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The Recent History of Human Rights

Author(s): Kenneth Cmiel

Source: *The American Historical Review*, Vol. 109, No. 1 (February 2004), pp. 117-135

Published by: Oxford University Press on behalf of the American Historical Association

Stable URL: <http://www.jstor.org/stable/10.1086/530153>

Accessed: 19-03-2017 18:49 UTC

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*Review Essay*  
The Recent History of Human Rights

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KENNETH CMIEL

FEW POLITICAL AGENDAS have seen such a rapid and dramatic growth as that of “human rights.” Prior to the 1940s, the term was rarely used. There was no sustained international movement in its name. There were no non-governmental organizations (NGOs) with a global reach to defend its principles. There was no international law crafted to protect our human rights.<sup>1</sup> By the 1990s, however, you couldn’t escape it. The better-known Western organizations—the International Commission of Jurists, Amnesty International, and Human Rights Watch—roamed the globe looking for infractions. NATO prosecuted a war in the name of “human rights.” Less well known to Europeans and North Americans were the hundreds of NGOs outside Europe and the United States defining themselves as human rights agencies, almost all of them with birth dates no earlier than 1985. Rigoberta Menchú now presides over the Fundación Rigoberta Menchú Tum, a peace organization located in Mexico that campaigns in the name of human rights, particularly for indigenous peoples. It is one of many such organizations in Latin America.<sup>2</sup> In 1993, when a number of Asian governments tried to derail the Vienna United Nations Conference on Human Rights, calling for recognition of special “Asian values” and a reconsideration of the Universal Declaration of Human Rights, 180 Asian NGOs gathered, produced a counter-document, and proved a formidable political force in opposition to their governments.<sup>3</sup> In Africa, in the early 1990s, a string of regimes vowed to democratize and respect human rights. Numerous local monitoring groups have sprung up to try to keep track of some very unstable situations.<sup>4</sup>

<sup>1</sup> On this background, see A. W. Brian Simpson, *Human Rights and the End of Empire* (Oxford, 2001), 91–156; J. H. Burgers, “The Road to San Francisco: The Revival of the Human Rights Idea in the Twentieth Century,” *Human Rights Quarterly* 14 (1992): 447–77.

<sup>2</sup> On the general growth of human rights NGOs in Latin America and the Caribbean, see Edward Cleary, *The Struggle for Human Rights in Latin America* (Westport, Conn., 1997), 61–68.

<sup>3</sup> On the debate over this conference, and the recent growth of human rights NGOs in Asia, see William Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine* (New York, 1998), 472–91. For statements by the Asian NGOs themselves, see Asian Cultural Forum on Development, *Our Voice: Bangkok NGO Declaration on Human Rights* (Bangkok, 1993).

<sup>4</sup> To take just one example, note the Committee for the Defence of Human Rights (CDHR), based in Lagos, Nigeria. Created in 1989 after a union organizer was tossed into prison, the CDHR kept active through the 1990s, publishing annual reports of the human rights situation in Nigeria. The University of Minnesota Human Rights Library reported in 1993 that the group had over 2,000 members in nineteen states in Nigeria, and listed it as one of thirteen Nigerian human rights groups then active. See the University of Minnesota Human Rights Library, “The Status of Human Rights

It was not only that activism spread around the globe. The human rights agenda expanded as well. There was new attention to international justice, most famously in the effort to bring bloody dictators to trial. Slobodan Milošević in the dock is the result. “Women’s rights are human rights, too,” a call dating from the 1980s, expanded the agendas of human rights organizations in another way. Indigenous people’s rights, children’s rights, the right to health, even economic and social rights—none were on the table in 1970 as “human rights” claims. All, in one way or another, were part of the discussion by the end of the century.<sup>5</sup>

Yet what does all this add up to? The 1990s have been a sadly fitting end to the bloody twentieth century. Rwanda, Kosovo, East Timor, Iraq, the West Bank—take your pick. Who would argue the decade has been as wonderfully pacific as the heady talk in 1989 of the “end of history” or “new world order” had predicted? What good did the expanded human rights agenda do for Afghani women under the Taliban, for the unemployed of Argentina, for the mentally ill now incarcerated in American jails, for the Kurds in Iraq or Turkey? Governments continued to be as duplicitous as always, ritually mouthing slogans they ignored when convenient. The contradiction begs for explanation: Why does all the energy and effort going in the human rights activism produce such results decidedly meager? How could the rhetoric of human rights be so globally pervasive while the politics of human rights is so utterly weak?

GIVEN ALL THE HUMAN RIGHTS ACTIVISM OF THE DECADE, it is not surprising that historians have, in a small way, joined the march. In 1994, Amnesty International sponsored a series of lectures by historians on the interplay between history and human rights. Patrick Collinson, Carlo Ginzburg, Emmanuel Le Roy Ladurie, Robert Darnton, Elizabeth Fox-Genovese, and Ian Kershaw were among the

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Organizations in Sub-Saharan Africa: Nigeria,” viewed February 16, 2003, <http://www1.umn.edu/humanrts/africa/nigeria.htm>.

<sup>5</sup> *Routledge International Encyclopedia of Women: Global Women’s Issues and Knowledge*, Cheris Kramarae and Dale Spender, eds. (New York, 2000), Charlotte Bunch and Samantha Frost, “Women’s Human Rights: An Introduction”; Elisabeth Friedman, “Women’s Human Rights: The Emergence of a Movement,” in Julie Peters and Andrea Wolper, eds., *Women’s Rights, Human Rights: International Feminist Perspectives* (New York, 1995); Arvonne Fraser, “Becoming Human: The Origins and Development of Women’s Human Rights,” *Human Rights Quarterly* 21 (1999): 853–906; Judith Zinsser, “From Mexico to Copenhagen to Nairobi: The United Nations Decade for Women, 1975–1985,” *Journal of World History* 13 (2002): 139–68; Saba Bahar, “Human Rights Are Women’s Right: Amnesty International and the Family,” in Bonnie G. Smith, ed., *Global Feminisms since 1945* (London, 2000), 265–89; Mallika Dutt, “Some Reflections on United States Women of Color and the United Nations Fourth World Conference on Women and the NGO Forum in Beijing, China,” in *Global Feminisms since 1945*, 305–13; Temma Kaplan, “Women’s Rights as Human Rights: Grassroots Women Redefine Citizenship in a Global Context,” in Patricia Grimshaw, Katie Holmes, and Marilyn Lake, eds., *Women’s Rights and Human Rights: International Historical Perspectives* (London, 2001), 290–308; Henry Minde, “The Making of an International Movement of Indigenous Peoples,” *Scandinavian Journal of History* 21 (1996): 221–46; Kay Warren, *Indigenous Movements and Their Critics: Pan-Maya Activism in Guatemala* (Princeton, N.J., 1998), *passim*; Stephen P. Marks, “The Evolving Field of Health and Human Rights: Issues and Methods,” *Journal of Law, Medicine and Ethics* 30 (2002): 742–43.

luminaries who contributed.<sup>6</sup> “Human rights” was the theme of the 1997 American Historical Association convention in New York. In the past few years, a number of books have appeared attempting to historicize the subject. While university-based historians such as Paul Lauren, Lynn Hunt, and Jeffrey Wasserstrom have addressed the subject, journalists, legal scholars, political activists, and political scientists have still done far more of this history writing. The field remains refreshingly inchoate.

Historians have been, at least in the twentieth century, for the most part particularists. They want to know in great depth the local scene they survey. And in the recent past, this has meant, more often than not, a sort of reflexive cultural relativism. Talk of universal rights was suspect, with the odors of cultural imperialism and simple-minded rationalism vaguely hanging about it. It took the end of the Cold War and the chatter about globalization to move some historians to the subject. It should be no surprise that the shift in history was paralleled by a similar shift among anthropologists.<sup>7</sup> But this has left, for both groups, a strain between their traditional respect for the local and renewed interest in the global. How to manage this is slippery indeed.

