radicals seeking to upset the social order. This does more than limit human rights to a moral minimalism (Ignatieff 2001), it creates a division between liberal nations who are already civilised and illiberal states beset by barbarism and in need of salvation, by limiting the claims for justice that can be backed by force to those underwritten by the authoritative institutions of the powerful. This is the demand that liberal human rights make for the avoidance of evil. 'Unlike earlier versions of human rights that sought to hasten the advance of social equality, today's commitment to human rights often seeks to postpone large-scale redistribution. It is generally more defensive than utopian, standing for the avoidance of evil rather than a vision of the good.' (Meister 2011, p.1) This is a powerful construction because it becomes very difficult to oppose the limited vision enabled by human rights – who, for example, wants to argue against the prevention of cruelty and the avoidance of evil – but it also cynically uses beautiful revolutionary dreams of human rights to uncritically legitimate a political order still beset by violence in many forms, and still calling out for greater justice.

The liberal account of human rights impoverishes our understanding of politics; as Williams suggests it renders the politics of human rights as a morality play between saviours, victims and savages, which obscures the pervasive hierarchy and force that uphold human rights.

> As an increasingly critical legitimizing instrument for contemporary imperialism, human rights, and its imperial modes of intervention – humanitarian war and humanitarian aid – relies heavily upon the production of subjects in need – in need of rights, in need of democracy, in need of rescue. This subject-in-need, in turn, interpellates, organizes, and mobilizes subjects who come to see themselves as bearers of the responsibility to rescue – good humanitarians who, however critical of imperialism, come to participate in the ethos of empire. (2010, p.64)

It is the way that human rights fit into a wider imperial politics that is at issue here, not the failings of particular individuals trying to do good. Of special importance is how the victims that human rights are supposed to protect are treated. Meister, for example, is excellent at analysing the way victims of human rights abuse in South Africa needed to be reconciled to the order of the post-apartheid state, as the experience of repression and exclusion may give victims reason to demand a more radical reconstruction of the social order. Therefore, it becomes important that victims are seen as needy and powerless, not active and engaged. Victims, constructed in this way – abused, in need, voiceless, without agency – then require particular types of saviours, not only who are empowered by the existing order of things but also who are not to blame for the excesses and violence of that order.

> That Human Rights Discourse addresses us as bystanders, and not beneficiaries, is indicative of the transposition of human rights itself from the register of political mobilization to that of global popular culture. In this culture, apathy – our natural response to the pain of others – is to be replaced by empathy, the morally induced ability to feel the pain of others as our own. If consumers of our popular culture only felt less apathy toward (and thus empathy for) victims, the argument goes, they would *hold* themselves responsible for what they *allow* to happen. The culture also assures them, however, that they were not really responsible – that their true failing did not arise in any particular relation to perpetrators or victims but rather from a simple *lack*

> of compassionate feelings combined, perhaps, with willed inattention to the facts. (Meister 2011, p.213)

Goodale traces a related obfuscation in the misrepresentation of anthropology's resistance to the idea of human rights, which he argues is not based on crude moral relativism, but rather on the very real danger that universal politics present to marginalised peoples. Ironically, rejecting concerns about assimilation, as an irresponsible relativism, does not prevent privileged consumers of human rights culture from ignoring the suffering of others; universal morality guarantees assimilation but not concern. The stability of the contemporary liberal international order depends on that passivity, which is not easily or quickly converted into action, as indifference to everyday human suffering punctuated by outrage at those events presented as exceptional evils both preserves the status quo and justifies interventions.

The practical import of this construction of the moral drama of human rights is that the fundamental architecture of international politics is affirmed and made incontestable – the exclusivity of the nation, backed up by violence, is rendered necessary; the violence inherent in the legal order, both domestic and international, is privileged and rendered legitimate; the deprivation and inequality wrought by capitalism is removed from public view, as its effects are the consequence of private transactions. The harm of this architecture is also felt most severely, and predictably, by those who are from the underclass, from ethnic minorities and victims of patriarchal social structures - it is worth noting that the issue of gender is under-examined by all the authors discussed here, which is unusual because similar pioneering works have focused on this issue to great effect (Ackerly 2008; Merry 2006).

