Debating *The Endtimes of Human Rights*

Activism and Institutions in a Neo-Westphalian World

Edited by Doutje Lettinga & Lars van Troost

Table of Contents

List of Authors and Editors

Michael Barnett is University Professor of International Affairs and Political Science at the George Washington University and the author of *Empire of Humanity: A History of Humanitarianism* (Cornell University Press 2011).

Daan Bronkhorst has been working at the Netherlands section of Amnesty International since 1979. He is writing a PhD thesis on human rights defenders.

Steve Crawshaw is Director of the Office of the Secretary General at Amnesty International, and co-author of *Small Acts of Resistance: How Courage, Tenacity and Ingenuity Can Change the World*, preface by Vaclav Havel. He worked at Human Rights Watch before joining Amnesty International. Parts of this essay previously appeared in the Chatham House magazine*, The World Today*.

Stephen Hopgood is Reader in International Relations at SOAS, University of London. He is the author of *Keepers of the Flame: Understanding Amnesty International* (Cornell University Press 2006), winner of the American Political Science Association Best Book in Human Rights Award (2007) and most recently of *The Endtimes of Human Rights* (Cornell University Press 2013). He also writes on humanitarianism, most recently in 'The Last Rites for Humanitarian Intervention: Darfur, Sri Lanka and R2P,' forthcoming in the journal *Global Responsibility to Protect*.

Frank Johansson has been the Director of Amnesty International in Finland since 1996. He first joined Amnesty as a volunteer in 1983. In 2013 he edited a Finnish language anthology of critical international texts on humanitarianism: *Hyvän tekeminen ja valta* (Doing Good and Power), Gaudeamus/Helsinki University Press.

Stephen Arthur Lamony is a Senior Adviser on the AU (Africa Union), UN (United Nations) & Africa Situations at the Coalition for the International Criminal Court (CICC). An International Human Rights lawyer, Mr Lamony has been advocating for international criminal justice and an end to impunity for over 15 years.

Todd Landman is Professor of Government and Executive Dean of the Faculty of Social Sciences, University of Essex. He teaches, researches and carries out international consultancies on development, democracy and human rights. His most recent book is *Human Rights and Democracy: The Precarious Triumph of Ideals* (Bloomsbury 2013). www.todd-landman.com

Doutje Lettinga is a fellow at the Strategic Studies Project of Amnesty International Netherlands. She holds a doctorate in sociology at the VU University Amsterdam and has master degrees in history and political science. Prior to joining Amnesty, Doutje worked as a researcher and consultant, including for Human Rights Watch, the EU Fundamental Rights Agency, and the European Commission.

Noel M. Morada is the Director of *Regional Diplomacy and Capacity Building at the Asia Pacific Centre for the Responsibility to Protect* (APR2P), School of Political Science and International Studies, the University of Queensland, St. Lucia, Brisbane, Queensland, Australia. He has published policy-relevant research on the R2P in Southeast Asia and Africa.

César Rodríguez-Garavito is an Associate Professor and Director of the Program on Global Justice and Human

Rights at the University of the Andes. He is a founding member and International Director of the Center for Law, Justice, and Society (Dejusticia), a human rights NGO and research centre based in Bogotá, Colombia.

Monica Duffy Toft is Professor of Government at Oxford University's Blavatnik School of Government. Previously, she taught at Harvard and served in the U.S. Army. Professor Toft has authored books, including *God's Century* (Norton 2011), *Population Change and National Security* (Oxford 2012) and *Rethinking Religion and World Affairs* (Oxford 2012).

Lars van Troost is head of Strategic Studies at Amnesty International Netherlands, where he worked before as International Criminal Law project officer, coordinator for Political Affairs, head of the Refugee Department and head of Political Affairs and Press Office. He is chair of the Advisory Council of the Netherlands Institute for Human Rights.

Introduction

According to historian Mark Mazower, human rights attained sudden and unexpected prominence during and after the Second World War, amongst other reasons, because they offered "an attractive and plausible alternative" to the League of Nations system of minority rights protection. That system had proven to be a blatant failure before and during Nazi rule over large parts of Europe, would be impossible to resurrect in Soviet-dominated post-war Europe, and would be an obstacle to the foreseen expulsion of more than ten million (ethnic) Germans as soon as Nazi occupation came to an end. No-one with a stake in shaping the post-war international system seemed to have an interest in reviving the League of Nations system of treaties protecting collective minority rights. And so individual human rights, internationally recognized but not legally binding at first, entered the stage of world politics. They served the interests of what would soon become the powers that be (Mazower 2004).

Despite the emergence of individual human rights in the United Nations, the minority treaties of its predecessor, the League of Nations, were not terminated, but smothered until a few years into its existence the UN concluded that they should be considered as having ceased to exist some time ago. In the meantime, human rights found their canonical formulation in the 1948 Universal Declaration of Human Rights and three decades later, their political apex in US President Jimmy Carter's new foreign policy.

Since that time, human rights were considered here to stay, or so it seemed. In recent years many books, articles, reports and opinions have been written about changes in the international order as a consequence of a gradual shift of power between its members. Power is moving East, at least according to some analysts of world affairs. Will new or resurgent global and regional powers become new major players in the system or will they prove to be game-changers, aiming to alter the rules and regimes for international

and global affairs? It is not just academics and think-tanks debating these issues, but also politicians and lately even presidents have seen a need or opportunities to address the make-up of the international order more than once in the last couple of years in public speeches.

On 28 May 2014, President Barack Obama gave a speech at the United States Military Academy at West Point. Addressing West Point graduates, the President reflected on the United States' foreign policy. President Obama acknowledged that the distribution of power in the world is rapidly changing and that the US and its partners and allies have to adjust to new realities. He said:

> "[T]he world is changing with accelerating speed. This presents opportunity, but also new dangers. We know all too well, after 9/11, just how technology and globalization has put power once reserved for states in the hands of individuals, raising the capacity of terrorists to do harm. Russia's aggression toward former Soviet states unnerves capitals in Europe, while China's economic rise and military reach worries its neighbors. From Brazil to India, rising middle classes compete with us, and governments seek a greater say in global forums. And even as developing nations embrace democracy and market economies, 24-hour news and social media makes it impossible to ignore the continuation of sectarian conflicts and failing states and popular uprisings that might have received only passing notice a generation ago".[1]

Although the President warned against future military adventures that are not closely related to the national

---

1   http://www.whitehouse.gov/the-pressoffice/2014/05/28/remarks-president-west-point-academycommencement-ceremony

interests of the US, his reflections contained much continuity in foreign policy. The US should continue to strengthen and enforce the international order through multilateral institutions and it should continue to support human rights (and democracy) globally if only as a matter of national security.

Only two months earlier, Russian Federation President Vladimir Putin said in a speech on the "reunification of the Republic of Crimea and the city of Sebastopol with Russia" that:

"… the situation in Ukraine reflects what is going on and what has been happening in the world over the past several decades. After the dissolution of bipolarity on the planet, we no longer have stability. Key international institutions are not getting any stronger; on the contrary, in many cases, they are sadly degrading".2

In the meantime Xi Jinping, visiting Europe for the first time as President of the People's Republic of China, said that his country is a lion that has awakened, but provided the assurance that it is peaceful, pleasant and civilized. In a foreign policy address in 2013 just before becoming president, Xi said:

> "No country should presume that we will engage in trade involving our core interests or that we will swallow the 'bitter fruit' of harming our sovereignty, security or development interests".3

For President Xi, foreign interference with Tibet or Xingjiang would clearly count as harming sovereignty, but foreign concerns over human rights in China probably also qualify as 'bitter fruit'.

The decline of the West, the Asian Century, the rise of the Rest, the post-American world - by now these are all well-known and much shared concepts. But shared concepts are not a sufficient condition for shared theories. There is a great divergence of opinion on the consequences of the changes in the international order. Will it become more co-operative or less? Will until now reluctant states be forced

by the changes underway to get serious about Security Council reform or will the changing power relations result in a deadlocked Council which in turn will contribute to delegitimizing the United Nations as a whole? Will regional security and co-operation regimes flourish while global regimes wither? What will changes in the international order of states mean for human rights, the developing international criminal justice regime (with institutions like the International Criminal Court), the Responsibility to Protect (R2P) doctrine and international civil society organizations?

Like Mark Mazower described the sudden and unexpected prominence of human rights at the end of World War II, Stephen Hopgood foretells their imminent if unexpected end in his latest book *The Endtimes of Human Rights* (2013). The title says it all. He writes that the "shift to multipolarity will reinforce the peace and security focus of the Security Council and split human rights off as a sideshow in Geneva".4 Hopgood's main proposition is that we are entering a neo-Westphalian world. That is a world of renewed sovereignty, resurgent religion and the stagnation or rollback of universal human rights. In it no hegemonic power will be available to globalize human rights effectively. The meaning of 'human rights' will be contested more openly, by religious movements and others that consider individual human rights to be an attack on the family as a fundamental unit of social life, but also by human rights activists themselves. Consequently, the future will show that the *international* human rights movement does not, as such, exist. Around the world there will be many human rights movements, organizations and activists, but they will not be part of one unified global movement, which, Hopgood suggests, has not had much impact until now anyway. The future of the International Criminal Court and of the Responsibility to Protect do not look any better.

This is the essence of the picture that Stephen Hopgood sketches in *Endtimes* (2013). He maintains that his vision is not one of a distant future. We are "on the verge of the

2   http://eng.kremlin.ru/news/6889
3   http://news.xinhuanet.com/english/bilingual/2013-01/29/c_132136438.htm

4   *Endtimes* (2013): 175

imminent decay of the Global Human Rights Regime", he writes in the preface to his book.

Of course such radical ideas about the near future of human rights like the ones brought forward by Stephen Hopgood do not go uncontested. For this collection of original essays, we invited academics and practitioners working in the human rights domain to critically reflect on Stephen Hopgood's guerilla theatre, as Michael Barnett characterizes *Endtimes* (2013) in his contribution to this volume.

Barnett focuses attention on Hopgood's dichotomy between upper-case Human Rights as a global structure of laws, court norms and organizations that act as if they are the representative of humanity, and lower-case human rights, local and transnational networks that aim to ensure that people are treated decently and with respect for their autonomy and integrity. For Hopgood, their relationship seems to be parasitic, with Human Rights living off human rights, but Barnett suggests that it might be overly romantic to assume that people are always responsible for their own liberation. Sometimes moral progress depends on bleeding-heart liberals taking an interest in the lives of others.

Todd Landman argues that empirical studies challenge many of the arguments in *Endtimes* (2013). Recent studies show a positive impact of the international human rights regime on human rights compliance on the ground. Like Barnett, he is skeptical about Hopgood's dichotomy between upper-case and lower-case human rights. Additionally, Landman argues that worldwide developments in trade, aid and material capabilities suggest that Hopgood might be exaggerating the emergence of a neo-Westphalian world order. Landman's essay might suggest to the reader that a new bipolar world, not a multipolar world, is in the making. This might be bad news for human rights in the countries in China's sphere of influence, but it does not necessarily imply the end of the international human rights regime.

Steve Crawshaw argues that even if neo-Westphalia is really in the making, this is not bad news for human rights per se. First of all, he reminds us that there never was a golden age of human rights in which Western

powers respected these rights, while others violated them. According to Crawshaw, the emergence of new powers can also be an opportunity for human rights. He sees India's change of tack on Sri Lanka as an example of this. Crawshaw argues that Amnesty International's organizational strategy of setting up regional hubs and new national offices in countries like India, Brazil and Nigeria shows that the organization is preparing itself for a world in which BRICS, MINT and other powers might play a significantly greater part in making, promoting and protecting international human rights norms.

César Rodriguez-Garavito adds that *Endtimes* (2013) has much to say about upper-case Human Rights, although not very positive, but in the end very little about lower-case human rights. *Endtimes* is a critique from the inside of Human Rights. By consequence, Rodriguez-Garavito argues, the book misses many connections and collaborations between upper-case and lower-case human rights. He suggests that an ecosystem approach, in which there is room for national and international diversity and network-based connections between actors, topics and strategies, is a better description of the human rights domain than Hopgood's approach based on two separate monocultures.

Monica Duffy Toft questions the negative effects of the resurgence of religion, a typifying phenomenon in Hopgood's human-rights unfriendly neo-Westphalian order. She points out that in four successive decades religious actors often played a positive role in democratization processes. Duffy Toft also questions Hopgood's contention that autocracy is on the rise. Actually, she tells us, empirical data show that there has been little movement across the categories of regime type.

Frank Johansson warns Amnesty International and others in the Human Rights field against failing to engage with Hopgood's arguments which, according to Johansson, are in line with recent writings by Michael Barnett, Costas Douzinas, Martti Koskenniemi and Samuel Moyn. Unlike Rodriguez-Garavito, Johansson agrees with Hopgood that there is a structural difference between upper-case and

lower-case human rights. He also agrees with Hopgood that here is a triumphalist metanarrative that might not relate very well to reality. Johansson thinks that Amnesty International has tough choices to make about continuing along its current growth-oriented course, becoming more political, or returning to its original purpose: defending and supporting those who in their different circumstances are trying to change the world while becoming less political itself.

Daan Bronkhorst argues that human rights defenders like the Mothers of the Plaza de Mayo, Václav Havel and Wei Jingsheng have always been the link between upper-case and lower-case human rights, but that broadening the concept of human rights defence to 'the voice of the affected group' is problematic. It would make almost every activist a human rights defender, thereby turning human rights defence into an activism which provides solutions for many different problems instead of limiting itself to the protection of those who try to find solutions.

Endtimes (2013) is not just a critique of the international human rights movement and organizations, but also of the International Criminal Court and the Responsibility to Protect. Like some African political leaders, Stephen Hopgood characterizes the Court as a European Court for Africa. Stephen Lamony argues that there are enough reasons to instead consider the Court as being an African

court, but that neither characterization is really adequate. Nonetheless, broader ratification of the Rome Statute is needed and that is where, in support of this institution from the upper-case human rights machinery, local and regional (lower-case) human rights organizations have an important role to play.

Finally, Noel Morada looks at Hopgood's examination of the Responsibility to Protect (R2P). Morada argues that Hopgood fails to present a nuanced picture of R2P as a universal norm, focuses too much on just one aspect of R2P, probably not by coincidence the most controversial one, and exaggerates the role of major powers in advancing international support for R2P. Morada disagrees with Hopgood that R2P stands no chance of surviving in a neo-Westphalian world that does not rest on US power.

The entrance of human rights onto the political world stage did not abruptly and explicitly end the minority treaties of the interbellum. Those treaties first lost their relevance and then faded from existence. The same might happen to Human Rights if Hopgood is only partly right in *The Endtimes of Human Rights*. This makes his book relevant, whether one agrees with it or not. The critical reflections on *Endtimes* in this collection may help in assessing and responding to Hopgood's provocations.

Lars van Troost and Doutje Lettinga

Stephen Hopgood

The Endtimes of Human Rights

Now might seem an unusual time to be arguing that we face the endtimes of human rights. After decades of obscurity, global human rights advocacy has secured a foothold at the very highest level in the foreign policies of Western states and at the United Nations. This is a total transformation from the 1970s, when the language of human rights was new at the level of popular discourse, and the 1980s when a concern with sovereignty made even the UN reluctant to identify too fully with the human rights demands of a growing number of activists worldwide. The end of the Cold War, two decades of American primacy, an increase in the number of democracies, growing interconnectedness through globalisation, and the communications revolution which exposes acts of atrocity immediately and globally, all appear to have opened a window of opportunity. Global human rights advocates have made the most of it by creating law and institutions that have embedded human rights: the Rome Statute that created the International Criminal Court, and the Responsibility to Protect following a successful humanitarian intervention in Kosovo, are the most important institutional manifestations of this trend toward permanent embedding.

If this was not enough, some scholars have recently argued that not only is war declining, but even where it continues we see some quality of life indicators going up (Pinker 2012; Human Security Report 2013). Added to the hope stimulated by the Arab Spring and the increasing openness of Burma, to name just two examples, a whole array of developments seem to confirm human rights will widen and deepen their positive impact on a global scale.

However, I want to argue, this picture is mistaken. The endtimes are coming for human rights as effective global norms for two reasons. The first is the relative erosion of American power, the absolute decline of European power, and the enhanced influence of not just China and Russia but a whole series of other newly emerging and re-emerging powers that want, at the very least, to renegotiate some global rules and institutions. This links to the second dimension – increasing contestation inside and outside the human rights movement. Global human rights norms emerged as political factors out of a Europe that was both dominant and secularising. In such a world, religion had been relegated to the private sphere, no longer able to explicitly dictate the content of public life nor to constrain public morality. However, re-emerging areas of the world are not secular. This does not mean they are necessarily religious in a regressive sense, but it does mean that religious authorities and faith are key elements of public life and therefore influence, in crucial ways, public attitudes. Added to existing social, cultural and national norms, religious principles concerning the family, legitimate public behaviour, duty and obligation, just retribution, the qualifications for legitimate citizenship (and the possibility that anti-social behaviour means you abdicate your rights), and what it means to be a person, create a variety of normative commitments that do not map neatly onto the rather narrow universalism of secular global human rights. Added to this is the possibility that different emphases will be forthcoming from human rights workers in the South focusing more on social justice and less on civil and political rights.

The language of human rights will not diminish in visibility, and human rights NGOs and institutions will continue to provide a running commentary on the killing and

discrimination that remains depressingly ubiquitous around us. But what impact will this really have on the ground, where these abuses are a daily occurrence? In other words, will human rights be an effective way to pursue liberal conceptions of freedom in the world that is emerging?

Human rights achievements

Despite arguments over the origins of human rights, dated by different authors back to antiquity, or to pre-modern Europe, or to the eighteenth century, or to 1945, it was in the 1970s that human rights took off as a global phenomenon (Moyn 2010; Neier 2012; Hoffman 2011; Iriye et al. 2012; Ishay 2008; Hunt 2008). This was because of the early groundwork done by Amnesty, formed in 1961, and after 1978 by Helsinki Watch and Americas Watch (before they became Human Rights Watch). But the major shift was the use by the American state of the language of human rights as part of President Carter's rhetoric for a new kind of foreign policy to repair the crisis of confidence within American society and government about the future role of the United States in the world (e.g., Guilhot 2005; Keys 2014; Hopgood 2013a, chapter. 5). By the 1990s, after a decade of awareness-raising, Amnesty would be a million-strong global movement and Human Rights Watch an increasingly visible presence worldwide reporting on post-Cold War atrocities in Bosnia and Rwanda.