One important trend in the recent scholarship has been to explore the history and nuances of the human rights idiom. Centering on language raises its own problems. On the one hand, it seems unduly restricting to limit oneself to analyzing claims explicitly made in the name of “the rights of man” or “human rights.” Much of the activism for social justice had taken place without using the idiom of human rights. Does one exclude from this story the drive to make the workplace safe, for example, if done in the name of “social justice” instead of “human rights”? On the other hand, analysis done in the name of the “rights of man” can be wildly anachronistic, akin to talking about auto repair in the sixteenth century. Mohandas Gandhi, for one, is mentioned in several of the books discussed here as a friend of human rights. Yet Gandhi generally disliked “rights-talk” of all kinds, associating it with the self-indulgence of the modern age. This was one way he differed from the Indian Congress Party, whose UN representatives were active supporters of human rights work at that time. Gandhi preferred to frame his rhetoric in terms of “duties” and kept his distance from 1940s human rights campaigns.<sup>8</sup>

It should be no surprise that these two tendencies are but a version of the universal/particular divide. The expansive approach can wind up equating “human rights” with anything “good.” Buddha and Jesus now become human rights activists. This sort of thing can get soggy fast. The other method, however, potentially crabs

<sup>6</sup> Olwen Hufton, ed., *Historical Change and Human Rights: The Oxford Amnesty Lectures, 1994* (New York, 1995).

<sup>7</sup> Karen Engle, “From Skepticism to Embrace: Human Rights and the American Anthropological Association, 1947–1999,” *Human Rights Quarterly* 23 (August 2001): 536–59.

<sup>8</sup> Gandhi expressed his distrust of rights-talk as early as 1910 in *Hind Swaraj*. See M. K. Gandhi, *Hind Swaraj and Other Writings*, Anthony J. Parel, ed. (Cambridge, 1997), 81–82. In the 1940s, he expressed his skepticism about human rights projects to both H. G. Wells and a UNESCO symposium that asked for his comments on the proposed Universal Declaration of Human Rights. In both cases, he urged people to think about their “duties” instead of “rights.” See Gandhi to Wells, undated, H. G. Wells Papers, Folder G-22, Rarebook and Special Collections Library, University of Illinois, Champaign-Urbana; Jacques Maritain, *et al.*, *Human Rights: Comments and Interpretations* (New York, 1949), 18.

us to those places where some magic words—*rights of man*, *human rights*, *derechos humanos*, *renquan*—were actually being uttered.

There are no definitive answers here. Rather, historians need to make informed choices, making clear to themselves and their readers what they are, and are not, trying to do. With this caution in mind, attention to the history of human rights talk can yield a lot. Ahistoric claims about human rights are still rampant among activists, lawyers, and political theorists. Grand assertions and abstract arguments made in the name of human rights continue to flourish, with charges of cultural imperialism and defenses of cultural relativism predictably coming in response. Historians have the opportunity to tug this discussion to a more sophisticated level by refusing to see the particularist/universal divide as the last word. One way of doing this is by attending to the nuances of political language in different cultural settings. And some recent historians are doing just that.

Claims about natural rights, the rights of man, or human rights were but one aspect of the larger expansion of rights-talk in the last three centuries. On the subject of human rights, there are some fine starting points. Burns Weston's essay in the *Encyclopedia Britannica* is a gem, a panoramic sweep through four centuries of intellectual history.<sup>9</sup> Such an overview, however, as good as it is, still remains only a starting point.

In recent years, some attention to the subject has come about as historians of the early modern Euro world try to move beyond what was called the "republican synthesis." This interpretive frame, most notably associated with J. G. A. Pocock, understood much seventeenth and eighteenth-century political life as suspicious of modernity. Virtue was the core civic value; commerce, self-interest, and individual rights were suspect. But as this interpretation has lost adherents, it has also created new interest in early modern natural rights, especially in the Anglo-American world. Knud Haakonssen has published an extraordinarily rich study of early modern natural law theory, demonstrating the gradual shift from duties to rights in seventeenth and eighteenth-century ethics and philosophy.<sup>10</sup> Haakonssen begins his *Natural Law and Moral Philosophy* with seventeenth-century thinkers, Hugo Grotius, Thomas Hobbes, and Samuel Pufendorf. Most of the book is given to a detailed analysis of the ideas of Scottish moral philosophers. Francis Hutcheson, David Hume, Adam Smith, Thomas Reid, Dugald Stewart, and James Mill each gets a chapter. He closes the book with a discussion of the U.S. revolution.

According to Haakonssen, American revolutionary rhetoric was dominated by the European tradition that viewed natural rights as flowing out of natural law. There was a natural order to the world, and duties were more important than rights. Rights did exist, even inalienable rights, but they were "logically subordinate." For Haakonssen, the 1970s and 1980s debates over liberal versus republican interpretations of the American Revolution missed the point. It wasn't a question of "rights" versus "virtue." Talk of subjective rights disconnected from natural law was not common coin until the nineteenth century. At the time of the revolution,

<sup>9</sup> Burns Weston, "Human Rights," *Encyclopedia Britannica*, 2003, Encyclopedia Britannica Online, viewed January 22, 2003, <http://search.eb.com/eb/article?=-109242> (see "Contents of This Article").

<sup>10</sup> Knud Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment* (Cambridge, 1996).

according to Haakonssen, natural rights were “derivative from the duties imposed by natural law.”<sup>11</sup>

Haakonssen is brilliant discussing European moral philosophers. What he says about the American Revolution is intriguing but less convincing. He has to cover far too much far too quickly, quite different from the chapters on individual Scottish thinkers. In his discussion of the revolution, there are too many paragraphs making assertions about the American perspective that have no footnotes. The author has to do some overly complicated explaining to justify why the Americans spoke so insistently about “rights” instead of “duties.” Such passages are not history, they are the modern philosopher reconstructing the past as it logically should have been. This criticism, however, is not meant to diminish the overall power of this book. Haakonssen’s is the most sophisticated discussion of natural rights philosophy in this generation, a truly formidable achievement.

A different rendering of natural rights can be found in the work of Michael Zuckert. Zuckert has written a substantial body of work in the 1990s attacking the republican synthesis.<sup>12</sup> Unlike Haakonssen, however, Zuckert defends, with great verve and tenacity, the idea that the revolution was Lockean and modern. Unlike Haakonssen, he dismisses the notion that Lockean natural rights were derived from natural law duties. And whereas Haakonssen diminished the importance of the social contract in his reading of eighteenth-century natural rights thinking, Zuckert continues to highlight it. The United States was, according to Zuckert, the “natural rights republic.”

Zuckert does a fine job of showing how pervasive natural rights talk was during the revolution. The most excessive claims of Pocock or Gordon Wood about the classical republican origins of the revolution have not stood up particularly well. Zuckert’s analysis of the Declaration of Independence is similarly convincing. From the start, the American Revolution was about protecting natural rights. He is less persuasive, however, when arguing that core revolutionary thought stemmed from John Locke. There were multiple places, as Haakonssen shows, where natural rights ideas might grow. Moreover, as good as Zuckert’s analysis of political ideas is, the politics is largely missing. Zuckert’s revolutionaries are political philosophers, not politicians.

Both Haakonssen and Zuckert excel at the analysis of political ideas. They are well worth reading, some of the best work trying to rethink early modern political thought after the death of the republican synthesis. But their work will no doubt will leave many historians cold, looking too much like old-fashioned intellectual history. The relation of political ideology to European political theory is very important to these authors. Race and gender, however, are largely absent. The pursuit of interest is ignored. The grime of past politics, so dear to historians, is missing.

A different strain of the new work on natural rights is looking at how claims about human rights were deployed in specific historic settings, unpacking what

<sup>11</sup> Haakonssen, *Natural Law and Moral Philosophy*, 326, 328.

