

Human rights in a global ecumene

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A signature feature of the English School is its enduring interest in the relationship between order and justice in international relations: in the importance of both as subjects of scholarly attention and objects of foreign policy, in their inextricably entwined nature, and in the contradictions and tensions between the two. It is fair to say, however, that of the School's three great voices—Martin Wight, Hedley Bull and John Vincent—it is the last who devoted greatest attention to the 'justice' side of the relationship. It was Bull, of course, who framed many of the School's reflections on order and justice, *The anarchical society* providing a language and set of arguments that subsequent writers have used to great effect and struggled to escape.¹ Bull approached these questions from the starting point of order, however, even if he came, in time, to see justice as a necessary prerequisite for order in a global, post-colonial society of states.² It is said that he planned a companion volume to *The anarchical society*, one that confronted the issue of international justice head on. It was Vincent, however, who filled this vacuum, and his *Human rights and International Relations* (hereafter *Human rights*) remains, arguably, the School's most sustained theoretical reflection on the problem of justice, approached to great effect through the lens of human rights.³

Twenty-five years ago the study of human rights in world politics was a less crowded field than it is today, with a veritable cottage industry now at work. Yet it was in this earlier period that some of the field's most significant works were published. Henry Shue's *Basic rights* first appeared in 1980, Richard Falk's *Human rights and state sovereignty* in 1981, Vincent's *Human rights* in 1986, and Jack Donnelly's *Universal human rights in theory and practice* in 1989.⁴ Vincent's work is distinctive, however, in several respects. First, despite its succinctness, it is admirably comprehensive. Vincent manages, in a mere 152 pages, to address the philosophy of human rights, the nature and complexities of international human rights practices, and the foreign policy implications of his reflections. Second, to a greater extent than

* I have benefited enormously from feedback provided by Chris Brown, Andrew Linklater, Heather Rae, Nicholas Rengger, Chandra Sriram, Caroline Soper, Jennifer Welsh and Nicholas Wheeler.

¹ Hedley Bull, *The anarchical society: a study of order in world politics*, 2nd edn (Basingstoke: Macmillan, 1995).

² Hedley Bull, *Justice in international relations: 1983–1984 Hagey Lectures* (Ontario: University of Waterloo, 1984).

³ R. J. Vincent, *Human rights and International Relations* (Cambridge: Cambridge University Press, 1986).

⁴ Henry Shue, *Basic rights: subsistence, affluence, and U.S. foreign policy* (Princeton, NJ: Princeton University Press, 1980); Richard Falk, *Human rights and state sovereignty* (New York: Holmes & Meier, 1981); Jack Donnelly, *Universal human rights in theory and practice* (Ithaca, NY: Cornell University Press, 1989).

the other works listed above, Vincent is centrally concerned with the implications of human rights for International Relations (IR) theory. If human rights are defensible moral principles, and if discourses and practices of human rights are becoming ever more central to international relations, what does this mean for how we think about the nature of international society and, importantly, the relationship between this statist realm and a wider world (or global) society? Third, as already noted, *Human rights* is a work of the English School: it not only builds upon the School's conceptual apparatus, it engages several of its cardinal preoccupations, most notably the internal debate between pluralists and solidarists, with Vincent articulating a qualified solidarism.

Given these qualities, *Human rights* offers multiple points of engagement. My particular interest here lies in a key opening in Vincent's discussion, an observation he makes about the cultural politics surrounding the globalization of international human rights. Two diametrically opposed arguments have so far framed debate in this area. The first, which might be termed 'negotiated universalism', attributes universal acceptance to the core norms of the international human rights regime, and sees this acceptance as the product of iterated processes of international negotiation. The second, which I will label 'cultural particularism', sees ideas and discourses of human rights as western cultural artefacts, rationalized in universalist terms and, in some accounts, imposed on non-western cultures for which such values are alien. Vincent accepted neither of these positions, suggesting instead a more complex understanding of the cultural politics of international human rights. Ideas about human rights emerge first in a western cultural context, but their globalization is the result of protracted processes of international and transnational political and cultural engagement, and the results of this process are not easily reduced to either simple negotiation or western cultural imposition. In Vincent's words:

[If] the modernization which was associated at its outset with westernization continues, even in the circumstances of relative western decline, we may call it a universal social process in which it is difficult to identify the particular contribution of this or that culture. In this regard, the international law of human rights may be an expression of this global process, and not merely of the American law of human rights writ large.⁵