The achievements here are significant. Building on the entry into force in the mid-1970s of the international covenants on civil and political, and economic, social and cultural rights, on the conventions against torture and against discrimination against women, and on the children's rights convention of 1989, the UN Secretary-General Boutros Ghali's *Agenda for Peace* of 1992 announced a new era where human rights would increasingly impose conditions on legitimate sovereignty. Following 1993's UN Conference on Human Rights in Vienna, the UN's Office of the High Commissioner of Human Rights was established, followed by the Rome Statute (1998), the International Criminal Court (2002), the Responsibility to Protect (2001), the new Human Rights Council (2006) and the Universal Periodic Review (2008). These were all significant developments in

the law of human rights. Numerous other institutions and conventions were passed and soon almost no advocates who sought progress on norms and their implementation – from migrants, to the disabled to those fighting against female genital mutilation (FGM) – failed to express their demands in the language of human rights. These institutional achievements are mirrored in global surveys that show public majorities worldwide support the idea of human rights (World Public Opinion 2011).

Far from being an infringement on sovereignty, human rights are heralded by advocates as integral to the exercise of legitimate government, a revolutionary change within four decades. Human Rights Watch's children's rights advocacy director, Jo Becker, has recently outlined a series of examples where some degree of success has been achieved ranging from stopping the use of child soldiers to ending violence against children to abolishing life sentences without parole for juveniles (Becker 2012; also Brysk 2013). The UN's report on the appallingly repressive conditions in which people live within North Korea, released in February 2014, uses human rights, and their most far-reaching legalised expression – crimes against humanity – as the framework for demanding both referral to the ICC and even the use of coercive pressure under the label of R2P (UN North Korea Report 2014). After several years of lobbying, the Human Rights Council has at last passed a resolution demanding Sri Lanka allow an independent inquiry into alleged crimes against humanity committed at the end of the country's civil war in 2009.

In other words, in 2014, human rights are no longer marginal, they are mainstream. High-profile campaigns – for example to free members of the Russian feminist rock band Pussy Riot – garner global publicity on a mass scale. Human rights advocacy is funded to the tune of hundreds of millions of dollars a year and human rights now form part of the discourse of humanitarian intervention. The laws and institutions of the international criminal justice regime, especially the International Criminal Court, have introduced a whole new dimension to the campaign against impunity for committing mass human rights abuses, with two sitting

heads of state in Africa, President al-Bashir in the Sudan and President Kenyatta in Kenya, currently indicted.[1]

This is the Global Human Rights Regime. I capitalise it to illustrate the distinction I want to make between the vast array of local human rights struggles that use various strategies (sometimes including violence and also other languages of dissent and justice such as fairness, toleration, respect, religious obligation, duty, and national, or ethnic, identity) to advance demands for protection and progress. There is, I maintain, a significant difference between this less institutionalised, more flexible, more diverse and multi-vocal level, where social movements operate, and the embedded Global Human Rights Regime where law, courts, money, and access to power in New York and Geneva are more familiar terrain. Lower-case human rights may help, alongside other forms of social mobilisation, in changing the world in myriad small and positive ways, but they will never revolutionise global politics which is what Human Rights advocates aspire to do.

Questions for Human Rights in 2014

As I shall argue shortly, in my view, the outlook for the global human rights regime is bleaker in 2014 than it has been for at least two decades. Nevertheless, even before we consider the reasons for this — the decline of the West and increasing contestation — we should note an array of problems that human rights advocacy and activism face *already*, regardless of any transformational changes. There are, I suggest, at least seven important issues human rights advocacy faces, many of which are exacerbated in the direction of less human rights impact and effectiveness by the wider global shifts underway.

To begin with **impact:** There is no doubt that the most impressive achievements claimed by human rights advocates are in the fields of law and institutions, the Rome Statute and the ICC to the fore. The jury is, however, still out on the discernible impact of all of this work. Some

recent scholarship is skeptical, to say the least, about what has been achieved, while even erstwhile supporters of what has been called 'the justice cascade' register some concern (Hafner-Burton 2013; Risse & Ropp 2013; Sikkink 2011; Simmons 2009). The key here is not more law and more courts but more *compliance* (Risse & Ropp 2013; but also Howse & Teitel 2010). In effect, the question is: What difference does it all make? Are human rights all output and comparatively little outcome? When we look at individual cases, as Becker and Brysk do, we see some progress but aggregate data tells a less promising story (Hafner-Burton & Ron 2009). Are other mechanisms, democratisation, for example, or social movements organised on the basis of ethnic or labour solidarity, or consumer boycotts, or hacking attacks, or mass popular protests, more likely to achieve positive effects than more law and courts? Some scholars argue that when states sign conventions like that against torture they are more likely to torture, or to be inventive about the forms of torture they use (Hathaway 2001; Rejali 2009; but also Fariss 2014). In other words, upper-case Human Rights may have too narrow a range of permissible strategies — largely atrocity reporting, legal innovation and naming and shaming — and this may be a declining and ineffective way of getting real change.

Hard cases: In many areas passing law is the easy part. The finding that human rights are observed best in the states that need them least should not surprise us (Hafner-Burton 2013). Whether it is against the suppression of freedom of expression, or the use of violence and torture by entrenched authoritarian governments, or the resistance to women's and LGBT rights in local religious communities, getting people in large numbers who are deeply committed to existing social norms to change their behaviour is extremely difficult, and far more difficult than creating policy and law. Implementation is what matters. Few strides if any have been made in these areas. Take FGM. Despite evidence that there is a decline in FGM in several African countries after more than two decades of intense activism, in cases like the Sudan, Somalia and Djibouti almost nothing has changed. Elimination efforts began in the Sudan, for example, nearly a hundred years ago (Boddy 2007) to little avail. In areas where there has been progress, the exact mechanism that explains positive

---

1   President Kenyatta was indicted before his election as head of state whereas President al-Bashir was indicted while president.

change remains unclear with greater emphasis on 'human rights' being one of several explanations that include rising incomes, women's education, better information sharing and urbanisation (UNICEF 2013). This is to say nothing of the types of hard cases represented by resistance to human rights at the government level in Russia, China and numerous other states.

Pushback: There has always been pushback against human rights even by Western states. What we now see is a new intensity to this pushback, including in areas where the whole principle of human rights is under threat (Uganda, Sri Lanka, Russia) or the applicability of human rights to situations of great atrocity (North Korea) is challenged. The list of areas where we see increasing pushback against human rights grows daily: Ugandan president Museveni signing the anti-homosexuality bill, Russia denying freedom of expression and LGBT rights, China defending North Korea and actively opposing the discourse of human rights, Sri Lankan government impunity, Cambodia politically undermining the criminal tribunal to try Khmer Rouge leaders, President Kenyatta trying to collapse his trial at the ICC and mobilising the African Union to resist the court, Israel's resistance to allow international investigations of operations like Cast Lead in Gaza, Spain unravelling its commitment to universal jurisdiction, the Indian Supreme Court outlawing homosexuality. Saudi Arabia, one of the world's most systematic human rights abusers, used the language of rights to explain its decision to reject a UN Security Council seat while ASEAN's human rights declaration is little more than a cosmetic exercise that allows public order and public morality concerns to trump rights by mimicking language in the Universal Declaration that had a wholly different intent. These are but a few high profile examples. Freedom House (2013) recently argued that authoritarian reactions to the Arab Spring have contributed to a trend away from freedom and openness. Are these signals of success in that human rights now incites more concerted resistance because it has made real gains? With low compliance rates, great power exceptionalism (e.g., the ICC), and increasing pushback on principle (e.g., Sri Lanka, Uganda), the conclusion that we have come such a short distance in terms of impact in the

absence of serious resistance should be sobering.

Hypocrisy: Human Rights Watch head Kenneth Roth recently argued that the difficulties the ICC has faced in prosecuting President Kenyatta, and in securing legitimacy in Africa, alongside the exclusive focus on African men as indictees, should not make us lose hope in the court nor consider it partial or victor's justice (Roth 2014). But the appearance at the ICC of either a head of state of a great power, or of a client state of one of the great powers (Sri Lanka, Israel, Syria) seems unimaginable. There is a clear double standard at work. President Obama recently went out of his way to publicly insist US soldiers in Mali need have no fear of the ICC, following up at least rhetorically the bilateral agreements the United States signed under the George W. Bush administration to avoid any prospect of US servicemen being arrested and taken to The Hague. Indeed, successfully resisting pressure to join the ICC may be seen as a positive sign of great power status. The counter argument – that worries about universal jurisdiction claims for war crimes and crimes against humanity have made some leaders wary about travel – can be met by the objection that after the then-Israeli deputy prime minister, Tzipi Livni, cancelled a visit to Britain over fears about being arrested, European states moved quickly to limit universal jurisdiction claims (Ellis 2012). Spain, an innovator in the area of universal jurisprudence, has recently seen a similar effort to roll back the possibility of universal jurisdiction (Kassam 2014).

In terms of R2P, the selective application of its principles – yes in Libya, no in Sri Lanka and Syria – has led many states to be sceptical about its promise as a new human rights norm. Fears it was a post-Kosovo cover for NATO-led regime change had already led to R2P being effectively gutted within the UN system after 2005 (Weiss 2005). Within a judicial and policing system, where the rule of law operates, everyone (from paupers to princes) is in principle subject to that law. But we can see that there is no mechanism by which most state leaders could be brought before the court in the absence of military defeat or domestic compliance. Without the threat of great power pressure, or even intervention, the chance of a coerced

appearance at the ICC is tiny. Which means if you are a great power, or a great power client, you are effectively immune from justice. We are left with a system that is constitutively unfair and thus at some deep level unjust, undermining the whole idea of global norms and laws and providing an easy target for the committers of abuses to delegitimise attempts to, at the very least, expose their crimes. It does not matter how many states sign up to the ICC or R2P. There isn't really a norm if the United States and China are not on board.

The political economy of human rights: Despite the success of the human rights 'movement', there is a political and moral economy about human rights which entrenches inequality of resources and influence. Some have pointed out how global Human Rights organisations are gatekeepers for issues they do not want to campaign on (Carpenter 2009). Others assert that global funding can displace local activism and warp local priorities (Suresh 2014). To what extent can this be one movement when money and power all flow in one direction, from the North to the South? Some of the inequities that mark the global political system as a whole are mirrored in the human rights movement. One key fault line, for example, is between those for whom human rights work includes social justice issues and those for whom these are distinct, if both important, ethical discourses.

Competition: There is increasing competition for funds between all non-profit organisations, particularly after 2008 and the global financial crisis. The number of progressive organisations searching for donations is vast and grows all the time. Human rights organisations must compete in this marketplace, making sure they are visible and their brand well-known even if this means that some issues which ought to be priorities fall by the wayside. The Pussy Riot campaign was an example of an issue that generated huge global publicity but what kind of long-term impact did it really have? It also showed up the difficulty of global NGOs piggybacking on local struggles whose priorities may be swamped in the process (Guardian 2014). Competition may also come from other mobilising principles. For example, the resurgence of the Catholic Church under Pope Francis,

whose attempt to move past women's rights and LGBT concerns and get back to the Church's core business of combatting poverty and suffering, might signal increased influence for an organisation from which many human rights advocates are exiles.

Demographics: As many international NGO fundraisers or membership experts will tell you, young people do not join organisations like they used to. They will support causes that matter to them, and they may involve themselves in an organisation for a year or two. But they will not stay for a decade, and not for life, and the activism they engage in needs to be quick, to promise a fairly immediate response (e.g., the delivery of a petition), or an email barrage against a government, and then they move on. The online pressure movement, Avaaz.Org, may seem like a progressive step in this sense but it may equally be wide but shallow 'slacktivism', a form of social action that has no lasting impact, builds no long-term leverage and doesn't permanently recruit radicalised young people to social causes (Gladwell 2010). Networks may be good for information sharing but not for sustained activism, in other words. We do not as yet understand how demographic change and social media are changing normative advocacy and activism but there seems little doubt that the old-style model is not going to be the organisational form of the future.

As if this was not enough…

Many of these trends were already underway in the last decade or more, the misplaced confidence (or hubris) of Human Rights advocacy papering over the cracks. But things are only really just beginning to fragment. There are, I would argue, two major changes underway, one structural – the decline of the West – and the other exacerbated by this, yet a separate trend towards contestation in areas where human rights confronts other social norms.

a. The end of the unipolar moment

There is prima facie evidence that the US is declining in relative terms as the BRICS (Brazil, Russia, India, China and South Africa) rise, Europe is declining in absolute terms, and the world's centre of gravity is shifting to the Asia-Pacific with only the Middle East and Russia/Central

Asia keeping the gaze of great powers close to Europe's borderlands (Layne 2009). Although it is clear that the United States was the world's largest defence spender in 2012 by an order of magnitude ($682bn, compared with an estimate for second-placed China of $166bn), defence spending in Europe is static if not falling. Growth in 2012 spending was all in Russia, China and Saudi Arabia (SIPRI 2013). The decrease in European defence spending represents a trend dating back to the end of the Cold War: as a percentage of GDP, for example, the UK's defence spending fell from 4.4% to 2.2% from 1989 to 2008, France's from 3.7% to 2.3% and Germany's from 2.9% to 1.3% (Liberti 2011). This has led to calls from the United States for more burden sharing, amid concerns that if the United States looks to the Asia-Pacific, Europe will need to police its own neighbourhood (World Today 2013). This issue has been brought to a head by the crisis in Ukraine. The long-term return to a world where China's and India's economies have the largest share of global GDP is also well advanced, the share of global GDP of Europe having fallen significantly in the last four decades and massively since the time in 1870 when Britain's and the United States' GDPs were comparable (Economist 2010).

We might take several recent crises as examples of US ambivalence and of European weakness, especially following the post-2001 wars in Afghanistan and Iraq. In Libya, the US was prepared to follow the UK and France but not to lead, in Syria, lack of UK and French support left an already wary US with no unilateral option, and in the Ukraine, US uncertainty has not been replaced by an agreed EU approach to the problem, much to the frustration of American diplomats. The reluctance of Germany to use its trade leverage over Russia is a case in point. American leadership remains pivotal, in other words, to the preservation of international order and the resolution of crises that threaten its stability. But against a combined Russia and China, as we have seen in Syria, what leverage does the United States have? Concerned about its own domestic problems, with stagnant real wages, high budget and balance of trade deficits, increasing competition, stubbornly high post-2008 unemployment and constant congressional-executive stalemate, the

US may find it increasingly hard to further expand its multilateral engagements internationally (Kennedy 1987). In other words, the shift may be structural and not just a transient isolationist mood after more than a decade of the global war on terror (Pew Research 2013). Some essential multilateralism will remain in areas like trade and core national security concerns like Iran, North Korea and nuclear proliferation, but the days when the United States could afford to sustain a global force posture may be over (but see Jones 2014 and Lieber 2012).

To the extent that a liberal superpower has been essential, implicitly as well as explicitly, to support the Global Human Rights Regime (including international justice regimes), even as the United States itself has been a somewhat reluctant, part-time participant in multilateralism, the new world offers little hope and every prospect that this regime has reached its limits (Kupchan 2012; Ikenberry 2011). China's response to the UN's recent damning report on North Korea, which recorded 'unspeakable atrocities', is an example: 'Of course we cannot accept this unreasonable criticism. We believe that politicizing human rights issues is not conducive towards improving a country's human rights. We believe that taking human rights issues to the International Criminal Court is not helpful to improving a country's human rights situation' (Reuters 2014). Will we ever see a Chinese premier speaking the language of human rights? It's hard to think so.

Embedded authoritarianism in Russia, China, and several of their client states, renewed confidence in numerous countries to pushback against international human rights and justice, not to mention increasing attacks against humanitarian aid personnel, all provide evidence of a world in which sustaining universal norms will be harder just at the point when greater investment of political resources than ever is required. China may represent a different kind of modernity, one where human rights may be an illegitimate language at state level but also one where the government points to the hundreds of millions pulled from poverty by China's rapid economic growth as "real" human rights improvement. Will the Chinese middle class, newly affluent, be a progressive force for human

rights internationally? So far there are few signs of that. Bipolarity, or multi-polarity, in terms of the distribution of global power, will more likely mean a system where negotiated global norms backed by the self-reinforcing dynamic of reciprocity (what's good for me is good for you) are likely to survive but hierarchical, sovereignty-contesting norms like Global Human Rights will not as a major force in world politics at state level. This would potentially be good for international humanitarian law (like the Geneva Conventions) which are in their essence sustained by a reciprocal logic, however much they are now viewed as customary law as well.

b. Contestation

Contestation in this new world takes several forms. Within the human rights movement, for example, we may well find increasing tension between civil and political rights on the one hand and social justice issues on the other as persistent inequality, even as income increases, becomes a greater and greater focus of advocacy and activism. The UN's 2013 Human Development Report (UNDP 2013), titled 'The Rise of the South: Human Progress in a Diverse World' refers to the importance of 'enhancing global collective welfare.' In this 200-page document, 'human rights' are mentioned 14 times whereas the word 'equity' is mentioned more than 40 times. Designations like the 'Global South' and the 'Global North' speak to inequality even where there is increasing wealth. There is a South in the North (poor migrant workers living on low wages with few protections, no insurance, no job security and no rights) and a North in the South (e.g., a growing Brazilian, Chinese and Indian middle class with disposable income, Western-style consumption patterns, social and geographical mobility, and an interest in the sorts of rights that protect their assets rather than dilute their wealth or influence). How will the Global Human Rights Regime help tackle such inequality when it relies on funding and support from the very middle classes which stand to lose most from policies of social justice that would redistribute economic and political power? It's not clear what the Global Human Rights Regime and its funders will do if fairness and social justice, not international criminal justice, are the issues that command the widest attention.

The universality and indivisibility of the entire rights agenda may also not reflect the view of other, previously silenced human rights advocates. There was a time when the one rights commitment it was thought all Amnesty International members shared was an objection to the death penalty but this turns out not to be the case (Hopgood 2006). It's hard to imagine anyone being considered a real human rights advocate who supports discrimination on principle against women or LGBT people, but is it likely in this new, global, multi-vocal world that all human rights advocates will support reproductive rights? For hard-core Human Rights advocates can there be any compromise on the principle that human rights entail a woman's right to choose? If not, and if there are women who lay claim to being human rights advocates who for faith-based or other reasons think the unborn child has rights that trump its mother's, can we really speak of one movement? In a more diverse human rights world, aren't all these voices going to be heard, and isn't that going to mean an end to unanimity and thus to the whole idea of one singular movement at all?