<sup>12</sup> Michael Zuckert, *Natural Rights and the New Republicanism* (Princeton, N.J., 1994); Zuckert, *The Natural Rights Republic* (Notre Dame, Ind., 1996); Zuckert, *Launching Liberalism: On Lockean Political Philosophy* (Lawrence, Kan., 2002).

political stakes at any given moment were attached to the rhetoric.<sup>13</sup> Lynn Hunt's collection of documents about the rights of man during the French Revolution is a good example.<sup>14</sup> The 1789 Declaration of the Rights of Man and Citizen is a landmark in the history of human rights discussions. Hunt brings together documents going back to the 1750s but principally dating from 1789 to 1794, all debating the implications of theories of natural rights. The 1789 declaration becomes just one stopping point in a vibrant, ongoing, and sometimes vicious debate. On the heels of the declaration's adoption, fights erupted about its implications for black Haitian slaves, French women, and Calvinists and Jews living in France. Hunt presents documents on each of these disputes. Not surprisingly, the results were checkered. Jews became French citizens in 1791, slavery ended in Haiti in 1794, but women, in 1793, were explicitly denied the right to form political clubs. Within a decade, Napoleon Bonaparte revived slavery in the colonies, confirmed women's second-class status, but left Jewish citizenship untouched. Talk of the rights of man, according to Hunt, "helped push the Revolution into radical directions, but it did not by itself afford a permanent foundation for rule."<sup>15</sup>

It is not only *who* gets rights that matters. As important are *what* rights are on the table. That too has a history. There is the obvious—there is no right to social security in the French declaration of 1789. The UN's 1948 Universal Declaration of Human Rights, however, includes it. But Hunt does more, noting the different ways that rights were clustered together. Distinctions between civil and political rights, she observes, were commonplace and of crucial importance in the eighteenth century. Civil rights include such classic freedoms as the rights to own property, to not be thrown in jail without proper arrest and trial, to be treated equally before the law. Political rights, on the other hand, include voting, serving on juries, and holding office. Such a distinction, important in the eighteenth and nineteenth centuries, is not one that makes much sense to us. The mid-twentieth-century events we call the "Civil Rights Movement" had at its core the drive to extend to African Americans the right to vote—a preeminently political right. The international human rights community today conventionally distinguishes between "civil and political rights" as one grouping and "economic, social, and cultural rights" as another. This linking of the "civil" and "political" is relatively new. It was the distinction between them that was crucial in the eighteenth and nineteenth centuries, a distinction with real consequences. Women, for example, would get the right to own property in the 1800s but not the right to vote. The civil versus political divide was routinely cited for this. Understanding the ways that rights have been clustered together over time, when tied to close attention to political ramifications, is still one more way for historians usefully to unpack the history of rights-talk.

<sup>13</sup> See Dale Van Kley, ed., *The French Idea of Freedom: The Old Regime and the Declaration of Rights of 1789* (Stanford, Calif., 1994); Michael Lacey and Knud Haakonssen, eds., *A Culture of Rights: The Bill of Rights in Philosophy, Politics, and Law—1791 and 1991* (Cambridge, 1991).

<sup>14</sup> Lynn Hunt, ed., *The French Revolution and Human Rights: A Brief Documentary History* (Boston, 1996). For other recent collections dealing with French documents, see Christine Fauré, ed., *Les déclarations des droits de l'homme de 1789* (Paris, 1988); Lucien Jaume, ed., *Les déclarations des droits de l'homme: Du débat 1789–1793 au préambule de 1946* (Paris, 1989). For a recent history directly on the subject, see Ladan Boroumand, *La guerre des principes: Les assemblées révolutionnaires face aux droits de l'homme et à la souveraineté de la nation* (Paris, 1999).

<sup>15</sup> Hunt, *French Revolution and Human Rights*, 18.

If Hunt's collection tells us how to do it, Paul Lauren's *Evolution of International Human Rights* shows some of the pitfalls of not attending to the nuances of the rhetoric. Lauren's book is the best single overview of modern human rights activism thus far. It is especially informative on the politics of the 1940s. And Lauren deserves our thanks for being the first scholar to address systematically the issues of color and empire in relation to human rights activism. He shows that human rights idioms were used by African Americans in the United States, blacks in South Africa, and anti-colonial activists in Asia and Africa.

Lauren's work allows us to recognize that the divide between "civil and political rights" and "economic, social and cultural rights," now written into conventional wisdom, itself betrays the Western origins of the contemporary human rights movement. A third set of ideas, revolving around the notion of the "self-determination of peoples," was also part of the mid-century human rights debates.<sup>16</sup> The trouble was, Westerners did not agree that this was a fundamental human right. In 1946, the Nigerian activist Mbonu Ojike would state, "The right to rule oneself is a natural right." The year before, Ho Chi Minh declared independence for Vietnam quoting the "inalienable rights" of Thomas Jefferson's Declaration of Independence. In 1952, Asian, African, and Latin American nations, over the objections of Western nations, officially made respect for the "self-determination of peoples" part of the UN's human rights program. In the Western nations, however, opposition persisted, even as formal colonialism was folding. As Michael Ignatieff has recently pointed out, Isaiah Berlin's famous essay "Positive and Negative Freedom," first delivered as an Oxford lecture in 1958, was in part an expression of skepticism about Third World nationalism. About the same time, the French jurist René Cassin, who would later win a Nobel Prize for his work drafting the Universal Declaration of Human Rights, was complaining that the whole UN human rights program had gone off track thanks to the "Arab states" forcing "self-determination" onto the agenda. In 1962, the British historian Maurice Cranston, in a widely read book on human rights, argued that self-determination did not really belong on the list.<sup>17</sup>

Lauren is right to see anti-colonialism as a key strain ignored by other historians. Yet he does not distinguish it from other visions, a practice more confusing than enlightening. Whatever different things historians make of Ho Chi Minh, it is safe to say he was no Jeffersonian democrat, and not even an Eleanor Rooseveltian New

<sup>16</sup> The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations in 1966, each contain the right to self-determination as the first article. The right was given prominence of place, in other words, but did not fit easily into the categories that by then were conventionally used to organize human rights discussions.

<sup>17</sup> Mbonu Ojike, *My Africa* (New York, 1946), 261; Ho Chi Minh, "Declaration of Independence of the Democratic Republic of Vietnam," in Ho Chi Minh, *Selected Writings: 1920-1969* (Hanoi, 1973), 53-56; on the UN resolutions of 1952, see United Nations, General Assembly, *Official Records, Sixth Session, Plenary Meeting* (February 5, 1952), 519; UN General Assembly, *Official Records, Sixth Session, Supplement no. 20*, "Inclusion in International Covenants on Human Rights of an Article relating to the Right of Peoples to Self-Determination" (February 5, 1952), 36-37; Michael Ignatieff, *Isaiah Berlin: A Life* (New York, 1998), 227; Marc Agi, *René Cassin: Fantassin des droits de l'homme* (Paris, 1979), 244-48; Maurice Cranston, *Human Rights To-day* (London, 1962), 65-72. For another critique from a prominent Western social scientist of the time, see Rupert Emerson, *Self-Determination Revisited in the Era of Decolonization* (Cambridge, Mass., 1964).



Dealer. In Lauren's account, however, any such distinctions are either passingly mentioned or ignored. For Lauren, Ho as well as Eleanor contributed to an emerging human rights vision. Citing Frantz Fanon's *Wretched of the Earth* as an anti-colonial human rights document, as Lauren does, without noting Fanon's celebration of revolutionary violence and his general indifference to "bourgeois" civil liberties, is just plain misleading.<sup>18</sup> It ignores absolutely crucial distinctions in outlook. Political language can tell us a lot, but only if we treat it seriously.