In the following pages I walk through this opening, giving greater form to Vincent's underdeveloped yet highly productive observation about the cultural politics surrounding international human rights. My aim is to set out a third way of thinking about this politics, one that recovers the relationship between individual rights and historical struggles for recognition and empowerment, and locates the development of ideas and norms of international human rights within an inherently pluralistic civilizational context. Central to this understanding is an alternative conception of the relation between power and human rights, where rights are neither seen as simple expressions of (or vehicles for) western domination, nor robbed of all power-political content by simple notions of negotiation

⁵ Vincent, *Human rights*, p. 108.

or consensus. Towards the end of the article I consider the implications of this account for normative theorizing about human rights. Just as the negotiated universalist and cultural particularist accounts enable particular kinds of ethical arguments, so too does my alternative account.

Cultural particularism, negotiated universalism

A strong universalist discourse has accompanied the articulation and codification of international human rights. From this perspective, there are certain inalienable rights that all human persons hold independent of any particular contacts, customs or special relationships; they hold them simply by virtue of being human. This view has been subjected to numerous critiques, not the least for universalizing what is in reality a culturally specific set of values. Ideas and practices of human rights emerged first in western socio-cultural contexts, critics argue. They were not, however, root values that produced or generated these societies; they were themselves created by, and make sense only within, a unique form of western society. ‘Rights have no separate ontological status’, Chris Brown argues; ‘they are the product of a particular kind of society, one in which the “state” operates constitutionally under the rule of law, is separated from “civil society” and the “family”, and in which private and public realms are, in principle, clearly demarcated.’⁶ Because of this cultural specificity, rights are not easily exported to, or implanted within, other cultural contexts. Indeed, for Brown, ‘it is implausible to think that rights can be extracted from liberal polities, decontextualized and applied as a package worldwide.’⁷ The fact that human rights have been globalized—that there now exists an elaborate international human rights regime—is said to be a reflection of western dominance, not of a global moral consensus. And to the extent that it does reflect some degree of consensus, this is thin indeed, resulting in a regime shot through with normative contradictions and undermined by weak or non-existent enforcement mechanisms.

While there are some who continue to defend ‘naturalist’ accounts of universal human rights against this kind of culturalist critique, a more common approach today is to downplay the ‘natural’ part of the argument, emphasize the degree of global normative consensus, and use this latter fact as the basis for universalist claims about human rights. Jack Donnelly provides one of the earliest articulations of this position. Developing what he calls the ‘Universal Declaration Model’, he argues that key norms within the 1948 Universal Declaration of Human Rights, particularly those relating to equal concern and respect, now constitute ‘principles that are widely accepted as authoritative within the society of states’.⁸ In pointing to this widespread acceptance, Donnelly seeks to establish the normative power of human rights in the contemporary international system, using the fact of consensus as the first element in an ethical defence of international human

⁶ Chris Brown, *Practical judgement in international political theory: selected essays* (New York: Routledge, 2010), p. 68.

⁷ Brown, *Practical judgement*, p. 60.

⁸ Donnelly, *Universal human rights*, 2nd edn (Ithaca, NY: Cornell University Press, 2003), p. 38.

rights. Having set this as the background, he then advances a liberal moral defence of the Universal Declaration Model. Consensus thus performs two roles in this approach: the reality of global agreement is used to undercut the cultural particularist critique, and is invoked as a foundational normative justification.

Both of these perspectives grasp undeniable elements of the cultural politics surrounding international human rights. The cultural particularist argument seizes upon both the western origins of individual rights and the fact of global cultural diversity, and the negotiated universalist position highlights the roots of contemporary human rights norms in international negotiation, often explicitly and deliberately intercultural.⁹ Yet both of these accounts fail to grasp the full complexity of the cultural politics surrounding the globalization of human rights. The culturalist argument rests on a 'billiard ball' understanding of world cultures, in which these are imagined as discrete, atomistic entities that stand in relations of relative power and mutual miscomprehension. And in the negotiated universalist argument culture is hollowed out, reduced to a thin global veneer of negotiated norms. More importantly, perhaps, both generate anaemic and distorted understandings of the culturally embedded global politics that generated the present international human rights regime. For the culturalists it is reduced to hegemonic imposition; for the universalists, to the post-1945 negotiation of key international human rights instruments. Neither comprehends the five-century-long relationship between individual rights and revolutionary social and political change within the emerging global system, a process in which the international human rights regime is embedded.