Contestation inside the human rights movement is matched by contestation outside. Global human rights norms emerged as political factors out of a Europe that was secularising (Hopgood 2006, 2013a/b; Joas 2013). In such a world, religion was no longer able to dictate the content of public life nor to constrain public morality. But the re-emerging areas of the world are not necessarily secular. This does not mean they are religious in a regressive sense, but it does mean that religious authorities and faith are key elements of public life and influence, and in crucial ways, public morality. The new salience of religion globally, as well as its greater resonance within the foreign policies of Western states after 9/11, means that the foundations on which secular human rights were based are not available universally. Religious norms about the family, social norms about legitimate public behaviour, about duty and obligation, and just retribution, about the qualifications for legitimate citizenship (and the possibility that anti-social behaviour means you abdicate your rights), and about what it means to be a person, create a diverse multiplicity of principled commitments that do not map neatly onto

the rather narrow and arid universalism of secular global human rights. Religious pluralism, as a means to avoid the insoluble religion-secularism clash, is all very well but in the hard cases referred to above – Shari'a law and women's rights, Catholicism and abortion, evangelism and homosexuality, national identity and freedom of expression, public morality and individual choice – the assumption that norms of moral equality and non-discrimination are recognised by all, the bedrock belief of global humanism for two centuries, may not hold. Religious pluralism already assumes, in other words, a shared normative world in which women are not treated as property or children as family assets or LGBT people as an affront to public morality able to be legitimately brutalised.

A defining article of faith for the human rights movement is that individuals hold their rights by virtue of being human. Everyone has them, without qualification, from President Bashir al-Assad to the children his chemical weapons attack so brutally murdered. But this principle, too, is not intuitive. Is the claim that the death penalty constitutes a form of justice really so hard to understand? Or that torturing people who have committed abuses against the community might be permissible by some conceptions of justice? If you betray your society and perpetrate anti-social acts, even act in ways that undermine community cohesion and safety, is it so surprising that you might be considered to have sacrificed your rights (Wahl 2013)? Human rights based on this understanding are much more like citizenship rights – that is, rights you qualify for and which can be taken away from you if you misbehave. Here they really do

imply duties imposed on the rights-holder him- or herself.

Conclusion: The Neo-Westphalian World

The rapidly transforming world around us can be characterised as neo-Westphalian. Ever more extensive social and economic linkages will continue and intensify, especially as the speed of technological innovation grows. Global trade and finance, essential elements of the affluence of growing powers like China, as well as collective security concerns about transport, energy and weapons, create shared interests in the preservation of international order. In this sense, India, China, Brazil and perhaps even Russia have a stake in the continuation of the system.

What they do not necessarily want to sustain, and certainly do not want to expand, is the hierarchical system of rules and norms centred around human rights and international justice. Humanitarianism – the unconditional giving of care to populations suffering from extreme deprivation – provides a form of service that, absent human rights conditionality, is often of use to even authoritarian regimes. But for human rights and international justice, the lack of an enforcing will (like that of the once all-powerful Europe and then of the United States), and the greater diversity of values, beliefs and faiths judged legitimate and progressive, spells the end-times for one world under global secular law and especially for the old model of human rights as an authoritative conscience, housed in Western Europe, for all the peoples of the earth. R2P and the ICC are in reality twentieth-century ideas in a twenty-first century post-Western world.

Michael Barnett

What's So Funny About Peace, Love, and Human Rights?

The Endtimes of Human Rights (Hopgood 2013a) is a whirlwind of provocations. The overall punchline –Human Rights is about to meet its demise, and the quicker it comes the better -- is bound to incite. Each step in the argument illuminates human rights from different angles: human rights began as a secularised deity, it became something of a saving figure after World War II, the Americans are largely responsible for turning a perfectly attractive human rights movement into a disfigured Human Rights industry, and religion and China are about to put the final nail in the coffin of Human Rights. Tying together these individual chapters in the past, present, and future of Human Rights makes *Endtimes* one of the most important statements on human rights in recent memory. Each page launches assertions that will cause the reader to write furiously in the margins, including contradictory comments such as 'Yes!' 'Really?' 'Brilliant,' 'You really want to say this?' Yet Hopgood is not unnecessarily baiting the reader – he is challenging her to wrestle with an alternative, tragic, narrative of the history of human rights. And part of the reason why it is so compelling is because Hopgood has such an intimate understanding of the subject matter. He knows human rights, inside and out. He has produced a fearless book that asks scholars to look deeper into underlying structures that have buoyed and produced Human Rights, and gives activists an opportunity to look into a different mirror. *The Endtimes of Human Rights* is guerrilla theatre at its very best.

Endtimes is not a history of human rights; instead it is a free-wheeling, no holds barred, argument about life, times, and eventual demise of Human Rights. Hopgood covers so much ground that it is hard to know where to start or end. However, I will focus my thoughts on how we understand Human Rights and its relationship to human rights, humanitarianism, and other smaller calibre movements designed to save suffering souls.

A parasitic relationship

To begin, what, precisely, is the relationship between human rights and Human Rights? Assuming I am reading *Endtimes* correctly, Hopgood imagines them in independent, nearly binary, terms. Lower-case human rights is comprised of local and transnational networks, springing from below, which try to bring publicity to violations and pressure their governments and other public bodies to take appropriate action. The ultimate goal of lower-case human rights is to treat people decently and respect their autonomy and integrity. Consequently, it can take many different forms and can go by many different names, but those in the West might not always see such movements as part of the terrain for human rights. For instance, Hopgood opens his book with a description of the resistance movement in East Timor prior to independence in 1989; he insists that we see this as part of human rights, even though those in the West would not because it was indigenous and had little connection to Human Rights. The point is that people have been fighting for their 'rights' in all sorts of ways even if the West cannot see it because of its 'human rights' lens.

More ominously, Human Rights is a 'global structure of laws, courts, norms, and organisations that raise money, write reports, run campaigns, pay hefty monthly rents in nicely appointed offices in choice locations, and act as if they are the representative of humanity' (Hopgood 2013a: ix). Upper-case Human Rights might have had its origins in human rights, but Human Rights has outgrown human

rights, become a personality unto itself, and become quite adept at exploiting human rights for the purpose of feeding the beast of Human Rights. Hopgood's distinction between Human Rights and human rights is effective and convincing, and does real analytical and descriptive work. However, like all binaries, it imposes antonymistic characteristics that are not always warranted. For instance, because Human Rights is characterised as all power and hubris, human rights is sometimes over-romanticised, and its capacity for power and hubris overlooked.

Human Rights, it seems, has a nearly parasitic relationship to human rights. It takes and takes and takes, but gives little back in return. Human Rights certainly needs human rights, not only to give it a purpose but also to advertise the victims in order to meet their budgetary needs. More importantly, the West needs Human Rights because it is a partial ideological answer to the crisis of authority, brought on by a modernity that killed God, leaving humankind struggling for a new kind of authority, and finding it in themselves.

But is this relationship so one-sided? Does human rights not need Human Rights? Doesn't Human Rights reciprocate, at all? Hopgood (2013a: 2) suggests that human rights can live without Human Rights, and, in fact, might live quite nicely. 'How different would the world really look without the multi-billion dollar humanitarian, human rights, and international justice regimes?' Hopgood writes. 'How much less chronic suffering would there be?' This is not just a really good question, it is basic to Hopgood's argument. Yet because Hopgood does not force an answer, he ultimately leaves it to the reader to project his or her own preconceived notions.

I have also struggled with the very same counterfactual in the domain of humanitarianism, but I seem to have come out with a slightly more charitable answer than Hopgood. My response is not based on evidence, but rather based on hope. Consequently, while I want to believe that more good than harm has been done, I am ready to be persuaded by Hopgood's rebuttal. Unfortunately, Hopgood leaves the rhetorical question as an assertion, and I am not ready to substitute his hopeless characterisation for my benefit of the doubt.

A sobering historical truth

As I am drafting this essay, the United Nations Human Rights Council and the Office of the High Commissioner of Human Rights have just delivered a scathing report on North Korea, portraying it as a modern-day Holocaust. Undoubtedly, Human Rights will use this report to their material advantage. Yet is that the only consequence of the report? Is it not possible that this publicity will help those dying in labour and prison camps? Might China, which Hopgood portrays as unimpressed with human rights, now lean on its client state to make things better in order to make China's life a little easier? Where would those in the labour camps in North Korea be without the assistance of the Human Rights International? Do they think that they would be better off? Do human rights activists in China believe that their cause would be helped if Human Rights just went away? I agree with Hopgood that Human Rights seems to have developed some combination of autism and arrogance, but I think that the relationship with human rights is more complicated and mutually nourished than he suggests.

Hopgood might concede the point that there are occasions when Human Rights is needed for human rights, but North Korea is an extreme case. Yet how atypical is it? Could Human Rights not serve other functions that help the cause of human rights? Isn't Human Rights something of a 'force multiplier' for human rights movements? Does the chance of success for grassroots activists improve from the existence of international legal norms and presence of Western moralisers?

As I was wrestling with Hopgood's case for the irrelevance of Human Rights to the lives of vulnerable populations, I was reminded of an essay by Richard Rorty (1994) on human rights. As Rorty describes it, we are consumed by overly romantic notions of people responsible for their own liberation. Yet a sobering historical truth is that a fair bit of moral progress depends on the privileged taking an interest in the lives of the underprivileged. 'We want moral progress to burst up from below', Rorty (1994: 130) observes, 'rather than waiting patiently for condescension at the top.'

Yet progress depends on condescension, on bleeding heart

liberals, on the Bill Gates and Warren Buffets taking an interest in the health of those in the Third World, on relatively wealthy, educated people in the West such as George Soros and his Open Society Institute deciding that they are going to plough resources into the campaign to expand human rights. The argument certainly does not dismiss the role that the weak play in their own liberation, but it does suggest that those narratives of justice that focus on the downtrodden taking matters into their own hands do not give proper credit to the role played by the bourgeoisie.

Commodified compassion

I can anticipate two objections by Hopgood to my counter (though there are others, to be sure). Perhaps the problem is not condescension, but rather what happens when compassion becomes commodified. If so, the question is whether organised compassion would exist as an effective instrument of change in today's world were it not commodified? Could compassion be mobilised and made politically consequential without being commodified?

The second objection is that it relegates moral progress to what the rich and famous choose to care about. If they decide that they care most about civil and political rights, then economic rights and social justice, which might matter more to local actors, will become ignored. The rich and powerful have the luxury of pursuing a moral progress that is convenient to them, that makes them feel good, and, crucially, probably does not force them to undertake action that harms their fundamental self-interest. George Soros can continue to try and bring about an open society around the world, but not worry that the casino capitalism that has fed his wealth will ever be the target of the human rights movement that he has helped to create.

Hopgood's subtle analysis of how capitalism and commodification has altered Human Rights is fascinating and compelling, yet, according to him, the problem with HR is not only its commodification but also its arrogance. The roots of its sense of superiority owe much to modernity. Part of the ideological basis of HR is a dogged belief in its own universality; indeed, its confidence (and hubris) depends on it. The moment it is forced to acknowledge that human

rights is not just plural but perspective-dependent, then it loses much of the sense of self it needs – not only to help address the crisis of authority in modernity but also to remain committed to the cause.

This leads to another of Hopgood's devastating critiques of HR: it is genetically unable to see or operate in a world of human rights. Its blinders leads to a 'one-size-fits-all' view of the world. And, just as grievously, it leads HR to reduce human rights to a subordinate role. Human Rights is to human rights what Michael Jordan was to the 1980s Chicago Bulls. The obvious question, then, is whether it is possible for Human Rights to operate in any other way? Could Human Rights change its game to elevate the supporting cast? After all, Jordan did not start winning championships until he learned to share. Hopgood might respond by saying that Human Rights is incapable of change, or, if it did, it would have to accept a less categorical, less secular, and less universal world; to do so, though, would cause a massive crisis of identity.

American power

Is the United States really that awful? The moment of transformation from human rights to Human Rights occurred when the United States decided to get involved in the 1970s. This was the beginning of the end. Chapters five and six of *Endtimes* (Hopgood 2013a) on this phase of Human Rights chapters are immensely enjoyable, and I am largely persuaded of the effects of the United States on international human rights. Yet I am left with several nagging thoughts. Was the transition really this abrupt? Whenever scholars periodise they have to exaggerate the differences between 'before' and 'after,' and my question is whether the problem was *American* power or American *power*. If the latter applies, then there is no reason to exclude European powers from the discussion. Indeed, if Western human rights has always been dependent on Western power, then the Europeans probably deserve more credit than they get. Or, if the problem is *American* power, then I need a little more convincing that the effects of the Americans on the development of Human Rights would have been different if the Europeans had remained in charge. After all, the European human rights regime seems

to have many of the very same characteristics described by Hopgood of Human Rights. Capitalism, commodification, and modernity are not limited to the American soil – they are very much alive and well in Europe.

If so, then perhaps the problem is not with the Americans but rather with the conjunction of modernity, rationalisation, and capitalism, which perhaps had its own particular constellation on American soil. That is, the problem is not personal, it is structural. Yet if it is about America, then what is it? Is it about America as a cultural artefact? Or is the problem that a United States that was most interested in maintaining its geopolitical supremacy chose to hijack human rights toward that end? Or, would Europe, the cradle of modern human rights, have acted any differently if it had the good fortune to be a superpower?

Will the world be a better place without (an American-produced) Human Rights? Hopgood suggests that we are about to find out, and he hints that we will like what we see. There are two primary challenges to Human Rights at this moment. The first is a change in geopolitics, namely, the pivot to Asia. I agree with him that Asia, to my naïve eyes, does not seem to need Human Rights to answer any crisis of authority caused by modernity (though I could be wrong). Or, at least it is likely to answer that crisis in some other cosmopolitan register, perhaps a nationalism that treats itself as the centre of the universe (much like many other nationalisms).

The reinsertion of religion

The other is religion. Hopgood rightly argues that human rights became a substitute for religion in late 19th century Europe, and while many religious figures were important to the human rights movement, in the end human rights represented an alternative to religion as a basis of authority. The religious resurgence, then, might be a shot across the bow of Human Rights. Yet, what are we to make of the very prominent faith-based movements in the United States (and elsewhere) that utilise the language of human rights in their search to save souls and the world? How are we to make sense of the US's International Religious Freedom Act and the growing prominence of religious freedom in the discourse of human rights?

Perhaps Hopgood might respond that the re-insertion of religion represents a fundamental change in the character of a secularised human rights, and he might be right. Yet, to what extent was this secularised human rights truly devoid of theological undertones? Secularisation did not cause the removal of religion, but rather changed the way religion functioned and operated in modernity. If one was to shine an infrared light to detect the religious discourse in the human rights architecture, it would become obvious to the naked eye. In any event, Human Rights is likely to suffer one humiliating blow after another. And this might be good news for the future of human rights.

The role of religion in human rights and Human Rights is more complicated than I think Hopgood allows, for another reason. When referring to the end of Human Rights, Hopgood asserts that 'What people do not need is another universal church'. Yet an argument can be made that this is precisely what they need. Could the decline of religious authority in the 19th century have been replaced by something other than a secularised religion that had its own universalising dimensions? Many of the world's religions have a universalising aspect. There were anti-universalistic ideologies that emerged as worthy successors, some quite nasty and lamentable, that appeared and then, thankfully, disappeared. Moreover, many Great Powers see themselves as representing civilizations. 'Humanity' can only exist in a cosmopolitan ethos and people have a metaphysical need to believe in something larger than themselves.

Humanitarianism

Some sort of universalising discourse will replace Human Rights. Perhaps, as Hopgood suggests, it will be the language of social justice. It might not achieve Human Rights' *cause-célèbre* status, and it might not be able to escape the effects of modernity and commodification, but there is likely to be some movement (or movements) that are attentive to human flourishing. Human Rights answered a need felt by humankind. Human Rights might go away, but the need won't.

Could humanitarianism be an adequate substitute? *The Endtimes of Human Rights* is clearly about human rights, but on occasion Hopgood refers to its relative of humanitarianism, the project to save the lives of distant strangers. At times he sees humanitarianism as susceptible to the same excesses as Human Rights, and at other times it seems to have some built-in immunities. Humanitarianism also has its upper-case characteristics, is commodified, is comprised of some very large Western non-governmental organisations that get most of their money from the United States and Europe, and often sees itself as expressing the best of humanity. Yet if humanitarianism has one characteristic that differentiates it from human rights, and difference that saves it from itself, it is that its sole ambition is to reduce the suffering of those in immediate risk and in times of urgency. Its ambitions are much more modest. To save a life does not require knowing what is the purpose or meaning of life. For some, it is the very modesty of humanitarianism that makes human rights such an attractive alternative – it allows us to act toward the dream of a better world. Yet this very ambition bordering on hubris is precisely why so many in the humanitarian community are wary of human rights. In its view, it is the very modesty of humanitarianism that makes it attractive, pluralistic and inclusive, and more resistant to the corruption and decay. For those in the humanitarian community, *The Endtimes of Human Rights* can be read as a huge warning sign.

Todd Landman

Social Magic and the Temple of Human Rights: Critical Reflections on Stephen Hopgood's Endtimes of Human Rights

Introduction

In his compelling, wide-ranging book *The Endtimes of Human Rights*, Stephen Hopgood develops a highly critical argument that seeks to account for the biased genesis, dysfunctional enforcement, and precarious future of what have become known as internationally recognised human rights. For Hopgood, human rights are a secular yet sacred set of claims that have been advanced for human beings by virtue of them being human. The metanarrative that underpins their evolution from the middle of the 19th century to their current manifestation in an increasingly complex array of international legal instruments is a product of European middle-class intellectuals that is akin to what Pierre Bourdieu has called 'social magic'; the performative concept that captures the idea that certain 'speech acts' create significant political outcomes.

Hopgood argues that the sacred metanarrative of human rights has been symbolised through great architectural temples in Geneva (Palais des Nations), New York (UN Headquarters), and in the future, The Hague (the planned home for the International Criminal Court). The metanarrative has also been developed in ways that has largely ignored grass roots and organic struggles against oppression leading to the gulf between what Hopgood (2013a: viii-ix) calls human rights (localised and self-styled struggles) and Human Rights (international sacred discourse). The elitist and sacred nature of Human Rights has its own set of codes and conventions, and has become a hermetic community that has little relevance for the everyday struggles for justice taking place at the local level (Hopgood 2013a: ix, 24-46).