More attention to political discourse, however, will no doubt destroy the shibboleth that rights-talk has had no life outside the West. Political claims made in the name of "natural rights," or "the rights of man" did first surface in Western Europe during the seventeenth and eighteenth centuries. During the nineteenth century, this debate spread to Asia, Africa, and Latin America. We still have only scattered bits of this history.<sup>19</sup>

The work of Stephen Angle and Marina Svensson shows what can be done. They each have written excellent individual books on human rights debates in China, and they have collaborated on a collection of documents.<sup>20</sup> Angle's book is a classic intellectual history, especially good at unpacking the layered meanings of *quan*, a word traditionally meaning "power" or "authority" but around the turn of the twentieth century beginning to be used for "rights." His close readings of key translations of mid-nineteenth-century texts in international law (where rights-talk first explicitly enters Chinese debate) reveal how complicated translations of key terms can be. Angle is also good at relating the complexities of neo-Confucian thinking to an emerging discussion of "rights." Svensson, more attuned to the concrete political contexts of ideological claims, pursues the twentieth-century debate about *renquan*, the term now generally translated as "human rights." Svensson demolishes the assumption that no one discussed human rights in China before the UN's Universal Declaration of Human Rights.

The *Chinese Human Rights Reader*, their collective work, makes the same point. It is a compendium of primary sources in China on *renquan*. The documents cover the entire twentieth century, contextualized by the editors' informative commentary. Their sources show, first of all, that debates about "human rights" emerged in China during the 1890s, connected to a larger reassessment of Confucian pieties in the face of Chinese humiliations vis-à-vis the West. Throughout the last century, party ideologists, lawyers, and independent intellectuals debated the concept. Nationalist Guomindang (GMD) intellectuals from the 1920s such as Zhou Fohai explicitly contrasted Sun Yat-sen's call for "people's rights" (*minquan*) with the French Revolution's "rights of man" (*renquan*). Only those loyal to the nation, in their estimation, deserved rights. In the 1940s, certain intellectuals who worked with Chiang Kai-shek defended the notion of human rights, although Chiang did

<sup>18</sup> Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* (Philadelphia, 1998), 251.

<sup>19</sup> For a recent foray into this topic, see Robert H. Taylor, ed., *The Idea of Freedom in Asia and Africa* (Stanford, Calif., 2002).

<sup>20</sup> Stephen Angle, *Human Rights and Chinese Thought: A Cross-Cultural Inquiry* (Cambridge, 2002); Marina Svensson, *Debating Human Rights in China: A Conceptual and Political History* (Lanham, Md., 2002); Stephen C. Angle and Marina Svensson, eds., *The Chinese Human Rights Reader: Documents and Commentary, 1900–2000* (Armonk, N.Y., 2001).

not.<sup>21</sup> In the 1920s and 1940s, activists trying to push the GMD to respect its citizens more mounted “human rights” campaigns. A short-lived magazine called “Human Rights” (*Renquan*) was published in China in 1925. Chinese Communists, similarly, in the last sixty years, have had more than one position on the subject. At different times, they have denounced human rights talk as a bourgeois ruse, used the idiom strategically, made halting and brief gestures to respect civil and political rights, and argued that the true core of human rights was economic and social rights.<sup>22</sup>

Notions of human rights have been a part of China’s ideological battles, not only in the 1990s but for the whole twentieth century. It impoverishes these debates, Angle and Svensson argue, to reduce them to Western parasitism. The “discussion of rights in China,” they write, “has long been motivated by indigenous concerns, rather than imposed from without, and it has been interpretive and critical, rather than passive and imitative.”<sup>23</sup>

If careful attention to the idiom can lead to new insights, so too can examination of how the absence of the idiom has mattered. In 1993, the United Nations expanded the definition of “war crimes” to include systematic rape. Historians Atina Grossmann and Elizabeth Heineman have recently written on what it meant *not* to have this definition of war crimes in the 1940s.<sup>24</sup> There was, they note, brutal and widespread rape of German women by Soviet military personnel in 1945. But, as Grossmann first observed, unlike what some have argued, this was not “silenced” at the time. Quite the contrary: U.S. and British army officers discussed the rapes as a problem of venereal disease, all the occupying armies discussed the abortion issues raised (huge numbers of raped German women wanted abortions), and the women themselves passed around survival stories to each other. Even German Communists openly worried that the rapes hindered efforts to recruit Germans to the Communist Party. Heineman adds that discussion of the rapes allowed Germans to construct the image of themselves as innocent victims of the war. This was not silence. But the terms mattered. Amid all the talk, never at the time were the rapes discussed as a crime against humanity. Rape was not part of the Nuremberg indictment. Nor was there any international outcry against Soviet behavior. “Cold War-era references to the Soviet rapes,” Heineman observes, “explained them in political, national, or even racial terms—and not as gendered acts.”<sup>25</sup> Nor, I would add, as human rights violations. It took the women’s movement of the 1970s and 1980s to change the way the discussion took place.

The language of human rights is fluid. The term has meant widely different things at different points in time. It may be too much to say that “human rights” is

<sup>21</sup> Among the defenders was Peng-chun Chang, who served on the drafting committee of the Universal Declaration of Human Rights. For Chiang Kai-shek’s opposition, see Chiang Kai-shek, *China’s Destiny*, Wang Chung-hui, trans. (New York, 1947), 207–08.

<sup>22</sup> Angle and Svensson, *Chinese Human Rights Reader*, *passim*.

<sup>23</sup> Angle and Svensson, *Chinese Human Rights Reader*, xiii.

<sup>24</sup> Atina Grossmann, “A Question of Silence: The Rape of German Women by Occupation Soldiers,” in *West Germany under Construction: Politics, Society, and Culture in the Adenauer Era*, Robert G. Moeller, ed. (Ann Arbor, Mich., 1997), 33–52; Grossmann, “The Difficulty of Historicizing Rape and Sexual Violence: Victims, Resisters, and Liberators in World War II,” unpublished paper. Also see Elizabeth Heineman, “The Hour of the Woman: Memories of Germany’s ‘Crisis Years’ and West German National Identity,” *AHR* 101 (April 1996): 364–74.

<sup>25</sup> Heineman, “Hour of the Woman,” 370.

an empty signifier, but given the range of usages over time—the phrase can mean diametrically opposed things—that seems to be a useful starting point. Hunt, Angle, Svensson, and Grossmann demonstrate that historians of human rights can do much to further our understanding of global political discourse by not taking the term for granted, by carefully attending to its different uses, and by locating those uses in local, political contexts. It is precisely in not treating assertions of “human rights” in hushed, reverential tones that the best possibilities lie.

These historians refuse to be tripped up by any universal/local divide. Rather, they are writing the local histories of universal claims. Such claims—specifically attached to human rights discourse—have become one way that peoples around the world now interact with each other. In this sense, human rights talk communicates across cultures in ways similar to money, statistics, pidgin English, or a discussion of soccer. Such idioms are important, at times extraordinarily important, but they are also expressively thin. We do successfully communicate with them, but only in a rough and ready way.

But if human rights has become one of the *linguae francae* of a globalized world, this certainly does not mean that local cultures are irrelevant. If human rights talk is a thin communicator across cultures, it also gathers thicker meaning within cultures. Hunt, Angle, Svensson, and Grossmann explore how this universalistic idiom acquires local meanings that are fought over and evolve through time. And they are exploring this with a sharp eye on the specific political stakes involved at any given moment. It is the careful and constant interplay between local and global, between specific political settings and grand political claims that promises to contribute to knowledge.<sup>26</sup>

IF THE TALK IS EVERYWHERE, though, why are human rights politics so weak? Here we shift from political language to the history of activism. This is the other area where much recent work has been done, especially looking at the 1940s to the present. The last sixty years has really made for a remarkable shift.