The global ecumene

In recent years a number of IR scholars have drawn on insights from sociology to advance an alternative understanding of global cultural politics.¹⁰ Over the past five centuries, a global ecumene has evolved encompassing multiple, varied modernities. Modernity had its origins in the Judaeo-Christian 'West', where interlinked philosophical, scientific, economic and artistic revolutions generated new ways of thinking about the nature of individuals, their relationship to the natural and social universes, and the implications for legitimate political authority. These ideas did not 'globalize', however, through simple processes of imposition or diffusion. The vehicles of transmission were those of European military and economic imperialism. But, as Eisenstadt observes, western modernity was not a singular or coherent whole: 'it was from its beginnings beset by internal antinomies and contradictions, giving rise to continual critical discourse and political contestations'.¹¹ Furthermore, when non-western peoples encountered this internally variegated modernity, they in turn interpreted its attendant ideas and practices through their own cultural lenses, leading to 'the continuous selection,

⁹ See e.g. Mary Ann Glendon, *A world made new* (New York: Random House, 2003).

¹⁰ See esp. Peter J. Katzenstein, *Civilizations in world politics* (New York: Routledge, 2009).

¹¹ S. N. Eisenstadt, 'Multiple modernities', *Daedalus* 129: 1, Winter 2000, p. 7.

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reinterpretation, and reformulation of these imported ideas. These brought about continual innovation, with new cultural and political programs emerging, exhibiting novel ideologies and institutional patterns.¹² The net result has been the development, over a period of five centuries, of a dynamic, global ecumenical space, marked by multiple forms of modernity, products of interaction between western cultural ideas and practices and other civilizational complexes.¹³

Individual rights, contentious politics and social change

This notion of a dynamic, evolving global ecumene, characterized by diverse expressions of modernity, gives form to Vincent's early insight that while modernity has western origins, its development has been part of 'a universal social process'. I want to suggest that it is within the context of this global ecumene that we can most fruitfully understand the development of international human rights, both as its product and as one engine in its development. The idea of individual rights, particularly those we are said to hold simply by virtue of our humanity, is closely bound up with the rise of modern reconceptions of the individual. Furthermore, these ideas emerge, and receive each of their important reformulations, within arguments about, and struggles over, legitimate political authority. Individual rights thus exist as the political core of the global ecumene, and, as we shall see, they have been central to fundamental changes in the political architecture in which multiple modernities have to date evolved.¹⁴ More than this, though, not only have individual rights helped drive changes in the global political architecture, from empire to a universal system of states; through the struggles that have attended these changes, ideas about individual rights have themselves been transformed, with contemporary notions of 'human' rights being, in significant measure, the product of these struggles.

Individual rights, human rights

Human rights are a recently evolved species of a larger genus of general individual rights, rights that individual persons hold for no other reason than that they constitute integral moral beings. While human rights are general individual rights in this sense, only recently have general individual rights been understood as 'human' rights, the moral entitlement of all human beings. For at least five centuries, historical actors have claimed individual rights to freedom of religious expression, to equal political representation, to enfranchisement, to non-discrimination, etc. on the grounds that they are rational moral agents. At the same time, however, these very same claimants have denied that other human beings constitute such agents. Women, unpropertied classes, non-Europeans, non-Christians, indigent peoples—all have, at various points in time, been denied such status and

¹² Eisenstadt, 'Multiple modernities', p. 15.

¹³ Katzenstein, *Civilizations in world politics*, pp. 1–40.

¹⁴ My argument here draws on ideas developed at greater length in Christian Reus-Smit, 'Struggles for individual rights and the expansion of the international system', *International Organization* 65: 2, Spring 2011, pp. 207–42.

the general rights it conveys. Only through repeated political struggles has the 'zone of application' of general individual rights been expanded; and only after the Second World War, with the negotiation of the key components of the International Bill of Rights, did general individual rights come to be seen as entitlements of all human beings—human rights in the proper sense of the word.¹⁵ This does not mean, however, that the story of human rights is a twentieth-century story (a mistake of many texts on the subject). Rather, it is but the most recent chapter in the longer, highly contentious, political history of general individual rights (hereafter 'individual rights').