All these texts dwell on the dangers and possibilities of engaging with human rights for people struggling against and subject to power. Their reflections converge on the necessity of recognising and naming the complicity of human rights in upholding violent orders. However, the struggle to reclaim human rights, understood as a set of ideals about the best way to be human, is as much a matter of how we think as it is of political action. Goodale locates the imperialism of human rights as much in their abstract universalism as in the practices of powerful states and non-state actors. Similarly, Baxi suggests that giving up theories *of* human rights is an act of emancipation in itself, both suggesting that how we think must change if we also want to change who human rights are for and address the violence and injustice enabled by a quasi-imperial liberal human rights.

What Do Human Rights Promise?

Given the challenges addressed in these texts, what can human rights achieve? A central line of Meister's critique is that human rights as we know them today are explicitly intended to limit the promise of justice – both because the horrors of the twentieth-century suggest that such promise might come at too high a cost, and because the promise of justice as greater political and social equality is opposed by the post-Cold War powers. If he is correct, is the opening that Goodale and Baxi see in human rights practice adequate to restoring the revolutionary promise of human rights? When analysing the importance of the ideal of self-determination, in opposition to colonial domination, Baxi's suggest that human rights may be adequate to the task.

> Far from emerging as any mimetic reproduction of the Enlightenment 'values' and its associated progress narrative, movements for national self-determination mark a world-historic rupture, in turn resulting in alternate visions and paths of development. (2009, p.97)

This claim is, in essence, the wager that all of these authors make: that actually opening up the idea of human rights to all of humanity, rather than a privileged minority that uses the idea to divide up

the world, would rupture our political and moral understandings in a profound way. But questions linger in light of such optimistic pronouncement. How can they create such a rupture? Can we break so cleaning with the order of things that define and are defined by human rights?

The ruptures enabled by human rights, the authors suggest, are driven by the tension at the heart of human rights: the affirmation of the moral and political salience of our common humanity, which is itself defined by pluralism and profound difference. As Goodale suggests, 'It is, rather, a normative response to suffering that reflects a wisdom of a very different and (we might say) anthropological sort: that which comes from an acceptance of the complicated and (to some) endlessly frustrating fact of human multiplicity.' (2009b, p.133) And while the recognition of profound difference may motivate the well intentioned to challenge the imperial dialect in which human rights are articulated, there is still a question of what motivates resistance to the order of things. As Meister suggests, seeing in human rather than more particular terms opens the possibility of seeing injustice. 'Once we recognize that the many unequal advantages in society could not be justified starting now, an obvious question arises: "Why not socialism?"' (2011, p.259) Or, given the inequalities of our current world, why not something else? Why not revolution? The idea that human rights can inspire a new pluralist ethos of global order, what Goodale describes as 'a future transnational or postnational normative framework that is based on the imperatives of ethical restraint, humility, and legal pluralism' (2009b, p.133), and can motivate a revolutionary politics (as for Williams and Meister) creates as many questions and controversies as it resolves. While the call to think more critically and expansively is valuable as such, perhaps the most important contribution these authors make is giving us some markers to use in taking that project forward.

While it may be curmudgeonly to end on a pessimistic note, the project of reconstructing human rights requires serious-mindedness. There are two important warnings that we find in these texts. First, human rights is indeed a culture – while this culture is contested and plural, it also dominated by the interest of the powerful and a pervasive social discourse that constructs its subjects in particular ways. Therefore, there is always a risk in taking up human rights, in engaging the language of power. As Goodale presciently warns,

> it is much easier for people to appropriate the idea of human rights for specific legal, political, or social purposes than it is for them to embrace the – at times – radically alternative conception of the person that forms the basis for this idea. In other words, in many cases the coming of human rights demands something of identity that the practice of identity is not prepared (or able) to give. (2009b, p.130)

With this warning in mind, our optimism about the potential for human rights to open up the moral and legal order of world politics, and to provide vision of substantive justice, must be tempered by the challenge of building an alternative culture and an alternative political order – especially one that is open to plurality and contestation.

The second limitation of human rights is that they may have too much historical baggage; they may be tools that are too dull to serve their purpose. Human rights not only inspired struggles to create a secular and national polity, but were also formed by those dynamics. Thus there is an open question of whether than can be reconstructed to serve radically different visions.