International activism in the name of some shared basic rights has not had a distinguished history. The liberal revolutions of the eighteenth and early nineteenth centuries took place within the frame of the nation-state. While intellectuals such as Tom Paine and Immanuel Kant dreamed of moving international affairs beyond the “Westphalian system” devoted to respecting the autonomy of sovereign states, the French Declaration of the Rights of Man and Citizen and the American Declaration of Independence both announced universal rights that were to be protected by national states. In other words, as far as the international community was concerned, nations could still do what they wanted inside their borders. This presumption does not appear to have been dramatically challenged until the 1940s, when international law against genocide was written and when it was proclaimed that the world community needed to monitor basic human rights.

<sup>26</sup> On the concepts of “thick” and “thin” in human rights talk, see Michael Walzer, *Thick and Thin: Moral Argument at Home and Abroad* (Notre Dame, Ind., 1994); Kenneth Cmiel, “The Emergence of Human Rights Politics in the United States,” *Journal of American History* 86 (December 1999): 1249–50; Angle, *Human Rights and Chinese Thought*, 11–15.

To be sure, Gary Jonathan Bass, in *Stay the Hand of Vengeance*, his excellent history of war crimes tribunals, shows that the British wanted to try Napoleon in 1815. (The Prussians wanted to shoot him.) Bass also recounts the efforts to try Kaiser Wilhelm in 1919 for war crimes. But both cases make the point about the weakness of humanitarian law before the 1940s. Neither of these trials actually happened. Napoleon was shipped to Elba; the Dutch would not hand over the kaiser. Nuremberg marked the first “successful” war crimes trial.<sup>27</sup>

If you think of “human rights activism” in another way—as efforts to make claims across borders in the name of basic rights—this activism has been intermittently strong but not sustained. The international campaign against slavery, scattered attempts in the 1880s and 1890s to regulate the Ottoman Empire’s treatment of Christians, the birth of the international women’s movement are all examples.<sup>28</sup> But so much was left undone. There was no international outcry or organizations devoted to the slaughter of Indians in the United States, no important transnational NGOs fighting pogroms against Jews in Russia. There was no real organized international opposition to European empire, or important groups of activists devoted to securing former slaves their rights in the United States.

Adam Hochschild’s powerful account of international activism against the slaughter of African workers in the Congo under the colonial regime of King Leopold of Belgium underscores the point. The leader of the campaign was Edmund Dean Morel, an employee of a Liverpool shipping line, who shortly after 1900 became outraged at the wanton cruelty and stunning, murderous disregard for life that Belgian overlords exhibited toward their African subjects. Horrific brutality, outright starvation, inhuman workloads—all were astoundingly commonplace. Hochschild recounts the tireless efforts of Morel and his associates to bring these horrors to the attention of the Western public. Morel developed ties throughout Europe and the United States. Hochschild accurately sees Morel’s work as the bridge between the international antislavery activism of the mid-nineteenth century and the human rights work of the present.

Still, the limitations stand out. Morel focused on the Congo alone, refusing to expand his crusade to other locales. He was not against empire in general and, Hochschild notes, “ignored his own country’s use of forced labor.” Moreover, his Congo Reform Association disbanded in 1913 after a series of Belgian reforms seemed to put the colony on a more “humane” imperial path. Morel’s campaign was a bridge, but—limited to a specific issue and fading from existence after ostensibly

<sup>27</sup> Gary Jonathan Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton, N.J., 2000); on war crimes trials, also see Howard Ball, *Prosecuting War Crimes and Genocide: The Twentieth-Century Experience* (Lawrence, Kan., 1999); and Devin Pendas, “‘I Didn’t Know What Auschwitz Was’: The Frankfurt Auschwitz Trial and the German Press, 1963–65,” *Yale Journal of Law and the Humanities* 12 (Summer 2000): 397–446. On the related topic of transitions to democracy, see Carla Hesse and Robert Post, eds., *Human Rights in Political Transitions: Gettysburg to Bosnia* (New York, 1999).

<sup>28</sup> Audrey Fisch, *American Slaves in Victorian England: Abolitionist Politics in Popular Literature and Culture* (Cambridge, Mass., 2000); Alan Rice and Martin Crawford, eds., *Liberating Sojourn: Frederick Douglass and Transatlantic Reform* (Athens, Ga., 1999); Nitza Berkovitch, *From Motherhood to Citizenship: Women’s Rights and International Organizations* (Baltimore, Md., 1999); Leila J. Rupp, *Worlds of Women: The Making of an International Women’s Movement* (Princeton, N.J., 1997).

accomplishing its end—it looks more like a smaller version of earlier transnational antislavery efforts than contemporary human rights activism.<sup>29</sup>

There were other scattered campaigns to protect basic rights. In France, the Ligue des Droits de l'Homme was founded in 1901 and remained active until the mid-1930s.<sup>30</sup> In South America, the Liga Argentina por los Derechos del Hombre dates from 1937.<sup>31</sup> A few Russian, Latin American, and West European international lawyers tried to put human rights on the table during the 1920s, one example of the internationalism of the day. This internationalism took varied forms, cultural and political, but in general it was a weak current, overwhelmed by the aggressive 1930s nationalism of Italy, Germany, and Japan, and politically weaker than the Western isolationist or appeasement hope that staying away from fights would keep them from erupting.<sup>32</sup>

Nor was the League of Nations really committed to human rights in the 1940s sense of the term. The international lawyers who have tried their hand at human rights history—Mary Ann Glendon, Geoffrey Robertson, A. W. Brian Simpson—each makes this point with varying detail, as does historian Paul Lauren.<sup>33</sup> The League was interested in protecting the rights of minority groups, not individuals. Racial minorities outside of Europe were left to fend for themselves. The League's devotion to the principle of self-determination, similarly, was also designed to protect the rights of groups, not individuals.

In the 1940s, however, “the focus on minority rights was supplanted by an emphasis on human rights.”<sup>34</sup> Much of the recent work on the history of human rights activism underscores the importance of that decade. Mary Ann Glendon's account of Eleanor Roosevelt's work drafting the Universal Declaration of Human Rights is one of the best of the recent books. A. W. Brian Simpson, the

<sup>29</sup> Adam Hochschild, *King Leopold's Ghost: A Story of Greed, Terror, and Heroism in Colonial Africa* (New York, 1998), 210.

<sup>30</sup> Emmanuel Naquet, “Entre justice et patrie: La ligue des droits de l'homme et la grande guerre,” *Movement social* 183 (1998): 93–109; “La Ligue française des droits de l'homme et la L.I.D.U., son homologue italienne, organisation d'exiles antifascistes dans l'entre-deux-guerres,” *Movement social* 183 (1998): 119–34; Wendy Perry, “Remembering Dreyfus: The Ligue des Droits de l'Homme and the Making of the Modern French Human Rights Movement” (PhD dissertation, University of North Carolina, Chapel Hill, 1999).

<sup>31</sup> The Liga was founded in 1937. It had many Communist Party ties, although it was not formally connected with the party. It is now “a pluralist organization of the Left in Argentina.” Louis Bickford, “Human Rights Archives and Research on Historical Memory,” *Latin American Research Review* 35 (2000): 173; for general background to the organization, see Alfredo Welsh, *Tiempos de ira, tiempos de esperanza: 50 años de vida política a través de la Liga Argentina por los Derechos del Hombre* (Buenos Aires, 1984).

<sup>32</sup> Lauren, *Evolution of International Human Rights*, 91, 110–14; Burgers, “Road to San Francisco”; Simpson, *Human Rights and the End of Empire*, 151–54. For more general background to the internationalism of the era, see Akira Iriye, *Cultural Internationalism and World Order* (Baltimore, Md., 1997).

<sup>33</sup> Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York, 2001), 9–10; Geoffrey Robertson, *Crimes against Humanity: The Struggle for Global Justice* (New York, 2000), 21; Simpson, *Human Rights and the End of Empire*, 121–49; Lauren is especially good on the racial limits of League policy, see *Evolution of International Human Rights*, 98–103.