Individual rights as power mediators

Much of the literature on the theoretical and philosophical aspects of human rights focuses on their nature as particular kinds of moral entitlement, and on the various ways in which they might, or might not, be justified. Largely neglected in all of this is an essential political quality of individual rights in general and human rights more particularly. Whatever else they might be, individual rights are power mediators, normative principles that materially weak actors can invoke to alter the power relationship between themselves and materially preponderant political agents or institutions, usually sovereign states. John Locke alluded to this function of rights when he described the natural right to freedom as a 'fence against tyranny'.¹⁶ More recently, Henry Shue argued that a 'fundamental purpose of acknowledging any basic right at all is to prevent, or to eliminate, insofar as possible, the degree of vulnerability that leaves people at the mercy of others'.¹⁷ Perhaps most significantly for our purposes, Vincent himself wrote in *Human rights* that 'rights are invoked against the situation in which some people are at the mercy of others, not out of pity, but from concern for the same values that underpin our dignity as individuals. Rights are thus a weapon of the weak against the strong'.¹⁸

The contentious politics of individual rights

Because individual rights are power mediators, they come to the fore within, and are generative of, highly contentious politics.¹⁹ This fact is often obscured, even downplayed, by those desirous of seeing a global consensus underlying contemporary international human rights norms. Indeed, such a consensus is frequently

¹⁵ The term 'zone of application' is Axel Honneth's. See *The struggle for recognition: the moral grammar of social conflicts* (Cambridge, MA: MIT Press, 1995).

¹⁶ John Locke, 'The second treatise of government: an essay concerning the true, original, extent and end of civil government', in *Two treatises of government* (Cambridge: Cambridge University Press, 1988), p. 279.

¹⁷ Shue, *Basic rights*, 2nd edn (Princeton, NJ: Princeton University Press, 1996), pp. 29–30.

¹⁸ Vincent, *Human rights*, p. 17.

¹⁹ In using the term 'contentious politics' I seek to locate the politics of individual rights within a wider array of political forms that are disruptive of established social and political practices and institutions. There is now a substantial literature on such politics, but any form of survey is beyond the scope of this article. A key text, however, is Charles Tilly and Sidney Tarrow, *Contentious politics* (Boulder, CO: Paradigm, 2006).

taken to be a measure of the existence and political importance of those norms. Yet because individual rights are invoked to alter power relations, they challenge existing social hierarchies—hierarchies in which privileged actors are often deeply invested. Furthermore, while individual rights are often claimed to challenge ‘micro’ forms of discrimination (within the workplace, on sexual grounds, and with regard to various forms of religious expression, for example), and the struggles generated can have very real effects on the public/private boundary, thus affecting the scope of state authority, in other contexts rights are invoked to challenge directly the legitimacy of the state itself. This was, of course, the role that rights played in the anti-absolutist writings of Locke, Paine, Rousseau and others. Individual rights were cast as the true foundation of all legitimate government, and state authority was limited to the protection and augmentation of the constituent individuals’ rights.

The power of rights can certainly be found in the quieter, more settled aspects of social life. In many liberal democracies individual rights are taken-for-granted elements of their political constitutions, background conditions of ordered political life. Yet for most of their history individual rights have lived most vibrantly (and dramatically) in social and political struggles, and it is through such struggles that almost all of what we now take to be settled conditions were achieved. The politics of individual rights is thus inherently contentious, and the day this is no longer so will, perhaps, be the day such rights are no longer required.

Rights claims, and the struggles they engender, provoke contention by challenging the prevailing terms of political legitimacy. As many scholars have recognized, and most political actors understand intuitively, power rests not merely on material capabilities but also on social perceptions of legitimacy, on perceptions that the actors wielding power, the purposes they wish to realize and the means they employ are ‘rightful’. Such perceptions are cultivated and sustained by legitimating discourses, accounts of power that justify the authority of particular agents and institutions with reference to established social norms. The divine right of kings is a classic example, as is the ‘standard of civilization’ by which Europeans licensed themselves to undertake tutelage of the non-western world. Struggles for individual rights work their power by undercutting such discourses, delegitimizing existing structures and practices of authority. At times they challenge prevailing norms; at other times they seek to redefine how such norms are interpreted; and at still other times they challenge offending practices as inconsistent with such norms. In all cases, the touchstone of critique is the idea that persecuted or subordinated individuals have certain inalienable entitlements that legitimate authorities ought not to violate. Because these rights are invariably related to the dignity of the individuals concerned, the politics of legitimacy that attends struggles for individual rights is inextricably bound up with the politics of recognition. Behind every individual right is an implied notion of the integral, fully developed human person, and it is lack of recognition as such a person that frequently animates struggles for individual rights.