Despite their sacred and self-evident nature, the mechanisms for the enforcement of human rights have been notoriously weak and over-reliant on the power and purpose of the United States, which has led to a human rights *double standard* (mixed application with wildly varying results) and *marketisation* (professionalisation of large and wealthy human rights NGOs). These twin attributes have undermined the very ideals of the human rights movement and created a patchwork application of universal standards. Moreover, and the subject of this essay, the rise of Brazil, Russia, India and China (BRICs) challenges US (and European) hegemony in the world in ways that have created what Hopgood calls a 'neo-Westphalian' world, where the probability of successful protection of human rights is more limited than ever.

While some of the book resonates with my own experiences and understanding of human rights, I argue in this essay that the empirical analysis of human rights with which I am most familiar offers serious challenges to many of the arguments that Hopgood puts forth. The essay focuses on two main areas. First, I show that a new series of studies demonstrates a positive effect for the regime on rights developments when it is considered alongside other key explanatory factors (see Risse, Ropp & Sikkink 1999; Landman 2005; Simmons 2009; Smith-Cannoy 2012; Risse, Ropp, & Sikkink 2013). Not only do these studies show the general impact of the regime on human rights, they also show that the regime contributes to the struggle for human rights by providing important legal standards, public discourses and political levers that help local groups realise their aims. Second, I argue that the rise of the BRICs and now the MINTs (Mexico, Indonesia, Nigeria and Turkey) may challenge US and European hegemony and represent new nodes of power and influence that have a negative impact on human rights; however, in terms of market size and material capabilities, the only real contender in the world for

the medium term is China, while its patterns of economic development raise aspirations of its own population that puts pressure on the continuation of authoritarian rule.

Human Rights versus human rights

Hopgood argues that there is a large gap between the elite and socially constructed architecture of human rights at the international level (Human Rights) and the grassroots struggle against oppression that is taking place around the world (human rights). He argues further that not only is there this large gap, but that the regime itself has had very little impact on the protection of human rights. Empirical political science analysis, however, has made great strides in identifying the factors that account for the variation in the promotion and protection of human rights in ways that challenge both these claims. Large-N quantitative analysis has built increasingly complex cross-section and time-series data sets comprised of different measures of the *de jure* protection and *de facto* realisation of human rights, including coding the international human rights regime, counting violations of human rights, coding country performance, probing individual perceptions of and experiences with human rights, and amassing socio-economic and administrative statistics within assessment frameworks (see Jabine & Claude 1992; Landman & Carvalho 2009). Across these efforts at measurement and analysis, the international law of human rights developed since the 1948 Universal Declaration of Human Rights provides a useful framework and 'systematised' definitions (Adcock & Collier 2001) of human rights that have been variously operationalised for empirical analysis (Landman & Carvalho 2009).

This large-N analysis has revealed much about the country-level conditions that are associated with the promotion and protection of human rights. Early models showed that democratic political institutions, high levels of economic development, and the absence of civil war are all associated with higher levels of protection of civil and political rights, and/or 'physical integrity rights' (see, e.g. Mitchell and McCormick 1988; Poe and Tate 1994). Subsequent studies have included new sets of explanatory variables such as trade, direct foreign investment, structural adjustment programmes, income and land inequality, and ethnic fractionalisation (see Abouharb & Cingranelli 2007; Landman & Larizza 2009). Studies that examine the international regime of human rights find mixed results (as Hopgood observes on page 104) with some that show a positive impact of the regime alongside other significant domestic and international variables (see Landman 2005b; Simmons 2009; Smith-Cannoy 2012). These studies on the regime show that it does not have a wholly independent effect on human rights protection, but certainly contributes to the advance of human rights. Indeed, in her book *Insincere Commitments*, Smith-Cannoy (2012) shows that even in those states that ratified treaties as a form of 'cheap talk' to gain international credibility, provisions for individual complaints provided political levers for domestic struggles for human rights among transitional countries in Eastern Europe and Central Asia.[1]

The statistical analysis on truth and justice shows strong support for what Kathryn Sikkink describes in (2011) 'Justice Cascade', which analyses the impact of different types and combinations of domestic mechanisms such as truth commissions, trials, and other bodies for redressing 'past wrongs'. More than 100 countries have embraced legal and quasi-legal processes to address past wrongs, including large-scale human rights violations and crimes against humanity committed during periods of civil war, authoritarian rule, and foreign occupation (see Hayner 1994; 2002; Olsen, Payne & Reiter 2010; Sikkink 2011). Popular processes include trials, amnesties, truth commissions, commissions of inquiry, reconciliation forums, human rights commissions, and 'lustration' processes which seek to provide a public accounting of what has happened, who is responsible, who the main victims of the crimes against humanity are (or were), and what should be done about the truth that is discovered.

---

1   In addition, new research on participation in Universal Periodic Review (UPR) shows that countries that are wealthy, have high levels of human development, and high rates of human rights treaty ratification make significantly more recommendations under the system. See Elizalde, P. (2013) 'Human Rights Foreign Policy: Explaining states behaviour under the UPR', unpublished Master's Dissertation, MA in the Theory and Practice of Human Rights, Human Rights Centre, University of Essex, Wivenhoe Park, Colchester, Essex CO4 3SQ. Available upon request.

Between 1970 and 2007, there have been 848 of these different processes, where the most popular have been amnesties (424 or 50% of the total),[2] followed by trials (267 or 32% of the total), truth commissions (68 or 8% of the total), lustration policies (54 or 6% of the total) and reparations (35 or 4% of the total) (Olsen, Payne & Reiter 2010: 39). Between 1979 and 2009, there have been more than 425 cumulative years of prosecution for human rights violations (Sikkink 2011: 21). The use of trials has increased dramatically over this period, while the use of truth commissions has declined dramatically since 2000 (Olsen, Payne and Reiter 2010: 100). Large-scale comparative analysis of these different mechanisms has shown statistically significant and positive benefits for the presence of particular truth and justice mechanisms. For example, for Latin America between 1976 and 2004, Sikkink (2011: 150-153) shows that the average level of human rights violations was much lower for countries that engaged in a long-term process of prosecutions for past crimes.

For a global sample, she finds that while the average level of human rights violations has decreased slightly between the 1980s and 2005, the levels of violations were higher than the global average for countries that did not have prosecutions and lower than the global average for countries that did have prosecutions (Sikkink 2011: 183-188, 273-277). These results were obtained for a measure of truth commission experience and the cumulative total of prosecution years over the period of her analysis. In similar fashion, Olsen, Payne and Reiter (2010: 131-151) find that the adoption and implementation of truth and justice mechanisms in general have positive and statistically significant effects on both democracy and human rights, where levels of each are higher for countries that have undergone various combinations of truth and justice mechanisms.

Small-N comparative and single country studies have also demonstrated the value of the international human rights

regime in providing a framework in which transnational advocacy networks operate. In these accounts, thwarted attempts to contest human rights conditions at the domestic level are escalated to the transnational level, where assistance from international NGOs is coupled with the international regime and powerful states to bring about domestic change from reluctant state actors (see Risse, Ropp & Sikkink 1999; Risse & Ropp 2013). Hawkins (2002) shows that the interaction between domestic mobilisation and international condemnation of human rights practices during the Pinochet regime drove a wedge between different factions within the regime in ways that contributed to the transition to democracy; findings which can be extended to explain change in South Africa and the absence of change in Cuba.

Across these examples, the international human rights regime sets out a framework for analysis in which human rights are systematically delineated, country performance is assessed, and the 'transmission belt' of change is analysed. Results across these studies show support for the positive impact of international human rights, *ceteris paribus*. In this way, the gap between *Human Rights* and *human rights* in Hopgood's terms may not be as wide as he suggests. Rather, the law and language of rights is available to scholars, practitioners, and activists in a way that can be used to analyse country conditions and galvanise popular mobilisation for better human rights protection. In the absence of the emerging consensus around the law and language of human rights, local struggles are still possible but may not have had the kind of international linkages that have been able to contribute to many of the successes that have been observed. I am perfectly happy to concede that the notion of success is highly variable, incremental and subject to reversal, but jettisoning the whole idea of human rights in the face of setbacks does not appear a sensible strategy in the face of current global challenges. Rather, it makes more sense to harness what we now know about the advance of human rights, continue to research ongoing challenges around that advance, and continue the empirical and normative 'conversation' across local, national and international levels.

---

2   Amnesties here are defined as 'official state declarations that individuals or groups accused or convicted of committing human rights violations will not be prosecuted or further prosecuted or will be pardoned for their crimes and released from prison (Olsen, Payne & Reiter 2010: 36)'.

BRICs, MINTs and the Neo-Westphalian Order

Another central plank of Hopgood's thesis in *Endtimes* concerns the relative decline of US and European global power, which limits liberal internationalism generally and undermines the promotion and protection of human rights in particular. For Hopgood (2013a: 166-182), the world is experiencing a shift away from American and European hegemony to one of multi-polarity in which newly emerging powers such as the BRICs are now in a position to challenge that hegemony. At least two BRICs (Russia and China) are less committed to human rights in theory and practice, while two (Brazil and India) are committed to human rights in theory, but certainly have significant difficulties in realising them in practice. The new multi-polar world for Hopgood is a 'neo-Westphalian' one, with multiple sources of authority and global discourse, where human rights compete alongside other claims about how to organise society and promote human well-being. In addition to the BRICs, the MINTs could extend this argument even further given their economic ascendency in the world and their potential to challenge traditional hegemonic powers.

My own take on this argument starts with what is meant by the 'Westphalian' system. There are three main and contested understandings of this system. The first is that the Treaty of Westphalia ended the Thirty Years War and established a system of independent states that possessed sovereignty over their own domestic and international affairs, or 'territoriality and the exclusion of external actors from domestic authority structures' (Krasner 1999: 20). This is the classic understanding developed throughout the 20th century and has become the foundation for international relations theory. Realists and neo-realists see the Westphalian system as the basic building block of theory and assume that sovereign nations are motivated by the pursuit or maintenance of their own power. Idealists also accept this understanding of the Westphalian system, but argue that it has become eroded through the successful construction of global norms that both challenge the realist assumptions and transcend the interests of individual sovereign states. For example, Zacher names his article 'The Decaying Pillars of the Westphalian Temple', which illustrates this notion of undermining the sovereign state system, and which has been used as a refe-

rence point for the discussion and analysis of international regimes, including the international human rights regime.

The second understanding is that states have always allowed their sovereignty to be compromised, where the desire to stay in power may lead to the decision to participate in arrangements or activities that many would see as antithetical to any notion of state sovereignty. In his book, *Sovereignty: Organised Hypocrisy*, Stephen Krasner (1999) shows how the twin logics of 'expected consequences' and 'appropriateness' (see March & Olsen 1989) explain what may be perceived as contradictory state behaviour across such topic areas as human rights, slavery, minority rights, and the political economy of lending. In following this logic, Moravcsik (2000) explains the birth of the European system for the promotion and protection of human rights not as some challenge to state interest, but as a function of the needs of 'new' post-war democracies to 'lock in' future generations to a supranational legal framework as a means to protect their nascent democratic institutions from authoritarian temptation.

The final understanding of the Westphalian system argues that it is actually a myth (Osiander 2001). In this view, the Thirty Years War was not due to the Hapsburgs wanting to expand their empire, but other powers (Denmark, Sweden and France) seeking to diminish it, while the threat to the independence of other actors from the Hapsburgs simply does not bear up to historical scrutiny (Osiander 2001: 260). There has been undue and incorrect attention from the international relations community about the true nature of the war and its settlement through the Treaty of Westphalia.

Many international relations scholars and Hopgood (2013a:260) see the peace of Westphalia as being concerned with the issue of sovereignty, the need to 'reorder' the European system, and to formulate new rules. In labelling the emerging world system as 'neo-Westphalian', however, Hopgood is making a claim that the main features typical of this classic understanding of the Westphalian system are returning, but are also combined with features of the state system that have developed since the Treaty of Westphalia. His account of the successful 'social magic' of the human rights movement rests on an assumption that

the middle class and European 'construction' of human rights have challenged the Westphalian system, but that now the emergence of new poles of power in the global system mean that the endtimes of human rights are upon us since there is no solid guarantor for the promotion and protection of human rights.

For me, the expansion of the international rights regime is remarkable given the state of the world directly after World War II. Bobbio (1996) observed that those involved in the drafting of the 1948 Universal Declaration of Human Rights could never have foreseen the growth in the depth and breadth of the international human rights regime. Hopgood is correct to say (après Krasner 1999) that many of the human rights successes in the 20th century are down to the support from powerful states. He is also correct to say that many of the failures and 'double standards' (Reiff 1999) are down to the absence of support of these same powers. But there is a certain tension in his worry over the rise of neo-Westphalianism on the one hand and the grassroots struggle for human rights on the other. His account that there is an emerging set of new powers that may be less inclined to promote human rights stands in contrast to evidence of people struggling for human rights.

Towards a Neo-Westphalian System? Trade, Aid and Material Capabilities

The key question then is to determine the degree to which there is a neo-Westphalian world and whether it matters for human rights. One way to examine his claim is to look at comparative data on the US, the European Union, BRIC and MINT countries to see the extent to which the US and EU have actually declined vis-à-vis these new powers. For these purposes I compare the size of the US and EU market for goods and services (itself an important lever for international compliance), the size of the 'material capabilities' of states (a measure of the coercive potential), and the value of overseas development assistance (another lever for international compliance). As we shall see, only China stands as a major contender in the global power game and which has the size and capacity to challenge the US and the EU.

Using WTO statistics for 2012, it is a simple matter to compare the global share of exports and imports across the US, the EU, the BRICs and the MINTs as a measure of market size. Figure 1 shows these figures where it is clear that the EU and the US dominate global trade, while the BRICs run in third place, and the MINTs much further behind. The US and the EU combined make up 51.9% of global exports and 56.8% of all imports. Despite their dominance, however, the US and European export figures have declined from 11.2% and 43.5% in 1983 to 8.6% and 35.6% in 2013, respectively. China's share of exports has risen from 1.2% in 1983 to 11.4% in 2013, while its imports
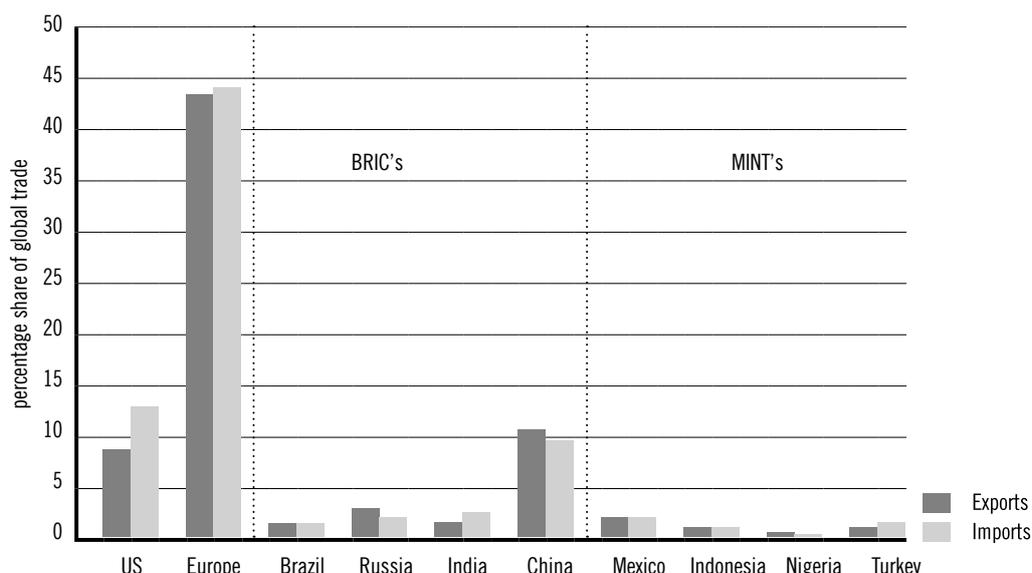

Figure 1. Global share of exports and imports 2012
Source: World Trade Organisation (2013) *International Trade Statistics* 2013.
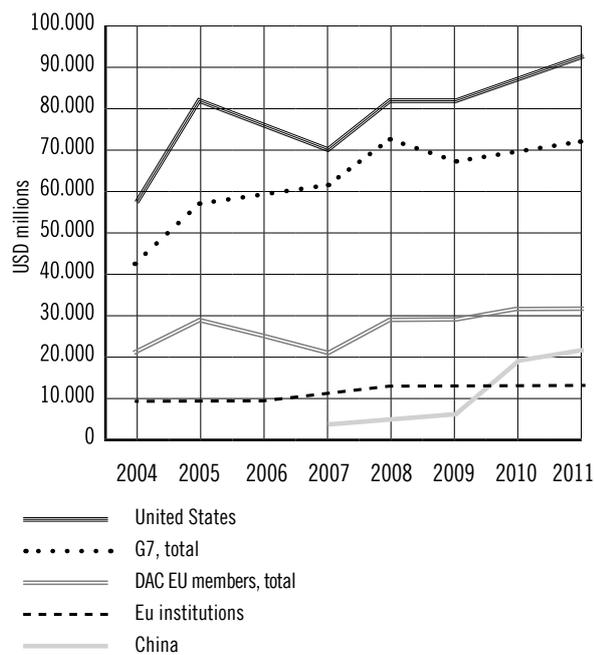
Figure 2.
Total Overseas Development Assistance (ODA), 2004-2011
Sources: OECD (2012) 'Development aid: Net official
development assistance (ODA)', *Development: Key Tables from
OECD*, No. 1; Wolf, Wang & Warner (2013) *China's Foreign Aid
and Government Sponsored Investment Activities*, RAND National
Defense Institute.

require recipient countries to address the quality of democracy, good governance and human rights as part of the ODA relationship. The EU has increasingly mainstreamed democracy, good governance and human rights into its foreign aid policy across its many different instruments and institutions, even if they are not directly related to questions of governance. China is a recent actor in this policy area, with total disbursed monies estimated to be $1.7 billion in 2004 increasing to $20.352 billion in 2011. In contrast to the US and the EU, Chinese aid comes with 'no strings attached' and thus does not bind recipient states to improvement in democracy, good governance or human rights.