<sup>34</sup> Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton, N.J., 1999), 105. For a particularly clear 1940s statement of the opposition between the concept of self-determination and the notion of human rights, see Morris D. Waldman, “A Bill of Rights for All Nations,” *New York Times*, November 19, 1944.

distinguished legal historian, has written a massive book on Britain's role in framing the 1950 European Convention on Human Rights, the starting point of today's European Court of Human Rights. The heart of Paul Lauren's *Evolution of International Human Rights* is the four chapters recounting the interwar years and the 1940s. Samantha Power's *Problem from Hell: America in the Age of Genocide* provides the first glimpse of Raphael Lemkin's career in the 1940s, Lemkin being the Polish Jew who coined the term "genocide" in 1944, drafted the UN Convention on Genocide two years later, and devoted enormous energy in the next decade to keeping the world focused on the subject. These accounts are drawing the first substantive portrait of 1940s human rights activism.<sup>35</sup>

These accounts suggest the range of political actors involved. Liberal reformers and social democrats were at the forefront—Eleanor Roosevelt of the United States, René Cassin of France. Yet deeply conservative men and women played a role. Winston Churchill fought at the end of the decade to have the European Commission devise the European Convention on Human Rights. Glendon rightly gives Charles Habib Malik, the Lebanese diplomat, a prominent place in drafting the Universal Declaration of Human Rights. Malik was a conservative spirit who ended his career as a hero to certain Christian intellectuals in the United States.<sup>36</sup> Yet he played a major role in drafting the Universal Declaration and shepherding it through the United Nations.

This activism was also designed to build international law, and the new United Nations was at the heart of it. The Nuremberg Principles were meant to be the start of something much grander. The Universal Declaration of Human Rights was the first step. That set of principles was supposed to be quickly turned into binding international law. The Genocide Convention, adopted by the General Assembly the day before it adopted the Universal Declaration, was similarly supposed to matter.

Yet the world waited until the 1990s for the next major international tribunal charging someone with crimes against humanity. The Cold War and fights between Western and Third World nations undermined the human rights élan of the 1940s. The second important period scholars are reviewing is the 1970s, when there was an explosion of interest in human rights. The exponential growth of Amnesty International (which was founded in 1961), as well as the birth of Human Rights Watch in New York, the Mothers of the Plaza de Mayo in Buenos Aires, and the

<sup>35</sup> Other works on the 1940s include Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent* (Philadelphia, 1999); Arieh Kochavi, *Prelude to Nuremberg: Allied War Crimes Policy and the Question of Punishment* (Chapel Hill, N.C., 1998); Carol Anderson's excellent *Eyes off the Prize: The United Nations and the African American Struggle for Human Rights, 1944–1955* (Cambridge, 2003); Kenneth Cmiel, "Human Rights, Freedom of Information, and the Origins of Third World Solidarity," in Mark Bradley and Patrice Petro, eds., *Truth Claims: Representation and Human Rights* (New Brunswick, N.J., 2002), 107–30; Marilyn Lake, "From Self-Determination via Protection to Equality via Non-Discrimination: Defining Women's Rights at the League of Nations and the United Nations," in Grimshaw, Holmes, and Lake, *Women's Rights and Human Rights*, 254–71; Elizabeth Borgwardt, "An Intellectual History of the Atlantic Charter: Ideas, Institutions, and Human Rights in American Diplomacy, 1941–1946" (PhD dissertation, Stanford University, 2002).

<sup>36</sup> In the early 1960s, Malik began publishing books in the United States with religious publishers. *A Christian Critique of the University* (Downers Grove, Ill., 1982), which condemned the godless turn in higher education and was published by a prominent evangelical press, is still read in the United States.

Helsinki Watch Groups in the Soviet Union and Eastern Europe—these are stories starting to be told.<sup>37</sup>

New transnational communication networks became extremely important. This activism, in other words, was part of the emergence of late twentieth-century globalization, a point not mentioned in enough of the historiography. And the center of the activism shifted. NGOs rather than the UN were the focal point. The 1970s activists were less interested in international law, more invested in publicizing cruel behavior to shame perpetrators into change. Nor were the new human rights campaigns truly part of a mass movement. Rather, they depended on small numbers of very well educated people in Latin America or Eastern Europe connecting with activists in New York, London, Paris, and Geneva and getting their stories into venues such as *Le monde*, the *New York Times*, or the BBC. Regional treaties such as the Helsinki agreements, or national legislation like the Jackson-Vanik Amendment in the United States, were far more important than international law crafted at the UN. In fact, relations between the UN and the Western human rights NGOs steadily worsened during the 1970s.<sup>38</sup>

The agenda also shrank from the 1940s. The “self-determination of peoples” remained off the radar screen of the Western NGOs, a principal source of the tension with UN representatives. But, just as important, the general 1940s liberal or social democratic emphasis on civil and political rights *and* economic rights was lost. The major Western human rights organizations, Amnesty International in London, Human Rights Watch in New York, the International Commission of Jurists in Geneva, all devoted themselves solely to combating appalling abuses of civil and political rights around the globe.

Finally, a third wave of activism dates from the late 1980s but gathered real steam in the 1990s. Being so recent, far less is written on it. Still, some things can be said. The agenda of Western human rights activists expanded to include health rights, women’s rights, economic justice, and indigenous people’s rights. Go to Amnesty International’s web site today and you will find current campaigns touching a much wider set of concerns than in the 1970s. There has also been a renewed interest in international law. The end of the Cold War turned human rights activists back to the United Nations. The idea of trying tyrants marked a return to a 1940s concern. Expansions of the UN court system via bodies such as the International Tribunal for the Former Yugoslavia or a permanent International Criminal Court were examples of this drive.

This third, most recent wave of activism has also seen an explosion of new

<sup>37</sup> Cmiel, “Emergence of Human Rights Politics in the United States”; Jeri Laber, *The Courage of Strangers: Coming of Age with the Human Rights Movement* (New York, 2002); Daniel Thomas, *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism* (Princeton, N.J., 2001); Iain Guest, *Behind the Disappearances: Argentina’s Dirty War against Human Rights and the United Nations* (Philadelphia, 1990); Marguerite Guzman Bouvard, *Revolutionizing Motherhood: The Mothers of the Plaza de Mayo* (Wilmington, Del., 1994); Charles Rhéaume, “Science et droits de l’homme: Le soutien international à Sakharov” (PhD dissertation, McGill University, 1999). Two useful books that range from the 1940s through the 1990s but contain much on the 1970s activism are William Korey, *NGOs and the Universal Declaration of Human Rights*, and Howard Tolley, *The International Commission of Jurists: Global Advocates for Human Rights* (Philadelphia, 1995).

<sup>38</sup> Jack Donnelly, “Recent Trends in U.N. Human Rights Activity: Description and Polemic,” *International Organization* 35 (Autumn 1981): 633–55; Howard Tolley, *The U.N. Commission on Human Rights* (Boulder, Colo., 1987).

human rights NGOs outside the West. They have a huge range of agendas. They often exist on shoestring budgets. Very little systematic research has been done on these organizations. Whether they are financially driven by Western European or U.S. sources is not known. (Some are, but we don't know if this is usual.) How they matter, if at all, has not had enough attention.