Struggles, multiple modernities and international change

Over the past five centuries, the contentious politics of individual rights has lain at the heart of the evolving global ecumene and the multiple modernities that comprise it. Struggles for individual rights have occurred at many levels (domestic, international and transnational), in many locales and around a variety of rights. I want to focus here on one set of struggles that illuminate particularly well the cultural politics that has surrounded the development and spread of international human rights. As I have shown in greater depth elsewhere, key struggles for individual rights were implicated in the expansion of the international system, from its original kernel in sixteenth- and seventeenth-century Europe to the historically unprecedented global system of today.²⁰

The present international system is the product of five great waves of expansion: those that accompanied the Westphalian settlement (1648), the collapse of the Spanish and Portuguese empires in the Americas (1808–25), the Versailles settlement (1918), post-1945 decolonization, and the collapse of the former Soviet Union and Yugoslavia (1989–94). Each of these events involved the fragmentation of one or more empires (or proto-empires) into a host of successor sovereign states. Of these, the Westphalian, American and post-1945 waves had the greatest impact on the system's globalization. Together they produced most of today's sovereign states, and they gave the system its principal regions: Europe, the Americas, Asia, Africa and the Pacific.

While multiple causes lay behind each of these three waves of expansion, struggles for individual rights played key roles. Empires are hierarchies; they rest on the asymmetrical distribution of power between the metropolitan state and peripheral polities, and the unequal distribution of social powers between metropolitan 'citizens' and colonial subjects. The legitimacy of such systems of rule rests, in part, on institutionalized inequality of entitlement: formal and informal norms that grant different social entitlements to different individuals on the basis of their different social roles and statuses. These regimes vary from one empire to another, but their existence and importance are common to all empires. In their twilight years, the Holy Roman Empire, the Spanish empire, and Europe's great nineteenth- and twentieth-century empires all suffered crises of legitimacy when new ideas about general individual rights took root and animated struggles for political reform. The rights in question were different in each case: the right to liberty of religious conscience in the first, the right to equal political participation in the second, and an array of basic civil and political rights in the third. In each case, however, struggles for individual rights challenged the legitimacy of established regimes of unequal entitlements, with the notion of rights that individuals hold by virtue of their integrity as moral beings standing in contradiction to the older notion that entitlement is determined by status. Initially, these struggles sought imperial reform—equal rights and recognition within the framework of empire—but as each empire proved

²⁰ See Reus-Smit, 'Struggles for individual rights'.

incapable of accommodating the new rights claims, subject peoples chose sovereign independence.²¹

What matters here is the cultural politics that attended these struggles. The idea of general individual rights was a European cultural artefact, the product of several converging ideational currents: ancient Greek Stoicism, Roman republicanism, Renaissance humanism and, of critical importance, Reformation Protestantism. And this idea did spread to the non-European world through the communicative channels provided by empire. But it did so through neither imperial imposition (as implied in some versions of the cultural particularist thesis) nor simple diffusion (of the kind posited by sociological institutionalists). The first thing to note is that in each wave of expansion rights were mobilized in the context of political struggle, and the principal agents in these mobilizations were subject peoples. Second, rights were mobilized to challenge the ideational frameworks that sustained imperial hierarchy. These were revolutionary, not hegemonic, discourses. Finally, subject peoples did not simply take the rights in question off the shelf and invoke them unamended. The Westphalian case is least interesting in this regard: the right to liberty of religious conscience was a local construction mobilized at home. The Spanish-American and post-1945 cases reveal a highly dynamic process of diffusion, however. In both, ideas about individual rights were ‘imported’ by colonial subjects, but they were also indigenized, blended with local knowledge to give them new meanings.

There are two dimensions to the meaning of a general individual right. The first is substantive. For example, the right to equal political representation, championed in the Spanish-American case, appears relatively straightforward, but in reality it is open to diverse interpretations: what, for instance, does political representation mean, and what is the appropriate measure of equality? The second concerns the aforementioned ‘zone of application’—who constitutes an integral moral being entitled to the right in question? As subject peoples indigenized ideas of individual rights, meanings changed at both of these levels; but the most interesting, and historically significant, of these changes occurred in the zone of application. In the Spanish-American and post-1945 waves, new ideas about civil and political rights had taken root in metropolises, but imperial elites steadfastly refused to extend such rights to colonial peoples, arguing that they were not ‘rational adults’ worthy of such entitlements.