The third measurement worth examining is the Correlates of War project Composite Index of National Capability (CINC). The CINC combines total population, urban population, iron and steel production, energy consumption, military personnel, and military expenditure. The CINC is a classic realist measure of power expressed as total material capability for each country in the world. It sums all the observations on each of the components per year, converts each country's absolute component to a share of the international system, and then averages across the six components. Figure 3 shows the average CINC for the US, the EU, the BRICs and the MINTs for the period from 2000 to 2007. It is very clear from the figure that the US and China are the world's predominant powers in terms of raw material capability. China has over one billion people which, when combined with the other components of the CINC, means that it surpasses the US for this period. Other BRIC countries do not come near these two global powers, while the MINTs lag far behind. While China is large and powerful, its global distribution of military capability and real co-ercive power is nowhere near that of the United States at present.

have grown from 1.1% to 10% over the same period. Using data from the OECD and a recent study from the RAND Corporation, Figure 2 compares the time-series trends in Overseas Development Assistance (ODA) from the US, Europe, G7, DAC EU Members, and EU institutions. The MINTs are not included in the figure as they still tend to be recipient countries. The figure clearly shows the dominance of the EU as the number one donor for the whole time period, and both the US and Europe have a series of conditionality clauses and mechanisms that
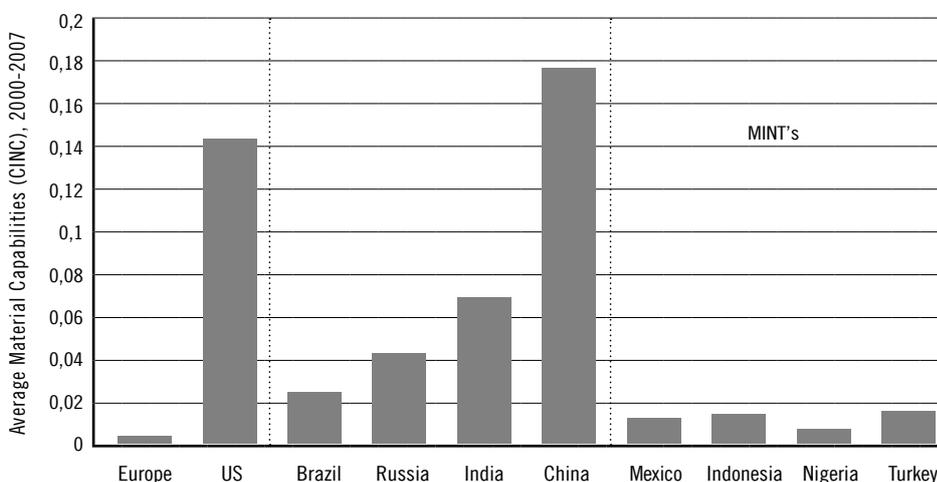

Figure 3.
Average Material Capabilities (CINC), 2000-2007
Source: Singer, J. David, Stuart Bremer, & John Stuckey (1972) 'Capability Distribution, Uncertainty, and Major Power War, 1820-1965'
In: Bruce Russett (ed) *Peace, War, and Numbers*, Beverly Hills: Sage: 19-48; National Material Capabilities 4.0.

The presence of such large and powerful states in the global system, however, does have implications for human rights. Preliminary spatial econometric analysis of human rights using a pooled-cross section time series data set and 'gravity' modelling shows that countries located in close proximity to large 'rights-protective' countries (Donnelly 1999) have a higher probability of improving their rights protection, while those that are in close proximity to large rights-violating countries have a much lower probability of improving their rights protection (Landman, Antonio-Cravo, Edwards & Kernohan 2011). Such analysis captures the idea of international 'diffusion' with respect to human rights and demonstrates important 'neighbourhood' effects. Countries in the neighbourhood of the US and EU are more likely to be better at protecting human rights, while those in the neighbourhood of China are not (South Korea, Taiwan and Mongolia are notable exceptions).

Taken together, the measures for markets, foreign aid, and material capabilities combined with the contested understanding of the Westphalian system suggest that perhaps Hopgood has overdrawn his case for the emergence of a neo-Westphalian world. Even if such a neo-Westphalian world does exist, it is not clear that the rise of human rights is all that surprising, nor does it appear that any new world order significantly threatens the predominance of the US and the EU as global actors across the different measures presented here. In terms of a rising market share and material capabilities, China is the key contender for world hegemony. The US has had a mixed and often contradictory approach to human rights, and President Obama's recent decision to continue security assistance and reduce democracy assistance to the Middle East is certainly problematic. Research from the Pew Foundation shows that across 39 countries in six regions, the US continues to be thought of as the leading global power and a defender of human rights at home and abroad, while China is perceived as an emerging power that may one day supersede the US even though it is perceived to have less respect for the human rights of its own citizens (Pew 2013). The EU continues to be more of a 'civil power' and has at its disposal a number of instruments to continue to support democracy, good governance and human rights. Its own policy of enlargement has brought peace, stability, and increased respect for human rights in the region, while it remains the world's largest donor, with significant influence over the governments of recipient countries.

Summary

This essay has sought to address some of the major arguments in *Endtimes*. While I do not disagree with all of the arguments found in the book, I have assessed the strength of two of them – the gap between Human Rights and human rights and the rise of the neo-Westphalian system – in light of my own experiences and the extant literature on the empirical analysis of human rights. I have argued that Human Rights are not irrelevant to those individuals and groups struggling against oppression throughout the world. Rather, they provide a language, lever and entry point to internationalise their struggle in ways that would not be possible in the absence of Human Rights. The general impact of the regime is beginning to receive strong empirical support, while more in-depth studies show that the power of human rights can transcend the gulf between the international community and national and sub-national struggles for human rights. I have also argued that while the world has changed significantly, the notion of neo-Westphalianism is problematic since of the new emerging powers Hopgood cites, China is the only real contender against US and European strength, making the world more bi-polar than multi-polar. While such a bi-polar world may have a deleterious impact on human rights in those countries of the world within China's sphere of influence, such a bi-polar view of the world ignores the possibility for reform within China. I thus continue to be a cautious optimist about the future for human rights, where the struggle for human dignity, framed in the language of human rights continues to offer significant hope to individuals around the world.

Steve Crawshaw

Neo-Westphalia, so what?

It is good for any human rights organisation to be criticised. In human rights work, as in life more generally, the failure to ask tough questions can be deadly. Complacency is an ever-present danger. Basking in the historic respect for an organisation's reputation, and failing to address the tough questions about how best to achieve change in a changing world, is a recipe for disaster.

Many of the questions which Stephen Hopgood raises in his recent book, *The Endtimes of Human Rights,* and in the related essay in this volume are important. Those questions partly boil down to this: what relevance do the global human rights organisations and human rights institutions have today, where the geopolitics and nature of civil society are changing so much around us?

Hopgood implies that the whole edifice is close to pointless. In his words: 'How different would the world really look without the multibillion-dollar humanitarian, human rights, and international justice regimes?' When the question is put as bluntly as that, it is difficult – if one works in the field of human rights, and if one is thus part of what Hopgood calls 'the Human Rights Regime' - to respond without sounding prickly and defensive. It is tempting to return to the old Monty Python sketch from 1979, which asked: 'What have the Romans ever done for us?' The rhetorical question, it turned out, had too many answers. 'Ummm… Aqueducts?… sanitation?…. education….?' And as the list continues, the increasingly irascible John Cleese eventually explodes: 'Yes, but what have the Romans done for us… *apart* from all those things….?'.

For all the faults of the human rights organisations and human rights architecture of the world – and for all the

bad news which surrounds us today, from Central African Republic to Syria and beyond – it is difficult to accept Hopgood's bleak analysis that we are on an inevitably downward trend for the understanding and observing of human rights worldwide, and for a shared understanding of why that matters.

Thus, to take head-on Hopgood's 'What has the Human Rights Regime ever done for us?' question: the International Criminal Court can bring genocidal killers to justice from anywhere in the world. A range of previously unthinkable arms treaties exists, including a global arms trade treaty which makes it illegal for state parties to sell weapons where they may be used to commit atrocities. Thousands of prisoners of conscience have been released. The death penalty, previously almost universally practised, is now used only by a diehard minority… And so it goes on.

The arms trade treaty can be said to be 'just a piece of paper', but if governments thought the treaty would prove so meaningless, why all the fuss over the past two decades? Governments understand that a treaty like this can have teeth. Clearly, there is often a significant gap between ratification and implementation. But that does not make the 'mere' existence of a treaty worthless.

Hopgood responds, in effect: 'Yes, but *apart* from all those things, what have the human rights organisations achieved?' He seems to believe that the only 'real' progress is made by local activists on the ground, in a way that can sometimes sound distanced from the messy reality of life. In reality, the work of local grassroots activists is closely entwined with Amnesty International's international high-level advocacy work in New York, Geneva and around the

world. That can be still more the case, as the organisation's global headquarters, the International Secretariat, significantly shifts its centre of gravity to the Global South in the next few years.

Even where Hopgood acknowledges past achievements by those he describes as the Human Rights Regime, he seems reluctant to imagine that such achievements can be replicated in the future.

Opportunities of a 'Neo-Westphalian' World for human rights

Thus, the final chapter of Hopgood's book is entitled 'The Neo-Westphalian World'. Hopgood (2013a: 166) describes how that world might look: 'A world of renewed sovereignty, resurgent religion, globalized markets, and the stagnation or rollback of universal norms about rights.'

For the purposes of this discussion, we can leave to one side the arcane arguments about whether the Peace of Westphalia was in fact ever Westphalian in the way that word is now understood. As Todd Landman points out in his essay in this volume, there are many interpretations of the word 'Westphalian'. Many bear little relation to the terms and wording of the original Peace of Westphalia in 1648. But the word is now widely used, with a clear meaning regarding sovereignty, and we may in this essay for simplicity follow Stephen Krasner (1999: 20), who uses this terminology because 'the Westphalian model has so much entered into common usage, even if it is historically inaccurate.'

Certainly, it is true that we are seeing significant pushback on the spread of human rights and its more global acceptance. In the immediate aftermath of the Cold War in the early 1990s, there was – briefly - an easier global consensus than we see today. The most significant pushback comes from Russia and China – who, to be fair, have never exactly been proponents of a more robust stance by the Security Council or other global bodies on human rights issues, except when scoring points against others.

In addition to the old issue of Russia's and China's poor track record, the growing influence of emerging powers

– BRICS, MINTs, or any other of a clutch of new acronyms – means a significant shift of power, which often goes hand-in-hand with a reluctance to use the language of human rights.

But none of this means that human rights is no longer relevant, nor that human rights progress is less achievable – in some ways, perhaps, the contrary is true. The growth of the BRICS and the MINTs can be seen as an opportunity as much as it is a challenge. India's change of tack on Sri Lanka, as described below, is just one example of what can happen when civil society is mobilised.

On a range of issues across the Global South – on the International Criminal Court, for example, in Africa and elsewhere - the voices of civil society must be much more loudly heard. The 54-member African Union (though sometimes in denial of this point) can influence the geopolitics of the world significantly, not least because none of the permanent members of the Security Council – including the seemingly all-powerful China and Russia – wants to have a face-off with African member states.

The world bullies thus rely on the silence of governments in the south. With stronger voices for human rights in Africa and elsewhere (Amnesty International is opening four new regional and national offices in sub-Saharan Africa alone in 2014), powerful governments like South Africa and Nigeria should be persuadable to raise their voice for human rights in a way that they have done too rarely in the past, apart from during the brief Mandela era.

As for the West's supposed lost power to change human rights for the better: we are sometimes in danger of forgetting that there was no golden age when Western powers behaved in accordance with human rights norms, while others violated them. Still less was there a time when those powers regularly waved a magic wand in order to prevent mass atrocities. Even after the end of the Cold War – a time of complete deadlock on human rights issues, with each side supporting its own Bad Guys – the 1990s included historic failures in terms of reacting to human rights crises, including the Rwandan genocide and the

nightmarish war in Bosnia. On both occasions, the world looked away until it was much too late.

Nor was it just a matter of failing to respond sufficiently. Complicity or worse in serious human rights violations has been common. In Latin America, the United States backed military regimes which tortured and disappeared its opponents, including by dropping them from helicopters into the ocean. Margaret Thatcher was proud to describe the Chilean military leader, Augusto Pinochet, as a 'staunch, true friend.' France welcomed Rwanda's rulers to the Elysee Palace during the genocide (Wallis 2014) and the British ambassador to the UN complained to the Czech ambassador that the Security Council would be a 'laughing stock' if it condemned the mass killings in Rwanda as genocide (Smith 2010: 155). In more recent years, the list of countries where serious human rights violations take place while Western powers stay silent or even offer praise remains long. If Western powers were ready to criticise rulers in the Middle East and North Africa region without taking account of geopolitics, alliances or resources – in Bahrain, Egypt, Israel, and Saudi Arabia, to take four obvious examples – it would have significantly dented the sense of human rights impunity, with important implications for the stability of the region.

Human rights' progress
We have, however, seen significant progress over the decades in understanding that rights do matter. Rights are indeed universal, as LGBTI defenders in Uganda and across Africa are clearly asserting now, even at risk of their lives, in a way that would have seemed unthinkable some years ago. As Archbishop Desmond Tutu pointed out, staying quiet on what is happening to others is not as 'neutral' as it may sound. 'If an elephant has its foot on the tail of a mouse and you say that you are neutral, the mouse will not appreciate your neutrality.'

A few decades ago, Pol Pot in Cambodia or Idi Amin in Uganda could commit mass atrocities in the certain knowledge that they would never face accountability for their crimes. When I interviewed the Serb leader, Slobodan Milosevic, in 1992, he was equally certain that he would never land in the dock for the crimes committed in Bosnia

and elsewhere. He looked more baffled than angry, when I suggested to him that he might one day do so.

In the intervening years, things have changed beyond all recognition. The International Criminal Court has many failings. But it has ended the notion that even the worst crimes committed in another country must somehow remain beyond the reach of, and of little interest to, the rest of the world.

Hopgood talks of the International Criminal Court as 'an elaborate form of organized hypocrisy'. He rightly criticises the fact that the permanent members of the Security Council have refused to make some key referrals to the Court, as with Syria. But that does not make the court itself redundant. Nor is the court in the pocket of powerful governments, despite Hopgood's attempts to suggest differently. Indeed, the United States so loathed (and feared) the Court that US Congress passed a blustering bill which came to be known as the Hague invasion clause; George W. Bush's ambassador John Bolton said the day when the US unsigned the treaty was his 'proudest moment' (Gwertzman 2008). Even now, the US has not ratified the Rome Statute and is thus not a member of the Court.

Hopgood appears to have bought into the narrative of some African government leaders (including, most notably, abusive ones) that the International Criminal Court is 'anti-African' because all of the cases so far have come from Africa. Hopgood talks of the Court's alleged 'imperial vision'. But it seems odd to blame the Court itself – whose respected chief prosecutor, Fatou Bensouda, is herself Gambian – for the failures of the Security Council, mentioned above. The African cases so far have in any case mostly been self-referred. More broadly, the obvious failure to make the Court sufficiently global is a challenge that must be faced by all governments, to put the International back into the ICC, more than is the case today.

We have already begun to see how the increased power of human rights advocacy in the Global South can create unexpected change, suggesting that failures are not necessarily as absolute or permanent as Hopgood suggests.

Hopgood is rightly scathing on the UN's 'shocking failure' on Sri Lanka, where tens of thousands of civilians were killed during the last phase of the conflict in 2009, in what a UN report (Panel of Experts 2011: 4) later described as 'a grave assault on the entire regime of international law'.

But some of the institutions which Hopgood seems to so mistrust – including human rights NGOs and the UN itself - have in the meantime ensured that the human rights violations in Sri Lanka are not completely put to one side. On the contrary, they are discussed much more than ever before. The Human Rights Council voted in March 2014 by a substantial majority for a resolution which demands greater accountability than ever before, including the need for an international inquiry, which NGOs have been campaigning for. Only five years ago, in the immediate aftermath of the conflict, Sri Lanka seemed to have gained a free pass. In 2014, however, the vote, by 23 to 12, was overwhelmingly in favour of accountability (China, Saudi Arabia and Pakistan were among those who voted against; now, there's a surprise.). There is no reason why a change like that should not be replicated.

No future victories can ever be guaranteed. Each victory takes planning and hard graft. But Hopgood's all-embracing pessimism sometimes seems to rely on a kind of circular argument to make his points. Thus, he declares (2013a: 177), as though it were a self-evident truth needing no supporting evidence: 'That there is genuine global solidarity is a conceit of human rights advocates in Geneva, New York, and London. A political and moral economy keeps the global and the local irrevocably apart.'

Human rights activists around the world, from Sri Lanka to the Democratic Republic of Congo, would beg to differ. In reality, that solidarity is the glue that makes much else possible.

Amnesty adjusting to the new world

Hopgood draws a contrast between capitalised Human Rights and lower-case human rights. Broadly: he is full of contempt for the former, and full of praise for the latter. But this can be a somewhat artificial distinction, especially when that is combined with a binary north-south separation.

First, on the capitalised vs lower-case division of Human Rights vs human rights types. For Hopgood the capitalised Human Rights types – presumably including myself and my colleagues at Amnesty International, as well as for example those who work for the UN Office of the High Commissioner for Human Rights, a particular bugbear of Hopgood's - are cut off from the 'locally lived realities' of lower-case human rights. And yet, my understanding of 'locally lived realities' includes the fact that colleagues around the world (including from many working for the organisations which Hopgood so mistrusts) spend their lives working closely with local human rights activists and highlighting violations on the ground, everywhere from Somalia to Syria and Mali to Myanmar. They risk their lives to do so, because they care. H or h?

Hopgood rightly notes that human rights organisations and institutions should be more genuinely global. That point is widely acknowledged; indeed, it is the starting point for many conversations about human rights today. Hopgood (2013a: 22) is on shakier ground when it comes to offering new solutions. His suggestions include a 'syncretic, ground-up process of mobilization' which would lead towards 'genuinely transnational social communities.' He also 'rejects the reality of universalism in favor of a less predictable encounter with the diverse realities of today's multipolar world.'

And yet, adapting to the 'diverse realities of today's multipolar world' is exactly what many of the organisations he criticises are already doing. Much of Amnesty's work is already in broad coalitions with others, and the organisation's tone of voice will no doubt change again through some of the changes described above. But none of that means an abandonment of the basic word that underlies everything else. The Universal Declaration of Human Rights is called 'universal' for a good reason.

Amnesty International's work is clearly grounded both in the Universal Declaration and the framework of international human rights and international humanitarian law, also including, especially in recent years, a strong body of work on economic and social rights. The organisation's principles are clear – but so, too, is the ability to ensure compromise

with other stakeholders. As anyone who has ever worked in an NGO quickly comes to appreciate, the ability to compromise is key. Every group in a given coalition always has slightly different aims. Reaching a consensus can be exhausting and rewarding in more or less equal measure. Being able to collaborate lies at the heart of the work.