> Does the present *unthinkability* of a past wish (for example, to exterminate a perceived enemy) mean that it is gone? Where did it go? In whom do we believe it now resides? Twenty-first-century Human Rights Discourse does not welcome such questions. Its most positive achievement has been to insist that someone is to *blame* for human rights violations and to reject excuses that deflect blame onto the victim. This technique of keeping the paranoid anxieties of beneficiaries at bay leaves little

> psychic energy available for a turn toward greater justice. If Human Rights Discourse is what comes after evil, something must come next. (Meister 2011, p.316)

If the limits of human rights can only be overcome by a turn toward the pursuit of justice, the language of human rights and the idea of a universal human subject of politics may prove too limiting – as Baxi suggests in his consideration of what human rights may mean in a posthuman world. The only answer given in these texts, and perhaps the only responsible answer, is that human rights have no claim to be the exclusive mode of political ethics and no guarantee of their future progressive value. In contesting dominant understandings we can explore the possibilities of human rights, but those explorations themselves must be contested, and they may be found wanting. Contesting human rights insists on the possibility that a world without human rights be a better one – which is among these authors' most significant contribution.

Joe Hoover © 2012

Joe Hoover is a Fellow in the International Relations Department at the London School of Economics and Political Science (j.hoover@lse.ac.uk).

[1] Goodale's text is essentially conceptual and therefore provides little detail in how this process of 'vernacularization' works, but his detailed engagement with this process can be seen in his previous works (Goodale 2009a; Goodale & Merry 2007).

References

Ackerly, B.A., 2008. *Universal Human Rights in a World of Difference*, Cambridge: Cambridge University Press.
Agamben, G., 2000. *Means Without End: Notes on Politics*, University of Minnesota Press.
Baxi, U., 2009. *Human Rights in a Posthuman World: Critical Essays*, Oxford: Oxford University Press.
Baxi, U., 2007. *The Future of Human Rights*, Oxford University Press.
Bhambra, G.K. & Shilliam, R., 2009. *Silencing Human Rights: Critical Engagements with a Contested Project*, London: Palgrave Macmillan.
Donnelly, J., 2003. *Universal Human Rights in Theory and Practice*, Itaca, NY: Cornell University Press.
Douzinas, C., 2000. *The End of Human Rights: Critical Legal Thought at the Turn of the Century*, Oxford and Portland, OR: Hart Publishing.
Evans, T., 2011. *Human Rights in the Global Political Economy: Critical Processes*, Boulder, CO: Lynne Rienner Publishers.
Goodale, M., 2009a. *Dilemmas of Modernity: Bolivian Encounters with Law and Liberalism*, Stanford, CA: Stanford University Press.
Goodale, M., 2009b. *Surrendering to Utopia: an Anthropology of Human Rights*, Stanford, CA: Stanford University Press.
Goodale, M. & Merry, S.E. eds., 2007. *The Practice of Human Rights: Tracking Law Between the Global and the Local*, Cambridge: Cambridge University Press.
Hopgood, S., 2006. *Keepers of the Flame: Understanding Amnesty International*, Ithaca, NY: Cornell University Press.
Ignatieff, M., 2001. *Human Rights as Politics and Idolatry*, Princeton, NJ: Princeton University Press.
Meister, R., 2011. *After Evil: A Politics of Human Rights*, New York, NY: Columbia University

Press.
Merry, S.E., 2006. *Human Rights and Gender Violence: Translating International Law into Local Justice*, University of Chicago Press.
Miéville, C., 2006. *Between Equal Rights: a Marxist Theory of International Law*, Chicago, IL: Haymarket Books.
Mutua, M., 2002. *Human Rights: a Political and Cultural Critique*, Philadelphia, PA: University of Pennsylvania Press.
Orford, A., 2011. *International Authority and the Responsibility to Protect*, Cambridge: Cambridge University Press.
Risse, T., Ropp, S.C. & Sikkink, K. eds., 1999. *The Power of Human Rights: International Norms and Domestic Change*, Cambridge: Cambridge University Press.
Rorty, R., 1998. *Truth and Progress: Philosophical Papers Volume 3*, Cambridge: Cambridge University Press.
Tesón, F.R., 2005. *Humanitarian Intervention: An Inquiry into Law and Morality*, Ardsley, NY: Transnational Publishers.
Wheeler, N.J., 2003. *Saving Strangers: Humanitarian Intervention in International Society*, Oxford: Oxford University Press.
Williams, R., 2010. *The Divided World: Human Rights and Its Violence*, Minneapolis, MN and London: University of Minnesota Press.