Two brief examples illustrate this. After Napoleon’s usurpation of the Spanish crown in 1808, an insurgent general *cortes* was convened in Cadiz (1810–14) to negotiate a post-Napoleonic constitution for the Spanish empire. The *cortes* was dominated by liberals from the Peninsula and the Americas, all of whom embraced the modern idea that political representation properly rested in individuals, not estates or corporate bodies. The *peninsulares* and Americans could not agree,

²¹ These struggles for individual rights were collective enterprises, but the grievances that animated them were, I suggest, essentially individual. Religious belief, for example, is a capacity of individuals, and liberty of religious conscience is a freedom of the individual, even if communities of individuals can be deprived of such liberties. For a more extended discussion of individual rights and collective phenomena, including nationalism, see Reus-Smit, ‘Struggles for individual rights’, pp. 223–4.

however, on who constituted an ‘individual’: the former argued that only those of Spanish blood qualified, while the latter held that Indians and freed slaves also counted. It was this issue that generated the most heated debate at the *cortes*. In the end, though, the Americans, who had a minority of delegates, failed in their bid for equal political representation—a failure that radicalized the colonial insurgencies, ultimately leading to the collapse of the Spanish empire. A similar story occurred with post-1945 decolonization. The hypocrisy of imperial powers granting ever more civil and political rights to their metropolitan peoples while denying the same to their colonial subjects was a key grievance animating many twentieth-century anti-colonial movements. But the struggle for decolonization was not fought out only in the colonies; it was waged also within the emergent organizations of the United Nations, where the institution of empire itself was under challenge. As I have detailed elsewhere,²² newly independent post-colonial states such as India, joined by their Latin American counterparts, played a central role in the drafting of the Universal Declaration on Human Rights and the two international covenants. Contrary to the conventional accounts, these states consistently emphasized the priority of civil and political rights, placing them at odds with the Soviet bloc, and took more robust positions on enforcement mechanisms than the leading western powers. Post-colonial states grafted onto these nascent international human rights norms the right of colonized peoples to self-determination, arguing that decolonization was a necessary prerequisite for the fulfilment of basic human rights. This campaign resulted, eventually, in the 1960 United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples, which stated that ‘subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights’.²³

Putting the ‘human’ in rights

The struggles for individual rights waged by colonized peoples universalized two things. Until the 1970s the system of sovereign states was not global, and the organizing principle of sovereignty was not universal—sovereignty for the ‘civilized’ and empire for the rest was the norm and the practice. Successive waves of anti-colonial struggle changed all of this, giving us the world’s first universal system of states. Deeply connected with this process was the gradual universalizing of general individual rights. For most of the history of such rights it has been entirely normal to claim that you have fundamental rights to things like freedom of religious conscience and equal political representation because of your integral moral nature, while simultaneously denying that other human beings meet this

²² Christian Reus-Smit, ‘Human rights and the social construction of sovereignty’, *Review of International Studies* 27: 4, 2001, pp. 519–38.

²³ My argument here contrasts with that of Samuel Moyn who, in denying that post-1945 anti-colonialism was about human rights, underestimates the degree to which grievances over rights animated key independence movements, and neglects the role that post-colonial states played in constructing the international human rights regime, and how they used this as a foundation for a reformulated right to self-determination. See Moyn, *The last utopia: human rights in history* (Cambridge, MA: Harvard University Press, 2010).

moral standard. Only through repeated political struggles has the realm of inclusion been pushed ever further outward to the point where after 1945 all human persons were, both theoretically and legally, brought into the tent. These struggles were waged on diverse fronts, by women, workers, religious minorities (or majorities) and others. But, as we have seen, colonial peoples played a key role in this universalizing of individual rights, contributing first to the strong international codification of civil and political rights and second to fighting the idea that there could be imperial zones of the international system in which such rights did not apply. In other words, a reasonable case can be made that subject peoples, from diverse civilizational backgrounds, ‘human’-ized individual rights.