The world's two largest human rights organisations, Amnesty International and Human Rights Watch – both in Hopgood's sights – have in their different ways sought to strengthen their presence and voice in the Global South, and continue to do so. Amnesty International, with millions of members around the world, has embarked on a historic shift, which has been discussed within the movement for many years and is finally taking place now. A series of new regional offices is opening up in Africa and Asia in 2014, with more to come, including in Latin America and the Middle East, in the next few years. Amnesty International is also opening up new national offices in, for example, India, Brazil, and Nigeria. Together, these changes look set to significantly shift the balance of the organisation from its current global headquarters at the International Secretariat in London to a more geographically balanced spread. In 1961 it was reasonable that the organisation could be created in London and then spread across cities especially in North America and Western Europe. In 2014, we live in a very different world.

Already, that global expansion has begun to have an impact on the organisation's work, and on human rights advocacy more generally – with more than a million people signing up for an Amnesty India petition to ensure a more robust response on Sri Lanka, for example. As described above, India has partly shifted its position at the Human Rights Council on Sri Lanka, and those pressures from the grassroots are generally agreed to be part of the mix. The Brazil office, working closely with domestic human rights organisations like Conectas (H or h? – in reality, both) has seen similar engagement on human rights issues – in a way that has obvious implications for ensuring that human rights can be part of the global discourse as we move forward.

Some fear that increased global footprint of the global

human rights organisations can itself become a danger, sucking the life out of local activism. Thus, in the words of Vijay Nagaraj (2013), writing for the Global Rights series on openDemocracy: 'Why should one not see this as a new wave of occupation, with global human rights in its search for greater influence, power, and money, trying to plant its flags, franchises and not to mention fund-raisers, all over?'

The question is valid enough, and important to ask. But the reality is that this kind of trampling of the ground would be lose-lose for the cause of human rights. Amnesty International can only work if it is able to work in coalition with others. That will now be more important than ever. If Amnesty International's arrival does not increase the overall human rights space, it will have failed in a significant way.

In his musings on the growth of the 'neo-Westphalian world', Hopgood (2013a: 253) talks about 'resurgent religion' and 'the last days of secular religiosity' as one reason why his 'Human Rights Imperium' is doomed. But there is nothing new about the challenges posed by some extreme elements of religion. And, in parallel to that, religious leaders and communities have provided a courageous bedrock for human rights in countless contexts over the years. Religious groups and leaders can be key partners in confronting discrimination and other violations or, for example, on achieving the momentum for an arms trade treaty.

Endtimes aren't endtimes till it's over

The challenges that Hopgood identifies are many, and real. But most of them are not fundamentally new. Peter Benenson, founder of Amnesty International, was told when he first came up with the idea of using mass pressure to force intransigent regimes to release prisoners of conscience (a phrase that Benenson himself created) that this was 'one of the larger lunacies of our time.' In the meantime, that lunacy has achieved remarkable things. In Amnesty International's most recent Letter Writing Marathon, an annual event which builds directly on Benenson's legacy, more than two million actions were taken worldwide. As a direct result, prisoners of conscience in Cambodia and in Russia were released, just two of the

thousands of results that have been achieved over the years. Stories like this are repeated every day.

Hopgood emphasises the supposed disconnect between the dull professionals and the courageous activists on the ground. But the connection between discussions in well-appointed conference rooms in Geneva or New York and human rights violations on the ground, between his much-derided human rights professionals and grassroots activists, need not be as tenuous as Hopgood suggests.

Thus, for example, activists from some of the most perilous countries in the world risk harassment, arrest or even their lives to go to Geneva and bear witness, for example in advance of their country's Universal Periodic Review at the Human Rights Council. They would hardly do so if they thought that this whole dry-as-dust procedure was meaningless.

Nor is there anything new about that kind of merging of on-the-ground activism in one part of the world and advocacy elsewhere. Take the approach of human rights activists in the Soviet bloc, 40 years ago. They took a dry inter-governmental process – the Helsinki Final Act, full of apparently empty verbiage – and made it their own. They were repeatedly jailed for doing so, in what many perceived as a fruitless struggle. Backed by an international human rights movement, they created the possibilities of extraordinary change, as the historic perspective made clear.

In short: endtimes aren't endtimes till it's over.

César Rodríguez-Garavito

Towards a Human Rights Ecosystem

I first read about the work of Stephen Hopgood in Quito, Ecuador amidst public events marking the first anniversary of one of the most important decisions of the Inter-American Court on Human Rights. In it, the Court condemned the Ecuadorian government for illegally authorising oil exploitation activities in the territory of the indigenous people of Sarayaku in the Amazon (IACHR 2012).

Midway through 2013, Hopgood was holding a virtual debate on *openGlobalRights* with Aryeh Neier, co-founder and former director of Human Rights Watch. The debate involved two radical and radically different views of the trajectory and future of human rights. Hopgood's arguments foreshadowed those in his book *The Endtimes of Human Rights*. 'Human Rights are a New York-Geneva-London-centred ideology' dominated by the elites that comprise '1%' of the movement, and led by the likes of Amnesty International and Human Rights Watch (Hopgood 2013b). Those Human Rights in upper-case letters (HR) were based on a world order that was disappearing before our very eyes — the unipolar world centred in Euro-America — along with its ideology and architecture. For Hopgood, this was good news because HR would be replaced by human rights in lower-case letters (hr), more decentralised and politicised, based more on local work and grassroots mobilisation than global legal strategies.

Neier's equally forceful response jealously guarded the conventional boundaries of Human Rights. Within those boundaries, he sees only room for liberty rights (as opposed to socio-economic rights) and proposes a continued focus on 'naming and shaming' strategies, but now also directed at the emerging powers of the Global South (Neier 2013).

I remember feeling that what I was reading in the Hopgood-Neier debate was very far removed from what I was seeing in Quito, even though I was on a classic human rights mission, advocating for compliance with a regional court's ruling. As is typical of this type of endeavours, I was working in collaboration with an international coalition of NGOs and social movements, which includes the organisation I co-direct, the Center for Law, Justice and Society (Dejusticia), based in Bogota, Colombia.

In reality, the daily practice of human rights, in the Global South as well as in the North, is much more complicated and diverse than what Hopgood and Neier suggest. Although they are on opposite sides of the debate, they both have one thing in common: an all too simplistic view of the actors, the content and the strategies of the international human rights movement, as I argued in a blog post at the time (Rodríguez-Garavito 2013a).

Yet many of Hopgood's criticisms resonated with my own experience as a human rights scholar-practitioner: the dominance of Northern states and NGOs, the hegemony of legal language and tools, the disproportionate role that those of us trained in law have in the movement, the nagging yet elusive question about the actual impact of human rights work.

In *Endtimes*, Hopgood takes these and other critiques to the extreme, to the point of exaggerating and caricaturising the reality of HR. From an academic standpoint, this makes him a target of analytical and empirical objections. Frequently, the book leaves conceptual loose

ends,[1] abandons an argument halfway,[2] and fails to offer sufficient empirical evidence to support sweeping generalisations.[3]

But the payoff of his argumentation strategy is that it is highly provocative. Like all caricatures, it has truth in it that is both destabilising and questioning. We should welcome this in the field of human rights, where we have erected walls that are so high that it has become difficult for us to be reflexive and self-critical. That is why, instead of reading Hopgood's book literally and delving into the weaknesses of his arguments and data, in this article I am interested in exploring its destabilising and provoking potential. I choose this reading because my main interest is to take the critiques and difficulties of the practice of human rights he presents seriously in order to make such a practice more efficacious and egalitarian. Efficacious so that it is able to tangibly change the living conditions of victims of civil, social, economic, cultural and environmental rights violations. Egalitarian in terms of its inclusiveness and the participatory nature of the processes, so they reduce the asymmetries (between North and South, between genders, between professional NGOs and grassroots communities, etc.) that mark the human rights movement.[4]

Based on this perspective, I have organised the rest of the article into two sections. In the first, I discuss what I see as the strengths and the limitations of *Endtimes*. As for the strengths, I single out five convincing critiques of HR, and elaborate on their importance for an improved practice of human rights.

As for the weaknesses, I argue that the book has much to say about HR, but very little to say about hr. I posit that this asymmetry stems from the fact that *Endtimes*'s critique is confined to the experiential and epistemological limits of HR. In practical terms, it is based on the experience of its author at Amnesty international and generally in the 'New York-Geneva-London' axis he singles out for criticism. In academic terms, its point of reference and bibliography is almost exclusively Euro-American scholarship. As Hopgood surely will have no problem admitting (although he does not do so in his book), it is a critique *from the inside of HR*. This makes it especially effective and useful as a deconstructive tool, but it leaves unfinished the reconstructive task. Indeed, the book barely touches upon hr, which remains the amorphous nemesis of HR.

Since it largely misses hr, it also tends to miss the many connections, overlaps and collaborations between the worlds of HR and hr. I provide evidence of these intermediate zones based on the practice of human rights on multiple topics to compensate for the disproportionate focus in *Endtimes* on international criminal justice.

In the second section, I seek to contribute to the reconstructive task *Endtimes* leaves open. To this end, I expand the geographic and bibliographic horizon to include emerging ideas and practices on human rights in the Global South, as well as collaboration models that bridge South and North, local and global, elite and grassroots, in sum, HR and hr. Based on this broader view, I argue that instead of the monocultures posited by each extreme — the hegemony of Hopgood's hr or that of Neier's HR — we are headed toward an ecosystem of human rights: a field with actors, strategies and frameworks that are much more varied, and, perhaps much more efficacious and egalitarian than those that have characterised the theory and practice of human rights until now.

1   As we will see, this is the case with the conceptual typology of HR and hr, which remains underdeveloped due to the focus on the former to the detriment of the latter.
2   See, for instance, the allusion to law as 'an instrument' that is ultimately subsumed by politics (Hopgood 2013a: 188), and which remains as provocative as it is cryptic.
3   For instance, Hopgood (2013a: 141) wraps up his otherwise useful critique of international justice by arguing that 'the ICC and R2P are institutions with only an imagined constituency beyond activists and advocates'. Does this mean that no one other than activists and advocates would want someone from the outside to come in and assist them in situations of extreme violence? Surely not: victims, while not knowing what the ICC and R2P are, wonder why no one from anywhere else comes to help them. The fact that they do not articulate their demands in terms of the ICC and R2P does not mean that they are not a 'constituency' for these institutions.
4   Given my focus on the practice of human rights in this article, I will not address in detail Hopgood's broader epistemological and historical arguments (for instance, those on the Eurocentric and quasi-religious nature of HR).

The Critique of Human Rights: Potential and Limitations

As noted, the strength of *Endtimes* is its critiques of the HR status quo. I highlight five that I found particularly thought-provoking because they point to serious problems that lessen the efficacy of human rights causes.

Five problems with Human Rights

First, HR as a discourse and as a movement tends to be vertical and rigid. Perhaps the best example is the one Hopgood focuses on: international criminal justice. Those of us who practice human rights in societies that are trying to overcome long periods of armed conflict, like Colombia, experience the well-known tension between the dictates of international criminal law on the one hand, and the need for political negotiations to be able to transition to peace on the other. While we collaborate with global NGOs on this and many other issues, we note with surprise the inflexibility of some of their positions with regards to transitional justice, stemming from a seemingly unconditional prioritisation of criminal justice. And the International Criminal Court, with its preliminary investigations into transitional justice processes like those in Colombia, tends to harden even more the message of HR. This is detrimental in contexts where peace negotiations with actors like the FARC (Revolutionary Armed Forces of Colombia) requires greater flexibility and an appreciation of national issues, without implying impunity for crimes against humanity (Uprimny et al. 2014). Yet the rigid interpretation of international justice that some global organisations espouse (as do, as we will see, some national organisations) leaves little room for alternatives – for instance, reduced prison sentences and restorative justice – and instead, tend to present their interpretation as the definitive content of international criminal and humanitarian law.

A second accurate critique of *Endtimes* pertains the over-legalisation of HR. This relates not only to the emphasis on constructing international legal standards that characterise HR, but also to the disproportionate role given to lawyers in the movement. Although the international legal framework for human rights is a historic achievement, the over-legalisation of the field has had two counterproductive effects. First, as Amartya Sen (2006) has argued, viewing human rights claims exclusively through the lenses of legal standards may reduce their social efficacy, as their greatest power lies in the moral vision they embody regardless of whether it has been translated into hard legal rules. Second, technical legal knowledge is an entrance barrier to the field that alienates grassroots activists and other professionals (from experts in information technology to natural scientists and artists) that make invaluable contributions to the HR cause. This is particularly worrisome when it comes to fundamentally important topics like climate change, which profoundly affect human rights, but cannot be understood or transformed without the participation of professionals from other fields. It may also alienate key new constituencies like citizen e-activists, who are already using human rights frameworks but feel distant from the technical language and tools of the traditional movement.

Over time, the closed nature and legal specialisation of HR has led to another difficulty identified in *Endtimes*: the tendency to adopt the defence of legal HR frameworks as an end in itself, instead of as a means to improving the living conditions of those who suffer violations of their rights. The current international debate about business and human rights is a clear example of this. As those of us who have participated in regional and global consultations convened by the UN Working Group (WG) (in charge of implementing the UN Guiding Principles on Business and Human rights) have seen, this is a highly polarised debate in which both sides staunchly defend their positions. On the one side, there are those who defend a soft law approach to the Guiding Principles. On the other side, there are those who refuse to use the Principles and demand a binding international treaty. What is clear is that a good part of the polarisation and unproductiveness of the debate is due to the fact that both the WG and the law-oriented NGOs tend to concentrate on defending a regulatory paradigm, instead of focusing on the difference that such a paradigm could make in practice.

A fourth critique in *Endtimes* that should be taken seriously is the obvious asymmetry between North and

South in HR. The organisations in the North receive over 70% of the funds from philanthropic human rights foundations (Foundation Center 2013). They continue to have disproportionate power when it comes to setting the international agenda, as evident in the above-mentioned field of international criminal justice. And too often they define this agenda based on internal deliberations, rather than through collaborative processes with NGOs of the Global South, social movements, activist networks, and other relevant actors.

Finally, Hopgood puts his finger on the pulse of a particularly complex problem: how can we measure the impact of HR and calculate the opportunity cost of the resources and efforts dedicated to their advancement? For a movement dedicated to creating legal standards and dominated by those of us with legal training, the question of the actual impact of these norms does not come naturally. For foundations and NGOs that are used to talking in terms of outputs instead of outcomes, the question of how to measure the latter remains elusive. This is a conversation and an ongoing task that I believe should concern the entire movement.

A Critique of the Critique

Faced with these critiques, the response could be denial, celebration or reconstruction. Denial tends to be the reaction of NGOs and some lawyers who are highly invested in the dominant model of HR advocacy. Celebration tends to be the response of certain sectors of academia, especially in the Global North, who, after having turned towards what Boaventura Santos (2004) calls 'celebratory postmodernism,' are content with deconstruction (Kennedy 2012). Reflexive reconstruction is the response of those who recognise value in the critiques, but believe that they do not represent the end of an ideal and the struggle for human rights, but rather the need for new forms of thinking about and practicing them.

Since my engagement with *Endtimes* is based on the third type of response, for the remainder of this text I will focus on the task of reflexive reconstruction. Thus, my critique of *Endtimes* has more to do with what it does not do, that is, shed light on alternatives to HR.

While the discussion about HR is rich and detailed, the one about hr is strikingly sparse. Instead of a rigorous description with empirical examples of hr, the book is sprinkled with quick and incomplete allusions to what they are. In different parts, hr is described with various adjectives, each one in opposition to HR: grassroots (v. elite), bottom-up (v. top-down), mass political mobilisation (v. lawfare), local (v. global), South (v. North), malleable (v. rigid).

These dyads show that, ultimately, hr play a more functional role in the book than a substantive one; they help describe what HR is not, thus remaining as the 'other' that goes beyond HR, the shadow that allows one to focus more on the object in the spotlight.

It would be unreasonable to ask Hopgood to fully flesh out hr in a work that is ultimately about HR. But this choice is costly, since it affects the coherence and usefulness of *Endtimes*. First, it makes the book an internal critique of HR that shares some of the limitations of what it criticises. In particular, it is striking that all the academic sources and the vast majority of the empirical evidence comes from the same 'New York-Geneva-London' axis. Hopgood's academic dialogue is only with English-language literature, produced by academics and organisations based in the Global North. While this limitation is coherent with the focus on HR, it leaves out, consciously or unconsciously, the rich literature and novel practices from other academic and activist circles, in regions and languages as diverse as the world of hr. Secondly, as with analyses fully anchored in 'the West', it risks exoticising 'the Rest' (Said 1977). By constructing such extreme dyads, it loses sight of the important connections between its poles: between social movements and NGO professionals, between organisations from the South and from the North, between the discourse on human rights and other social justice discourses.

For example, despite the North's dominance within HR, today this professional field is also made up of hundreds of law-oriented NGOs based in the Global South (Dezalay & Garth 2002). Therefore the critiques of HR described above, like the over-legalisation of topics such as criminal justice

or corporate human rights duties, can also be made against numerous local NGOs in Latin America, Africa and Asia.

Furthermore, contemporary human rights activism has always implied a combination of local and global work, of hr and HR. In its classical form, famously described as the 'boomerang effect' (Keck & Sikkink 1998), it has been based on a coalition of NGOs that make use of international opportunities to generate pressure at the local level. The *Madres de la Plaza de Mayo*, one of the hr icons mentioned by Hopgood, probably would not have met their objectives without the support of HR organisations like the Inter-American Commission on Human Rights (that visited Argentina at a key moment in the late 1970s) and Human Rights Watch (that lobbied the US government to pressure the Argentinean military officials in power to respect human rights) (Keck & Sikkink 1998). As we will see, today these coalitions are changing in response to the emergence of a multipolar world, but they are still combining hr and HR. Heretofore I refer to these multiple combinations as hr/HR.

One version of the exoticising of 'the Rest' that has gained strength in the human rights literature is the divide between the grassroots and the elite. While it points to real problems of inequality within the movement (both within the North and the South), it tends to oversimplify the terms of the dyads and loses sight of the many connections between them.