If the new literature suggests three waves of activism since the 1940s, it also reveals three competing attitudes of the historians to this activism. First, there is the "it's getting better" story: the world now pays increasing attention to the violation of rights. International law is expanding. Dictators can be prosecuted. The last half of the century, according to Michael Ignatieff, has engineered a "rights revolution." Some of the breezier accounts aimed at a popular audience treat the subject this way.<sup>39</sup> It turns up in other, more substantial work as well, though, such as that of Ignatieff.<sup>40</sup>

How do these writers deal with Kosovo or Rwanda? How do they account for the United States sidestepping the UN convention on landmines or its opposition to the new International Criminal Court? Some simply ignore the dirty work of the world and sing with true Panglossian cheer. Others, more subtly, suggest that the expansion of human rights talk and the prominence of human rights NGOs is a sign of better things to come. The increasing stature of Amnesty International, according to political scientists Ann Marie Clark and Kathryn Sikkink, means that new norms are winding their way into the government practice.<sup>41</sup> The historian Rosemary Foot has penned one of the best renderings of this point of view. Her *Rights beyond Borders* is an excellent account of China's engagement with human rights issues during the 1980s and 1990s. Foot argues that China's increasing participation in human rights debates will push the regime to better standards whether it really wants to or not.<sup>42</sup> I remain skeptical. More human rights NGOs do not necessarily mean that fewer people are being detained or tortured. China's participation in UN human rights venues is just as much a means of deflecting international criticism as it is moving to a more humane plateau, a point Marina Svensson notes in her account.<sup>43</sup> Foot is absolutely right to suggest that the emergence of a "human rights regime" in the last decades of the twentieth century

<sup>39</sup> Jonathan Power, *Like Water on Stone: The Story of Amnesty International* (Boston, 2001); Robert Drinan, S.J., *The Mobilization of Shame: A World View of Human Rights* (New Haven, Conn., 2001); Kirsten Sellars, *The Rise and Rise of Human Rights* (Thrupp, England, 2002); Linda Rabban, *Fierce Legion of Friends: A History of Human Rights Campaigns and Campaigners* (Hyattsville, Md., 2002).

<sup>40</sup> See Lauren's *Evolution of International Human Rights*, esp. 241–98; Michael Ignatieff, *The Rights Revolution* (Toronto, 2000); but for a more recent, and more skeptical, assessment, see Ignatieff, "Is the Human Rights Era Ending?" *New York Times*, February 5, 2002.

<sup>41</sup> This strain of optimism comes from international relations theory known as "constructivism," which challenges both neo-realist and neo-liberal understandings of the international order. Recent constructivist scholarship has emphasized the ability of human rights NGOs to alter the behavior of states. At times, this literature reads modestly—human rights NGOs can have successes. At other moments, however, these writers lean toward arguing that human rights NGOs have the power to significantly rearrange the international system. For examples, see Ann Marie Clark, *Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms* (Princeton, N.J., 2001); Margaret Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (Ithaca, N.Y., 1998); Thomas Risse-Kappen, et al., eds., *The Power of Human Rights: International Norms and Domestic Change* (Cambridge, 1999); Thomas, *Helsinki Effect*.

<sup>42</sup> Rosemary Foot, *Rights beyond Borders: The Global Community and the Struggle over Human Rights in China* (Oxford, 2000), 250–73.

<sup>43</sup> Svensson, *Debating Human Rights in China*, 266.



throws something new into international relations. But the determination of the Chinese regime to stamp out opposition, the vacillating weakness of the UN Commission on Human Rights, the salivating desire of capital in Europe, Japan, and the United States to have new markets in China, and the lack of political will, international stature, and policy consistency in the one dominant superpower left, the United States, all militate against the view that the future will see a better record on human rights in China.

The second sensibility in this historical writing sees human rights politics as paradoxical. Jeffrey Wasserstrom, Marilyn Young, Joan Wallach Scott, and Alice Bullard all explore the dual nature of human rights discourse. Robert Darnton discusses the ironies of censorship by comparing late eighteenth-century France and 1980s East Germany. Lynn Hunt sees the very origins of human rights as mired in paradox. Human rights idioms grant rights to some but take them away from others.<sup>44</sup>

To be sure, this is a large category. Paradox can be charged in very different ways. Some who write in this vein are fairly skeptical of human rights ideas—Scott and Bullard. Others, however—Darnton and Wasserstrom—are quite sympathetic. Whatever these differences, however, the common focus on the irony and paradox of human rights is a change from historians' earlier disregard of the subject. "Paradox" is not exactly cultural relativism, where each autonomous culture is judged according to internal standards. Nor is it Karl Marx's critique of the French Declaration of the Rights of Man, where the falseness of the universal claims corrupted the whole project. The very point of "paradox" is that inherent problems do not destroy the idiom. As Marilyn Young shrewdly notes, paradox is not contradiction.<sup>45</sup> Rather, paradox calls for the persistent negotiation between claim and practice. There is no ultimate resolution, but we must go on. In her contribution to *Human Rights and Revolutions*, Bullard starkly states the point of view with a far more critical edge than some others would adopt: "The language of human rights appears particularly ill suited to situations of radical cultural difference, yet this essay does not seek to relativize human rights or standards for their evaluation."<sup>46</sup>

Yet even for those historians more sympathetic to human rights claims, the emphasis on paradox tends to leave little space for progress. The stories these historians tell are full of bad or unintended consequences liberally mixing with the most noble words and deeds. As Wasserstrom notes in a very fine essay, activists have painted human rights ideas as straightforward and simple while they are "complex and often internally contradictory."<sup>47</sup>

These historians may be right about the paradoxical nature of human rights

<sup>44</sup> Jeffrey N. Wasserstrom, Lynn Hunt, and Marilyn Young, eds., *Human Rights and Revolutions* (Lanham, Md., 2000); Joan Wallach Scott, *Only Paradoxes to Offer: French Feminists and the Rights of Man* (Cambridge, Mass., 1996); Robert Darnton, "Censorship, A Comparative View: France, 1789—East Germany, 1989," in Hufton, *Historical Change and Human Rights*, 101–30. For Hunt, see her essay in *Human Rights and Revolutions*, "The Paradoxical Origins of Human Rights," 3–17.

<sup>45</sup> Marilyn Young, "Preface," in *Human Rights and Revolutions*, vii.

<sup>46</sup> Alice Bullard, "Paris 1871/New Calidonia 1878: Human Rights and the Managerial State," in *Human Rights and Revolutions*, 95.

<sup>47</sup> Jeffrey N. Wasserstrom, "Chinese Revolutions and Contemporary Paradox," in *Human Rights and Revolutions*, 20.

claims in the past two centuries. Yet it is not surprising that this sensibility is the one found among academic historians, that tribe with “only paradoxes to offer.”<sup>48</sup> “Paradox” and his good pal “Irony” are peculiarly intellectual conceits, the right pitch for academics but not well tuned for success in the political world. Don’t political movements need passion more than complexity? When has paradox spurred anyone to heroism? The Czech novelist Milan Kundera has one of his characters in *Immortality* archly remark that those who preach paradox are “the brilliant allies of their own gravediggers.”<sup>49</sup> It is a point worth pondering. If human rights talk is a practice riddled with paradox, that does not bode well for its future. Put another way, the success and plausibility of the paradoxical sensibility among intellectuals could very well be a sign of a more general retreat from human rights claims in the world.<sup>50</sup>

The third sensibility in the recent historical writing is angrier, defined by a wrenching chasm between the glowing words or strenuous activism and the very slim real results. These writers do not think the ideals are paradoxical. They do not want to tarry with ironies. Rather, they focus on the horrible failure to protect basic rights in the modern world. The journalism of David Rieff exemplifies this attitude, as does the work of Adam Hochschild.<sup>51</sup> Samantha Power’s spectacular book on the history of the United States and genocide, *A Problem from Hell*, provides a powerful example. Power, a journalist who has moved over to the Carr Center for Human Rights at Harvard, has written the most moving history yet of the human rights activism of the twentieth century. She portrays, from the 1940s to the present, the continued refusal of the United States meaningfully to come to terms with genocide. Unlike so much of the human rights history written in the past decade, Power emphasizes the lessons that have not been learned, the continued evasions of U.S. politicians, and the depressing record of the international community.

The strength of Power’s account comes from her devoting as much ink to atrocity as to activism. Most of the other history discussed here centers differently—on the expanding networks of human rights activists or the evolving regime of international law.<sup>52</sup> Power, though, portrays both Raphael Lemkin’s drive to write law against genocide and Saddam Hussein’s gassing of his own citizens. She traces both Senator William Proxmire’s dogged efforts to have the United States ratify the Convention on Genocide and, in one of the best chapters of her book, the absolutely contortion-like efforts of the Clinton administration to avoid confronting the genocide in Rwanda. Only when we have more accounts that, like Power’s, take into account human rights abuses and evasions will we get a better assessment of what all the activism has actually accomplished.