This argument that international human rights norms spread through a process of contentious development contradicts not only the notion that such rights are western impositions, but also the idea that they might be evidence of the homogenizing spread of modernity. As noted earlier, individual rights are modern cultural artefacts, their origins buried deep in European social and intellectual history. Yet these powerful normative precepts spread to the rest of the globe not through simple processes of socialization, but also through mobilization in concrete political struggles. Subject peoples certainly internalized these ideas, claimed them as their own and developed new political interests. But all the while they were interpreting individual rights through pre-existing cultural lenses, lending them new meanings—substantive meanings, and meanings to do with worth and recognition. The spread of individual rights, and their transmutation through struggle into human rights, is thus evidence of the gradual development of Eisenstadt’s multiple modernities.

Justifying human rights

There is a general rule in normative theorizing that one must not confuse the ‘is’ with the ‘ought’—that because something is the way it is that does not make it right, and that our normative principles must have some autonomy from what is, otherwise they would lose all critical value. The importance of this injunction cannot be overstated, if for no other reason than that it makes a clear nonsense of the common assertion that because human rights are often violated such rights do not exist. This having been said, however, our assumptions about what is do affect our normative theorizing, in deep and significant ways. Sociological ‘facts’ often add weight to normative arguments. Knowing, for example, that certain moral or ethical principles command high levels of social acceptance cannot be our only normative criterion, but it is not irrelevant either. Similarly, how we think about the limits and possibilities of moral action encourages us to see some moral principles as more viable than others.²⁴ This final section of the article explores, in a very tentative and preliminary fashion, some of the implications of the preceding argument about the cultural politics of individual rights for normative theorizing.

²⁴ See Richard M. Price, *Moral limit and possibility in world politics* (Cambridge: Cambridge University Press, 2008).

Both the negotiated universalist and cultural particularist arguments use propositions about international cultural politics to ground their normative positions. As we saw earlier, Donnelly argues that there now exists an ‘overlapping consensus’ internationally that human rights constitute an appropriate standard of political legitimacy, and that this consensus exists even though different peoples subscribe to different ‘comprehensive’ moral doctrines: ‘most leading elements in almost all contemporary societies’, he writes, ‘endorse the idea that every human being has certain equal and inalienable rights and is thus entitled to equal concern and respect from the state’.²⁵ Donnelly is clear that this is an empirical proposition; but it is also more than this. The overlapping consensus has normative significance, establishing, at the very least, a *prima facie* case for the moral justifiability of human rights. The cultural particularist argument reaches diametrically opposed conclusions, but also reasons out from the empirical to the normative. Here consensus is replaced by cultural dissonance, with human rights presented as highly particular western cultural products—products alien to other cultures, absorbed as readily as oil into water. This is presented as a body blow for universalist arguments about human rights, and seen as a foundational weakness of the present architecture of international human rights norms.²⁶

In the preceding sections of this article I have sketched an alternative account of the cultural politics from which international human rights norms emerged, one that locates ideas and arguments about individual rights within the contentious politics of legitimate political authority that helped drive the expansion of the international system. Within this insight lies the kernel of a different normative justification for human rights. If the historical significance of individual/human rights lies in their role in transformative political struggles, so too does their normative significance. Individual rights are not normatively valuable—or not primarily so—because there is a widespread consensus about them, but because they have proved themselves, time and again, to be particularly effective power mediators. Contexts always matter, material resources are relevant, and techniques and strategies of mobilization make all the difference. Yet the very notion of a right that one has simply by virtue of one’s standing as a moral being has been repeatedly, and successfully, exploited by subordinated social groups to fight practices of domination and exclusion, and to reshape the nature and exercise of legitimate political authority. The claim by dominant social actors that they have rights as ‘rational adults’ but other human beings do not is inherently unstable: what constitutes a rational adult is subjective, the product of narrative, and is thus always open to critique. Women, lower classes, persecuted religious groups, colonial and indigenous peoples and, more recently, gays and lesbians have all exploited this contradiction. If there is a *prima facie* case to be made for the normative justifiability of individual/human rights, therefore, it lies in their radical nature, in their role in historically transformative contentious politics—a

²⁵ Donnelly, *Universal human rights*, p. 51.

²⁶ Brown, *Practical judgement*, pp. 53–71.

politics often played out in culturally diverse social and political contexts, the transnational European empires being a prominent example.