For example, the rights defended by HR NGOs (Hopgood's '1%') often overlap with those claimed by the most oppressed sectors of society, the 99 percent, from indigenous peoples like the Sarayaku to internally displaced persons with whom we have worked in Colombia in collaboration with international organisations. Human rights language has been domesticated, adapted and vernacularised by local communities (Lemaitre 2009; Merry 2006), which have then gone on to use it to organise transnational campaigns that embody legal globalisation 'from below' (Rajagopal 2003; Santos & Rodríguez-Garavito 2005).

In sum, *Endtimes* makes a powerful and useful internal critique of HR. However, it leaves out the intellectual and practical contributions made from outside HR,

the discussion about hr alternatives, and the multiple connections between hr and HR.

In the next section, I focus on this pending reconstructive task by pointing to ideas and practices that, by recognising the pitfalls of HR, seek to expand the repertoire of hr/HR.

Towards a Human Rights Ecosystem: Actors, Topics, and Strategies

The main trait of the contemporary human rights movement is its striking diversity. The twenty-first century has witnessed a true explosion of actors who use the language and the values of human rights and surpass, by far, the traditional boundaries of HR. Among them are grassroots communities, social movements, online activists, religious organisations, think-tanks, artists' collectives, scientific organisations, film-makers, and many other individuals and organisations around the world.

In addition to the growing multi-polarity of the world order on which *Endtimes* concentrates, this expansion stems from social and technological transformations that receive little attention in the book. First, the rise of information and telecommunication technologies has multiplied the connections and collective mobilisations in favour of human rights, from the street protests of the Arab Spring and the Occupy Movement to the virtual protests against the exploitation of workers in Bangladeshi sweatshops (Zuckerman 2013). Second, networks have become the dominant form of social organisation. The horizontal and decentralised power of networks has gained ground over the vertical and unified power of hierarchies in all types of organisations, from government to business to NGOs, to the point that we now live in 'network societies' (Castells 2009).

In the world of human rights, the result of these changes has been unsettling. In the academic bibliography as well as the debates between practitioners, there is a marked uncertainty about what will be the new contours of the human rights movement and what impact these changes could have on its future trajectory.

As occurs in all moments of turbulence in social fields, human rights actors are engaged in 'boundary processes' (Pachuki et al. 2007), whereby they seek to redefine the boundaries of the field. Some like Hopgood try to radically redraw the boundaries to leave behind existing spaces and open new ones. Others like Neier argue that it is necessary to keep the traditional boundaries.

I have argued that instead of strengthening the divide between HR and hr, the boundaries of the field must be expanded to include both, and open spaces for new actors, themes and strategies that have emerged in the last two decades. To capture and maximise this diversity, I have suggested that the field of human rights should be understood as an ecosystem, more than as an institutional architecture or a unified movement (Rodríguez-Garavito 2013a). As with every ecosystem, the emphasis should be on the highly diverse contributions of its members, and the relationships and connections among them.

Just looking around we see examples of this ecosystem in motion. With regards to the diversity of *actors*, current human rights campaigns involve not only (and often, not mainly) professional NGOs and specialised international agencies, but also many others. For example, the campaign to ensure compliance with the Inter-American Court decision that brought me to Ecuador included the indigenous people involved (Sarayaku), social movements (mainly the Ecuadorian indigenous movement), local NGOs (like the Pachamama Foundation), international NGOs (CEJIL, Amnesty), national NGOs from other countries who work internationally (Dejusticia), and online activists networks (like Avaaz). While in these and other campaigns power differentials persist (between North and South, professionals and non-professionals, etc.), efforts to mitigate them through different forms of collaboration are also evident.

A similar ecosystem approach is required with regards to the expanding range of *topics* that hr/HR is taking up. This is clear, for instance, in the realm of socio-economic rights. Although initially raising doubts among scholars (Sunstein 1996) and advocates (Roth 2004) in the North, efforts by NGOs, movements and scholars in the South

have successfully incorporated them into the legal and political repertoire of the field. As a result, socio-economic rights are recognised in international law and constitutions throughout the world (Rodríguez-Garavito 2011), and have become the pivot of large sectors of the human rights field, giving rise to new theories of justice and human rights (Santos 2004; Sen 2011).

Activists, academics and courts of countries like Argentina, Colombia, India, Kenya and South Africa have developed sophisticated legal doctrines and theories that have improved compliance with socio-economic rights (Gargarella 2011; Gauri & Brinks 2008; Liebenberg 2010). International human rights agencies such as the UN Special Rapporteurs, the African Commission and the Inter-American Court are busy creating content and effectiveness for these rights (Abramovich and Pautassi 2009; Langford 2009). They do all this without diluting the idea of human rights into social justice, and without weakening civil and political rights.

An equally open and pluralistic approach is required with regards to the *strategies* in the field. Instead of hr or HR, what is needed is hr/HR coalitions and collaborations that combine careful documentation and 'naming and shaming' Amnesty and HRW style, the presence on the ground and the legitimacy that only local NGOs can have, and mass mobilisations, both real and virtual. This is what is happening in the most successful cases, such as the recent campaign for labour rights in Bangladesh, which involved the labour movement, national and international NGOs, and virtual activist networks like Avaaz.

In addition to positive-sum combinations of existing approaches, the human rights ecosystem is developing new strategies. Since multi-polarity makes it increasingly difficult for the classical 'boomerang effect' to be effective, hr/HR actors are trying new approaches. For instance, through what I describe as a 'multiple boomerang' strategy, Latin American NGOs forged a successful coalition in defence of the Inter-American Human Rights Commission when it came under attack from governments throughout the region between 2011 and 2013 (Rodríguez-Garavito 2013b). Since the US was part of the problem (it never ratified the Inter-

American Convention on Human Rights), and its regional influence has declined, lobbying the US to put pressure on Latin American governments to back off would have been useless, even counter-productive. Thus, national NGOs chose to put pressure on their national governments to support the Inter-American Commission, with the Brazilian government ultimately tipping the balance in favour of the Commission. Thus, it was a coalition of national organisations, lobbying their national governments and the emerging power of the region, which ultimately made the difference.

Nurturing hr/HR collaborations is easier said than done. For international HR organisations, this implies a difficult challenge: adjusting the vertical and highly autonomous *modus operandi* that has allowed them to make key contributions, to a more horizontal model that would allow them to work with networks of diverse actors (Levine 2014). In that vein, Amnesty's ongoing institutional decentralisation to be 'closer to the ground' is a move in the right direction. For national HR organisations, it entails creating new strategies that link up with each other, and use the new leverage points of an increasingly multi-polar world, as well as opening themselves up to non-legal professionals, social movements and online activists.

Instead of seeing human rights as a mono-culture, we should see it as an ecosystem. At least that is how it looks from this location in the middle of the world.

Monica Duffy Toft

False Prophecies in the Service of Good Works

In *The Endtimes of Human Rights* Stephen Hopgood presents his reader with a strong claim: the advancement and protection of human rights in the world is dying, near death. His argument is relatively straightforward. He bases it on an empirical survey that highlights the persistence of gross human rights violations, implying the persistent ineffectiveness of human rights organisations. This is despite the fact that there is an immense organisational architecture devoted to the global human rights project; one undergirded by ideals designed to protect individuals universally and globally. So disenchanted is Hopgood (2013a: 2) by this state of affairs, he asks: 'How different would the world really look without the multibillion-dollar humanitarian, human rights, and international justice regimes?'.

The remaining chapters of his book proceed to interrogate this question, seeking to understand how it is that, despite decades – centuries even – of concerted efforts to build an effective and efficacious human rights regime, humans continue to be the victims of violence and war, poverty and privation.

Endtimes is a searing tome. Hopgood's disenchantment with the human rights past and anxiety about its future is palpable. In his telling, the global human rights regime was dominated by a few elites who brought with them the moral sentiments of a Western liberal order: protection of the individual above all else. Although partly successful, but only minimally, this human rights order was killed, in Hopgood's telling, by a failure of American leadership and by that country's declining power. The international community, *the world*, failed to deliver basic protections to the globe's suffering populations. The book goes on to detail how the human rights regime became, and remains, a sham; narrowly defined in Western, secular, liberal terms, and promoted by a narrow (and narrow-minded) few. In

Hopgood's view, it is time for the international community to look elsewhere. Here he predicts that its replacement will have to be 'a syncretic, ground-up process of mobilization. It could even lead us toward more genuinely transnational social communities based on a shared economy rather than identity or ideology. The churches may be a model for this form of activism. It may not prevent mass atrocities, but the alternative has failed in that endeavour as well' (p. 22).

Although readers will appreciate the forcefulness of Hopgood's argument, and may find his logic for why the global human rights 'project' has failed to deliver on its promises to alleviate the worst excesses of humanity's suffering – mass atrocities such as genocide and rape – compelling, the conceptual and empirical record on which Hopgood relies to support his arguments are far more mixed than he allows for.

Just consider the claim that the human rights regime had its apex from 1977–2008, a period in which an elite one percent based in New York, Geneva and London, could direct the world's interpretation and implementation of human rights globally. According to Hopgood, the one percent can no longer dictate how to define human rights.

The problem with this claim is twofold. First, it understates the degree to which human rights norms have diffused around the world. And second, it overlooks additional factors that have led to this diffusion.

Western theoretical misconceptions

A number of scholars of human rights, for example, have found that there has been a systematic diffusion of human rights across the world. They make the case that we missed it because we were relying on models and theories

of human rights that circumscribed how human rights were defined and thought to diffuse. According to Thomas Pegram, for example, this is what transpired among human rights scholars and practitioners (Pegram 2010). Once we expand our thinking, we can then see just how widespread human rights norms are globally. Similarly, in terms of humanitarian interventions – the military kind – Martha Finnemore (2003) has persuasively supported this view by showing that contemporary theories of international politics such as realism and liberalism (and their variants) cannot supply a materialist or interest-based account of such interventions, which entail a high degree of risk both in the costs of initiating them and in the likelihood of failure. Finnemore concludes that only a new norm – one focusing in particular on a permanently expanded conception of 'human' and demanding multilateral effort – can explain humanitarian intervention.

An analogous sort of theoretical misconception as Hopgood's led to a misinterpretation of events that occurred among theorists of secularization of religion; who also crafted their models based on a West European experience. Sociologist of religion and Boston University professor Peter Berger predicted in 1968 that religious communities would dwindle and that the remaining few faithful would be left alone and isolated, 'huddled together to resist a worldwide secular culture' (Berger 1968: 3). Three decades later, having witnessed this resurgence in religion, Berger (1999) courageously retracted his thesis. Not only did religion not die out, it has actually undergone a resurgence, particularly in politics and the public square.

Why were both academics and policy-makers so surprised? Because their theories led them to expect that religion, both as a private matter and in the public sphere, would decline and then disappear. No longer would individuals need 'superstitions' to help them to interpret the world around them. When religion resurged in the 1970s and into the 1980s, academics and policy-makers alike were shocked that people around the world still held deep religious beliefs. And more importantly, these beliefs were less and less likely to be private. The most striking increases in the worldwide growth in religious belief in the past decade have

been among sects who consider the intensity and publicity of their adherents' faiths to be the same.

The Iranian revolution was only the most profound and unanticipated of these religious 'shocks.' After all, the Shah of Iran was a modernizer and Iran's economy was industrialised, buttressed by a large middle class. Middle classes, as 'everyone knows,' are generally fearful of their own mortality and obsessed with material consumption and wealth accumulation. From where then did the religious revolutionary Ayatollah Khomeini come? How could he possibly have any influence or popular support? Well, he came from the Universities in Qom and markets in Tehran. Western theories and conceptions about the role of religion in public life offered left most academics, and economic, political, and social elites blind to the potential power of religion; in particular its political implications.

Hopgood's misinterpretation of human rights evolvement

The same sort of blindness could be said of Hopgood's understanding of how a 'human rights process' was expected to unfold. In a paradoxical way he falls victim to the same sorts of conceits he finds in those who have attempted to build and expand the human rights project. He fails to notice that there are alternatives, and that some of the alternatives do afford protections, and furthermore, in some cases, might just be more powerful in promoting and providing the desired protections than his idealised vision allows.

Just consider Hopgood's own evidence about the membership status of leading human rights organisations, which he claims have failed to build a global constituency, as if a global constituency is the only form that matters, or should hold pride of place. According to Hopgood, this failing is tremendous despite the fact that there were no other human rights organisations to join for decades and now there are tens to thousands of them in the Global South. The problem with this claim is that this same evidence that he uses to support this claim that these organisations have failed, provides strong support for an opposite claim: that the proliferation of these NGOs is actually evidence of

the wide-spread acceptance and diffusion of human rights (i.e. success) and not just in the North, but the South as well. Therefore membership status is not an indication of the 'Endtimes', but is exactly what Hopgood contends is needed and needs to happen for human rights to thrive. In other words, the human rights regime is not only not dead, but thriving. Furthermore, it is locally owned more so than he allows. So, although it might be the case that the elite of the human rights project failed to construct fully globalised and fully effective institutions from the top down (e.g. from the Northern to Southern hemispheres), they were part of a far more complicated, localised and diffused process than Hopgood seems to indicate.

Considered a bit more theoretically, one could argue that Hopgood's critique is premature (it might be right, but it is too soon tell) in that the human rights project is still progressing along what might be seen as a two-phased process. Following Margaret Keck and Kathryn Sikkink (1998), the first phase is the 'Boomerang' phase, whereby activists connect with human rights groups and then use their influence to apply pressure to their local governments to change their oppressive behaviour. The second phase, the 'Spiral' phase, subsumes and continues the first, but with the addition that governments that initially allowed human rights concerns to influence their policy for instrumental reasons – i.e. the activists made doing business more costly – come to internalise them resulting in the emergence of new norms.

And indeed, if one looks more broadly than the more narrowly defined human rights project itself, one can see that some of the most basic tenets of the human rights project seem to be taking hold. In *The Better Angels of our Nature*, Stephen Pinker (2011) persuasively shows that all forms of deliberate inter-human violence have declined markedly during the period of Hopgood's analysis. Although this source of human suffering is only a part of Hopgood's concern, it is hardly a trivial finding; and more to the point, suggests that to the extent the very human rights organisations which are the target of Hopgood's derision gave priority to inter-human violence as a source of human suffering, again, their efforts may be deemed successful.

Alternatively, consider another important potential indicator

of human 'betterment': the decline in authoritarianism in the past four decades; a critical point overlooked by Hopgood, despite his own reliance on the same data. Freedom House has provided a comparative assessment of political rights and civil liberties of states for the past four decades. In 1973, 46 percent of the states surveyed were coded as 'not free' – these states imposed severe restrictions on their citizens. However, the proportion of these regimes dropped by more than half to 22 percent by 2008, the beginning of 'Endtimes' for Hopgood. Furthermore, by the end of 2013, the figures remained the same as in 2008.

It is here that Hopgood's well-intentioned analysis begins to go off the rails; where we begin to see a problem with how narrowly he defines and understands the problem of human rights. In the face of directly contrary empirical evidence, Hopgood claims (2013: 145–146) that the world is backsliding, and the autocrats are winning. He then goes on to describe the terrible happenings in Sri Lanka. Although Sri Lanka may be lagging, the general data do not suggest that autocracy is gaining headway. Instead, there has been little movement across the categories of regime types, and if anything, one could argue that the movement is in the right direction, towards greater freedom. There are now two more states in the international system since 2008, an indication of popular sovereignty, and the proportion of 'free countries' has dipped by only one percent, to 45 percent. Yet, how does Hopgood interpret these data: '[O]verall "global backsliding" and a sixth consecutive year of decline is the story' (2013: 146). The picture is far more mixed than such a conclusion warrants.

How these trends are interpreted indicates how Hopgood makes his case throughout the book. First there is the bold claim, followed by a selective interpretation of data to support it. Although he does so with finesse, more often than not, the data are misconstrued or critical factors and actors in the historical record are overlooked. In examining the post-WWII period, the way Hopgood characterises the world makes it seem as if some golden moment or period existed with a model of human rights based on a west European conscience. For example, he claims that the 'global system is now religious *and* secular, Christian *and* Islamic (*and* Hindu

and Jewish, etc), about human rights *and* traditional social hierarchies, about sexual orientation and gender identity and sexism and homophobia… We have entered an era of multipolar authority where what is "normal" or "appropriate" no longer has one answer' (p. 167). I have news for him. The world has always been Christian and Islamic, Hindu and Jewish, and about human rights and traditional social hierarchies, and so on. By making such broad-based claims, he seems to be buying into the very conception of a human rights – or (to paraphrase Benjamin Barber), a 'McRights' – project he has set out to critique (Barber 1996).

So, although readers may concede the point that the world is entering a period of multi-polarity (whether it gets there is not yet known), it hardly follows that the other facets of today's world are all that different from those of the past. The idea that the human rights project, or that human rights themselves, must be forwarded by Western elites alone is as narrow-minded and off-base as he accuses those Western elites of being conceited. As Finnemore's work on norms of humanitarian intervention implies, what Hopgood may indict as a failure is instead a success: the lack of leadership of 'Western' human rights organisations he decries may instead indicate a success in diffusion, in getting local elites and the peoples they lead to internalise a new understanding of proper limits to human suffering; whether man-made or environmentally sourced (Finnemore 2003). What Hopgood seems to have discovered is rather the mature recognition by Western social, economic, and political elites that top-down approaches and interventions don't work, and that instead, real progress in the amelioration has to come from the bottom up. This is not a process that can be understood in purely material terms either, it directly indicts identity politics and norms (two complicated factors which remain very much under-studied in the Western canon).

Hopgood's secular bias

Finally, reading through the book I cannot help but feel that Hopgood is seriously concerned that religion has made a comeback and that its resurgence might run counter to the 'secular global human rights' project. Hopgood's concerns reflect a widely-shared (and historically-rooted) Western secular bias. It may be that transnational religious

organisations have done as much or more to alleviate human suffering as they have done to justify it. But we should keep two important facts in mind when considering the relative distribution of religious harm and benefit to human rights. First, it is relatively easier to measure harm (which results in a human corpse as a metric) than it is to measure benefit. And second, when measuring benefit, it will be difficult to weigh and compare an individual's self-security or even happiness as a result of religious faith, especially in circumstances in which some supposedly 'objective' measure of material support is lacking.

In fact, should Hopgood's concerns about the expected harmful impact of religious organisations be heeded, they might shift behaviour such that the human rights project is undermined. The historical record reveals that not only have religious actors been at the forefront of advancing rights and freedom, but they have been doing so for decades. Such facts and trends are not covered in Hopgood's book. Again he is rather selective in what he chooses to emphasise.