There has not been enough systematic work on the history of brutality. To be

<sup>48</sup> Scott, *Only Paradoxes to Offer*.

<sup>49</sup> Milan Kundera, *Immortality: A Novel* (New York, 1991), 122.

<sup>50</sup> Lynn Hunt’s contribution to *Human Rights and Revolutions* tells a deeply paradoxical story. Yet her commentary in her collection of documents, *The French Revolution and Human Rights*, gives a much more optimistic reading of human rights history. See *French Revolution and Human Rights*, 3, 18–19. Does it matter that the collection of documents is meant for an undergraduate audience while Hunt’s contribution to *Human Rights and Revolutions* is intended for a largely academic readership?

<sup>51</sup> David Rieff, *A Bed for the Night: Humanitarianism in Crisis* (New York, 2002); Hochschild, *King Leopold’s Ghost*.

<sup>52</sup> Other exceptions include a number of the essays in *Human Rights and Revolutions*.

sure, the Holocaust in particular and genocide in general are regular subjects of inquiry.<sup>53</sup> Certain atrocities, such as the Rape of Nanjing, also are studied.<sup>54</sup> Books such as Norman Naimark's work on ethnic cleansing or Anne Applebaum's on the Soviet Gulag surface.<sup>55</sup> In general, work on state violence is growing. But there are still huge gaps. The history of modern torture in all its variety and particularity remains underdeveloped.<sup>56</sup> We don't have a good history of disappearances. There have been individual studies of rape as a wartime practice but no real effort to connect them. Nor is there any good historical introduction to the issue of female genital mutilation, or any systematic, comparative survey of what sorts of violence colonial rulers perpetrated on native populations in the nineteenth and twentieth centuries. These are depressing topics, to be sure. But they deserve the same scholarly attention that genocide gets. While occasionally things are written about particular atrocities and practices, conceptual integration does not usually happen. As Mark Mazower recently argued in this journal, once this work gets done, historians will need to move away from images of state violence derived from Hitler's Germany or Stalin's Soviet Union. There is too much complexity in the history of violence that these models cannot accommodate.<sup>57</sup>

The recent wave of history writing has told us much about what human rights activists have been doing. It is starting to turn the noble, yet slippery phrase into something that can be historically unpacked. But all this history has basically been written from inside—by journalists, lawyers, and scholars who were contributing to the human rights activism of the 1990s. And precisely because everyone writing this history is inside the club, very little of this work is asking the hard questions—what if all the activism didn't really matter? What if all the brutality that human beings do to each other continues? Amnesty International began its international campaign against torture in 1973. Recent work suggests that torture is just as prevalent today.<sup>58</sup> What if claims made in the name of universal rights are not the best way to protect people?

In the 1840s, that is exactly what the radical Karl Marx was suggesting. In the 1940s, that is exactly what Hans Morgenthau, the conservative theoretician of political realism, and Melville Herskovits, the liberal cultural relativist, were arguing.<sup>59</sup> All three were concerned about world peace, although each had a

<sup>53</sup> For a recent overview, see Eric D. Weitz, *A Century of Genocide: Utopias of Race and Nation* (Princeton, N.J., 2003).

<sup>54</sup> Daqing Yang, "Convergence or Divergence? Recent Historical Writings on the Rape of Nanjing," *AHR* 104 (June 1999): 842–65.

<sup>55</sup> Norman M. Naimark, *Fires of Hatred: Ethnic Cleansing in Twentieth-Century Europe* (Cambridge, Mass., 2001); Anne Applebaum, *Gulag: A History* (New York, 2003).

<sup>56</sup> For some of the best work recently done, see Edward Peters, *Torture*, 2d edn. (Philadelphia, 1996); Darius Rejali, *Torture and Modernity: Self, Society, and State in Modern Iran* (Boulder, Colo., 1994); Rejali, "Electric Torture Instruments: Innovation and Diffusion in Torture Methods: A Case Study," unpublished paper (1998); Rejali, "Studying a Practice: An Inquiry into Lapidation," *Critique* 18 (Spring 2001): 67–100.

<sup>57</sup> Mark Mazower, "Violence and the State in the Twentieth Century," *AHR* 107 (October 2002): 1158–78.

<sup>58</sup> Amnesty International, *A Glimpse of Hell: Reports on Torture Worldwide* (New York, 1996); Bertil Dunér, ed., *An End to Torture: Strategies for Its Eradication* (London, 1998).

<sup>59</sup> Karl Marx, "On the Jewish Question," in Marx, *The Early Texts*, D. McLellan, ed. (Oxford, 1971); for Morgenthau criticizing the drive for "an international bill of rights," see Hans Joachim Morgenthau, *Scientific Man vs. Power Politics* (Chicago, 1946), 106; for Morgenthau's critique of international law,

different way to get there: a violent lurch to the next stage of history, an ongoing balance of power, an increased respect for cultural difference. But, despite their very different sensibilities, all three were equally skeptical that some regime of liberal international law would do the trick. All found the universalistic claims masking a dangerous hubris. If the history of human rights starts to get written from a variety of perspectives, we will be in a better position to develop a more realistic balance sheet of its successes and failures.

After 9/11, there has been an outpouring of commentary on the danger that the human rights era is over.<sup>60</sup> A few accounts are now surfacing—both journalistic and scholarly—arguing that the wave of recent activism has not been very successful at all.<sup>61</sup> The optimism that underscored so much of the 1990s writing now appears to be past. This has happened before, in the 1950s, for example, when the Cold War and decolonization undermined the previous decade's enthusiasm and stopped the nascent drive for international human rights law in its tracks for the next fifty years. Only time will tell if something similar is going on right now. The answer will ultimately help us see if the recent writing on the history of human rights represents a footnote to fin-de-siècle fantasies or a true start to a new way of being in the world.

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see Morgenthau, *Politics among Nations: The Struggle for Power and Peace* (New York, 1948), 209–42; for the Herskovits position, see American Anthropological Association, "Statement on Human Rights," *American Anthropologist* 49 (1947): 539–41.

<sup>60</sup> Ignatieff, "Is the Human Rights Era Ending?"; Peter Maass, "How America's Friends Really Fight Terrorism," *New Republic*, no. 227 (November 11, 2002): 18–21; "Does the Western World Still Take Human Rights Seriously?" *Lancet*, no. 358 (November 24, 2001): 1741; David Lubin, "The War on Terrorism and the End of Human Rights," *Philosophy and Public Policy Quarterly* 22 (Summer 2002): 9–14; Jacques Julliard, "La défaite du droit d'ingérence," *Le nouvel observateur*, no. 2027 (September 11–17, 2003): 9.

<sup>61</sup> Rieff, *Bed for the Night*; Oona Hathaway, "Do Human Rights Treaties Make a Difference?" *Yale Law Journal* 111 (June 2002): 1395–2042.

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**Kenneth Cmiel** teaches cultural history and the history of human rights at the University of Iowa. He received his PhD from the University of Chicago under the direction of Neil Harris. He has published two books, *Democratic Eloquence: The Fight over Popular Speech in Nineteenth-Century America*, which won the Allan Nevins Prize from the Society of American Historians, and *A Home of Another Kind: One Chicago Orphanage and the Tangle of Child Welfare* (1995). His articles on human rights include "The Emergence of Human Rights Politics in the United States" (*Journal of American History*, December 1999) and "Human Rights, Freedom of Information, and the Origins of Third World Solidarity," in Mark Bradley and Patrice Petro, eds., *Truth Claims: Representation and Human Rights* (2002). He is currently writing a book on the ideological origins of the Universal Declaration of Human Rights.