The history of rights-based political struggles points as well to a more philosophical defence of individual/human rights. Individual rights may not be universal, in the sense of transhistorical and transcultural ‘truths’, but they are universalist. The ability, over time, for subordinate groups to stretch the notion of an integral moral being in ever more inclusive directions is an achievement of concrete political struggles, but it is an ability grounded in the very nature of general individual rights. Dominant social groups—imperial elites and others—have sought to draw the boundaries narrowly, excluding many from the class of rights-deserving moral beings. But the idea itself is inherently universalizable, its purview expandable through argument and debate. This, I believe, constitutes the most promising line of justification for human rights. This is best done not by perfecting naturalist arguments, by demonstrating global consensus or by linking rights to basic human needs, although elements of each of these approaches may contribute to a robust, holistic defence. Rather, what makes individual/human rights particularly compelling moral principles is their universalizability: the fact that they cannot, coherently, be claimed by one but denied to another. There are certainly questions about the meta-ethical foundations of general individual rights, but the practical emancipatory implications of such rights—their functional potential within concrete political struggles—is a powerful normative justification in itself.

There are, of course, at least two features of contemporary rights politics that are less than radical. The first is the diffusion of rights language into everyday discourse, and the associated proliferation of purported individual rights. Florence is currently dotted with billboards advertising Converse sneakers, the central theme being an individual’s ‘Right to Get In’, ‘Right to Get Out’, ‘Right to Get Dirty’ and, the most important of all, ‘Right to Stand Out’. What this means for the political salience of more fundamental rights claims is unclear—it may be that the diffusion of rights language gives such claims greater social purchase. But it also shows how the idea of rights can be depoliticized, gutted of its contentiousness. Second, powerful actors can invoke individual rights for their own political purposes: domestically, the individual’s right to private property (and hence not to be taxed) has been used to oppose redistributive social programmes; and internationally, ideas about human rights have been integrated within ‘good governance’ programmes imposed on developing states, programmes within which the rights in question have been secondary at best to the overarching priority of market liberalization. None of this detracts, I believe, from the continued value and potency of rights as power mediators, as emancipatory discursive resources. But it does point to the complexity of rights politics in a world in which the language of rights has been normalized.

Conclusion

Important books are distinguished partly by the questions they artfully engage, and partly by the quality of the answers their authors advance. Above and beyond all of this, though, they are distinguished by the doors they open: by often fragmentary and undeveloped insights that provide cues for new ways of seeing and thinking. This is what makes Vincent's *Human rights* of enduring value. Superficially, much of the book now appears dated—the discussion of human rights in East–West relations, in particular, was quickly outpaced by changes that accompanied the end of the Cold War. Yet Vincent had a distinctive view of the purpose of a theory of human rights, his pursuit of which proved immensely suggestive. Its purpose, he argued, is to make sense of, and give form to, a distinctive set of human practices: ‘to describe the moral world that confronts the statesman in order that he can make sense of “human rights in foreign policy”’.²⁷ In the spectrum of contemporary literature, this places Vincent much closer to Charles Beitz in *The idea of human rights* than to James Griffin in *On human rights*.²⁸ One can debate whether his effort to make sense of international human rights amounts to a ‘theory’, either normative or empirical. It is clear, however, that his account is bursting with illuminating and suggestive insights. His movement towards a solidarist account of international society, for example, provided a cue for the immensely productive scholarship of Tim Dunne, Jennifer Welsh, Nicholas Wheeler and others.

This article has pursued a different, though complementary, cue in *Human rights*—Vincent's proposition that while the notion of human rights has its origins in European culture, its spread internationally is best understood as the product of a ‘universal social process’. Vincent did little with this observation, but he suggested a new way of seeing, one at odds with prevailing understandings of the cultural politics surrounding the spread and evolution of international human rights. My goal here has been to give greater form to this insight, though I make no claim that this is the path Vincent himself would have taken. I locate the emerging international politics of individual/human rights within an evolving global ecumene, a field of dynamic cultural engagement, characterized over time by the development of multiple modernities. Within this field, individual/human rights have been at the heart of diverse forms of historically transformative contentious politics; my own examples have focused on struggles for imperial reform and change by subject peoples, struggles waged both within particular empires and, over time, also within international institutional contexts. In a move as gestural perhaps as Vincent's own cue about universal social processes, I have suggested in the final section that understanding the role of rights in contentious politics may open the door to a new normative justification for human rights.

²⁷ Vincent, *Human rights*, p. 36.

²⁸ Charles R. Beitz, *The idea of human rights* (Oxford: Oxford University Press, 2009); James Griffin, *On human rights* (New York: Oxford University Press, 2008).