In general, his treatment of religion is not only dismissive but wrong. According to Hopgood (2013: 155), 'There are clearly "multiple modernities" and "multiple secularisms." This is conceptually and empirically obvious.' He then continues to question whether a religious doctrine could be universalistic. Not surprisingly his answer is no: 'The moral authority of global humanism (and thus human rights) is constitutively secular, universal, and non-negotiable.' He then goes on to describe religious actors as 'opponents' who are under no illusions (2013: 155-156): 'they know they are locked in an ongoing struggle over the authority to determine how we will live.'

Not only is this passage inflammatory, but again, factually incorrect. What is striking in reading Hopgood's book is that although he uses religion as a metaphor to structure his arguments in a clever way, perhaps overly so, his treatment of religion and its influence in the human rights project is woefully ignorant. There is no mention, for example, of the shift in doctrine on religious freedom and human dignity coming out of the Catholic Church's Vatican II in the 1960s. This doctrinal shift set the stage for bishops, local clergy and

laypeople to challenge authoritarian regimes in a whole host of states across Latin America and Eastern Europe. In large measure, this shift was so profound that Samuel Huntington (1991) called the third wave of democratisation, the 'Catholic Wave'. And it wasn't just Catholic clerics and lay people that challenged autocratic regimes and advanced human rights. In Indonesia it was Islamic-based parties that challenged the authority of Suharto.

This is not to say that all religious ideas and actors advanced the human rights cause. It is to say however that just as there are religious militants for violence and war, there are religious militants for human rights and peace. This idea of the good and bad of religion is neatly captured by Scott Appleby's (2000) idea of the 'ambivalence of the sacred'. And indeed, in a fair number of cases, religious actors have advanced democracy and held democratisation efforts back: one need only think of the Taliban in Afghanistan.

Yet, the Taliban are not the norm. As Pinker might argue, they are merely the squeaky wheel that gets the media attention grease. It turns out that religious actors are more likely to advance democracy than stall it (Pinker 2011). As my co-authors and I outline in *God's Century*, the role of religious actors in democratisation efforts between 1972 and 2009 has been extensive and consequential. In those countries that witnessed substantial democratisation, religious actors played a democratising role in 45 of 78 of them, or 65 percent of the cases (Toft, Philpott & Shah 2011).

In other words, in well over half of democratising countries, religious actors were a pro-democratic, human rights defending force. To claim that religious actors promoted democracy in these countries does not mean that they were the single most decisive factor. Nor does it indicate that all or even most religious actors in these countries were at the forefront in advancing democracy. Yet, it does indicate that the advancement of human rights was far broader and diffuse than Hopgood indicates. And perhaps more importantly, that religious actors need not be opponents in the continued struggle, but potential partners, particularly around issues of government accountability and social justice.

The rising sun on human rights

In sum, Hopgood's book merits everyone's attention, but not necessarily because its central argument is sound. Hopgood means, in his provocative title, to provoke Western political elites to devote the material resources to once again take up the very difficult, complex, and enduring challenge of supporting a floor below which a majority of the world's human beings must not sink. And the multiple failings and painful hypocrisy he catalogues are hardly imaginary. But *Endtimes* fails in its understanding both of the direction of human rights and in its necessary authorship. The floor has risen over time, not stalled or descended; and this despite the very real, painful, and destructive counterexamples Hopgood rightly cites. Moreover, much of what Hopgood is in fact measuring is the diffusion of responsibility or authorship of human rights as a burgeoning norm from Western political elites to affected peoples in Asia, Latin America, and Africa; a diffusion that must, in my view, be counted as evidence of success rather than failure, whether dedicated organisations such as Amnesty International, Human Rights Watch or Médecins San Frontières are directly responsible for this diffusion or are themselves artefacts of the ongoing shift.

His failings are understandable, given that Hopgood himself is an academic embedded, as much of his audience will be, in a profoundly Western, secular, advanced-industrial understanding of human rights and indeed, 'human.' The same perspective and experience that bedevils Hopgood's analysis had the same effect on 'our' collective understanding of both the dangers and the constructive possibilities of religious faith worldwide. Sadly, that means that Hopgood is likely to be in good company today, just as Peter Berger was in the 1960s.

But in this reader's view, the diffusion of concern for human rights belies the urgency and bitterness of *Endtimes*. The sun is rising on a heterogeneity of views on what counts as rights, how and how quickly these should be implemented, and by whom. That's not a bad thing, that's a good thing.

Frank Johansson

The Question of Power, a view of a critical insider

Ever since publishing *Keepers of the Flame*, his in-depth study on Amnesty International in 2006, Stephen Hopgood has been an official academic interpreter of sorts for Amnesty. Thanks to his colourful and provocative language and style he has also managed to gain some larger publicity for his analysis. Within the organisation itself, the response to Hopgood has always been mixed. The official response to *Keepers of the Flame* was very defensive, portraying it as simply 'an academic work premised on certain philosophical and sociological assumptions.'[1] But at the same time, in many parts of the organisation the book is the preferred introduction for newcomers.

For me, reading it was an eye-opener. After already having worked for the organisation for fifteen years, I finally felt that I understood my employer. It encouraged me to read more of similar writings, what a colleague in another organisation called 'wrong books', and soon I was like a carthorse whose blinders had suddenly been removed. An entire new world opened up to me, but at the same time I became part of a minority within the organisation: strongly believing we as practitioners need to be asking the most difficult questions ourselves, constantly putting the paradoxes of our work out in the forefront. This essay is an attempt to do that.

The semi-official Amnesty reaction to the publication of *Endtimes for Human Rights* (Crawshaw 2013) is very similar to the response to *Keepers of the Flame*. Instead of engaging with Hopgood on the absolutely crucial issues for Amnesty that his book raises, his premises are questioned

and the main message avoided: the distance between those we work for and ourselves has grown, we live in different worlds and we view human rights very differently. The big issues of social and economic justice cannot be solved through the human rights paradigm, as it doesn't confront economic power.

I think most of Hopgood's points in *Endtimes* are valid. Even though we can certainly find individual people occasionally bridging this gap, there really is a structural difference between *Human Rights* (the international regime) and *human rights* (the grassroots movements) and the most important factor here is power, both between the two levels and within them. As the French anthropologist Didier Fassin (2012: 3-4) has shown, there is always a hierarchical power relationship between the helper and those being helped. The helper is stronger and in the end can decide. Those being helped have no say.

In a similar way the American international relations scholar Michael Barnett (another contributor to this collection) asserts that all through history those 'doing good' have been amazingly insensitive to their own power and to the paternalism of their relations with those they seek to help. Barnett's point (2011: 231-34) is that humanitarianism has always been linked to other global forces. A hundred years ago, colonials were on a mission to civilise savages through commerce, and at the same time saving souls through Christianity. Today's humanitarians work with a strong belief in the holy trinity of the global market economy, promoting liberal democracy and human rights.

It is also important to recall the Harvard academic David Kennedy's ten pertinent assertions from 2001: Human

1   Internal Amnesty International Note to Press officers April 21, 2006.

rights hegemony crowds out other solutions, human rights leave too much out, human rights are too universal, human rights are too specific, human rights are liberalism in disguise, human rights promise too much, human rights accept violations, human rights is a bureaucracy, human rights is bad governance, human rights are bad politics. Through exploring these, Kennedy (2001: 245-267) asked if the *Human Rights* movement was more part of the problem than the solution.

His answer then and in subsequent texts was that (Western) *Human Rights* organisations should accept that they are part of global power, that they are political. He wanted organisations to become more openly strategic and to focus on real results and not just strengthening of institutions. On returning to the original article a decade later, Kennedy's assessment was that the organisations had learned their lesson. At the same time he seems to concede, in contradiction with his earlier message, that human rights as an emancipatory idea had become less compelling and too easy to interpret as a 'cover for political objectives, particular interests clothing themselves in the language of the universal' (Kennedy 2012: 22). Or as the Finnish theorist and historian of international law Martti Koskenniemi (2011: 164) puts it: 'The choice is never between that which is universal and that which is particular. The choice is between two kinds of particular.'

Though they would disagree on many issues, Kennedy (2012: 34) concludes very much in line with Hopgood that other political discourses have overtaken *Human Rights*: 'Perhaps a hundred years from now human rights professionals will still invoke norms, and shame governments, and publicize victims, and litigate injuries and indignities. But politics has moved on. Human rights is no longer the way forward — it focuses too longingly on the perfection of a politics long past its prime.'

What Hopgood is saying about the evolution and development of the Human Rights Empire, and how this has falsely been simplified into a 'triumphalist metanarrative' is very much in line with other recent scholarship (Barnett 2011; Douzinas 2007; Moyn 2010). Likewise his critique

of the International Criminal Court and the principle of Responsibility to Protect are not in contrast with what distinguished writers had said previously — these processes are suffused by Western power (Koskenniemi 2011: 171-198, 234-35; Mamdani 2013: 33-34; Orford 2011). His analysis that the EU is losing the power battle at the UN had already been noticed some years ago in a policy paper from the European Council on Foreign Relations (Gowan & Brantner 2008).

Anyone working in the field recognises the *Human Rights* market: How the growth that professional fundraising has brought major organisations has shifted their emphasis from grassroots engagement to easier online activism. As they recognise that most of those who are the target of these easy-asks are overwhelmingly happy with their role. They want to feel good, not change too much in their own life. It suits them and they are happy to give us seven Euros a month as well.[2]

Unfortunately it seems that these critical discussions are passing Amnesty by. Maybe more of my colleagues should put 'wrong books' on their reading list.

Why are critical human rights debates passing Amnesty by?

The important question to ask is of course why this scholarship does not come up on Amnesty's radar screen. To understand this, and before getting to some reflections on what the message in *Endtimes* could or should be for Amnesty, it is necessary to briefly dwell on Hopgood's original anthropological analysis of what kind of people inhabit Amnesty and what this means for the organisation.

Hopgood quite crudely, but at the same time succinctly, divides Amnesty people into two groups. The first are the old guardians of the original ethos of the organisation, characterised by long-term, almost religious devotion to their work on specific countries and individuals. These are mostly found among country researchers and volunteer

2   For an interesting analysis of this see Chouliaraki (2013)

co-ordinators. In a reference to Amnesty's candle burning within barbed wire, they are called the 'keepers of the flame'. The second group are the reformers, among which there are two subgroups: the campaigners and the modernisers. The former want to change the world through action and are not satisfied with just bearing witness. The modernisers are either fundraisers and brand managers or focused on accountability, evaluation and other business-oriented issues (Hopgood 2006: 11-12).

Since the book was published, my own observations tell me that reform-thinking within Amnesty has increased, particularly among its management. Most discussions at the latest International Council Meetings and at Chairs' Assemblies and Directors' Forums[2] have been about the organisation itself, its governance, its finances and its change process. It almost seems as if the form of the organisation and the smoothness of its internal processes are more important than the actual content of our work. Likewise, due to the explosion of social media and Amnesty's persistent focus on growth, which is seen as a necessary solution to all our problems, we now have more fundraising and communications people both centrally and in sections.[3] We are modernising fast.

Neither of these groups is primarily interested in 'philosophical debates' on how much influence the *Human Rights* regime has or how to really empower the *human rights* movement. The modernisers want neat organograms and positive-results sheets and the marketing people need fundraising consent from the victims, catchy sellable messages and larger markets. Doubt and questioning is not part of their work.

Unfortunately for Amnesty it also seems that only a minority of the 'keepers of the flame', both staff and members, are interested in this debate. Most of them are almost fundamental 'true believers' in *Human Rights* and are not ready to compromise on the content of 'the commandments' nor are they open to discussions on different interpretations of *human rights* raised by local activists and critical academics all over the world.[5]

The Kenyan professor Makau Mutua (2002: 29-70) catego-rises legal professionals working within Human Rights as belonging to four groups: conventional doctrinalists, consti-tutionalists, cultural pluralists and political instrumentalists. According to him, the first group is the most influential in promoting universal norms, which he sees as anchored in a liberal understanding of the world. This is also the most typical person found in international human rights NGOs. The second group conceptualises, i.e. focuses on, mapping out and explaining the framework of human rights law, and are also prevalent in NGOs as well as in universities. The third group tend to be outsiders, mainly represented by critical academics many of whom come from the Global South. They are very rarely seen in international NGOs and are usually characterised as cultural relativists by the first two groups. The last group is mainly found in governmental departments using human rights law for their own ends.

What Mutua says helps us understand why Amnesty so rarely interacts with critical academic discourse and also

---

3   The bi-annual International Council meeting is Amnesty's highest decision-making body, the annual Chairs' Assembly is a meeting of all elected national section chairs, and the Directors' Forum the annual meeting of employed section directors.

4   It is very difficult to find accurate historical statistics of staff and their specific roles in Amnesty International but through some conversations and by using some of the selective data available to me whilst writing this, I feel confident in drawing the conclusion that the research function of Amnesty, even though it has grown somewhat in the last 30 years, has done so far less than other functions, be they organizational management and/or campaigning, communication and growth-related. If in the early 1980s Amnesty's international secretariat had some 200+ staff, of which something between a third and half were researchoriented, today the ratio would be closer to a fifth of a staff of 500+. However these are indicative figures and not fully reliable. The main gist of the same argument can be found in Hopgood (2006 and 2011).

5   For a good example of the complexities of this see Goodale & Merry (2006) and Hertel (2006). For a recent nuanced criticism of the current international Human Rights system, Hafner-Burton (2013).

so rarely, though there certainly have been efforts, succeeds on a broad front in engaging with local *human rights* activists on their chosen social justice agenda.

The people that lead and work for Amnesty talk and communicate mostly with like-minded people. We seem to lack these, even among leadership in the sections from the Global South, who would want to engage in critical discussions and the end-result is a rather narrow and insular internal debate on human rights. And when Hopgood tells us this, many get very upset.

Because we (rightly) constantly criticise Western governments on their failings on human rights, we ourselves fail to see how close to and how reliant on Western power we as an organisation and the whole field of international *Human Rights* have historically always been. Instead of only speaking truth to power we have become the expert voice of power. And when that Western power is no longer powerful enough, we face the problem Hopgood has put in front us. We have previously succeeded in empowering groups (be they victims of military regimes in Latin-America or dissidents in the former Soviet Union), but then this was on the agenda of major representatives of Western power as well.

Is Amnesty ready to listen and learn?

As I see it, international human rights organisations like Amnesty have roughly three options. The first option is that we continue on the path we are on. We will probably grow for some time yet and we will keep most of our Northern support happy, but as *Human Rights* as a vehicle of change loses its political power, we will probably not change the world. The creeping doubts about the usefulness of this very expensive operation will surely grow as we have so little real structural change to show.

At the moment a huge and ambitious project is in place to decentralise the Amnesty headquarters in London and to open international Amnesty offices in the Global South. The marketed and supposed end-result of this is to broaden our support base and make us more sensitive to voices from the south. It is a very costly exercise and an open question whether or not it will really change the way we work. I

would be more optimistic about it, if it was a bottom-up decentralisation, instead of just a top-down relocation.

Hopgood (2013a: 114) is doubtful if the Amnesty 'business-model' can make even this limited change. A former Amnesty activist and now independent researcher from India, Vijay Nagaraj (2013) is openly critical: 'Frankly, the potential "success" of Amnesty's relocation (…) concerns me more than the possibility of "failure". What does it imply for the many micro- and macro-practices of human rights and even social justice? Why should this be a blessing for the Global South? Why should one not see this as a new wave of occupation, with global human rights in its search for greater influence, power, and money, trying to plant its flags, franchises and not to mention fundraisers, all over?'

Paradoxically, the second and third options both involve relinquishing power. Either we become overtly counter-political, engaging with those both inside and outside the West who question the current international order. Here we would use *human rights* (which would probably slowly evolve into *justice*) from the bottom up, working to completely change not just the *Human Rights* system, but the whole financial and political system. It would be an extremely political project. This is the preferred 'popular front' option offered by Hopgood (2013a: 22), but I am sceptical as to its applicability.

The third option is to return to the original moral power of what Amnesty was at its foundation, lowering our own political ambitions, removing the hero's and, to some extent, also the expert's cloaks and instead focusing on defending and supporting those who in their different circumstances are trying to change the world. In a sense, this is resurrecting the secular religiosity, which Hopgood himself originally propagated, but now seems to have been dismissed as a lost cause (2013a: 178-182). I will return to the potentiality of this model at the end of the essay.

My doubts about the second option stem from Amnesty's experiences so far. A few years ago, when the organisation launched its global Demand Dignity campaign on economic and social rights, one of the catchphrases was

empowerment. We were going to break the vicious circle of poverty - discrimination, voicelessness, lack of service, insecurity - by creating agency. In her book, *The Unheard Truth: Poverty and Human Rights*, published as part of the campaign launch, Irene Khan (2009), Amnesty's secretary general at the time, clearly talked about using *human rights* to challenge the system of injustice and doing so by giving a voice to and taking advice from the local rights-holders. Again a project not lacking in ambition.

Looking at where we stand now on this campaign, we have not followed through on this commitment of a dialogue in a meaningful way. Yes, there are good news stories on maternal mortality and yes, we have managed to stop evictions from slums and we have co-operated with both local organisations and rights-holders. These successes need to be celebrated, but overall, as an ethos for the movement, listening and learning still seems too strange for Amnesty.

We have always been used to knowing the answers, to knowing we are right, to having power. That is what a professional expert organisation is all about. However when it comes to issues such as poverty, there are myriad factors that complicate this straightforward work: developmental economics, the global financial architecture, land ownership, tax policies and climate change, just to name a few. These are issues that cannot be answered only from a human rights perspective; they are deeply political and economic questions. Do we want to move away from a, even if broadened, still narrow human rights focus and take a political stand against the more fundamental question of injustice? Choose a certain social policy as our goal? Can we do so without both ostracising Western power and those within the West whose money makes the organisation run? Even if we decide to take this step: who are we supposed to influence, on what authority (apart from a political view) is this based? When and how is the voice of the poor heard in this work? Following Kennedy's assertions presented above: the human rights approach is too narrow, and other discourses are needed alongside it. Are we ready to move from *Human Rights* to another discourse? Or as Hopgood would put it, to *human rights* understood not as a system

but as a moral value, using human rights language broadly for justice?

As Koskenniemi has so powerfully shown, human rights and international law can best be seen as a language in which politics take place. Very seldom, prohibition of torture being the easy exception, can you find a clear answer to how a right should be acknowledged in the right itself. The answer almost always involves a political choice, even if, in the end, it is provided in the legal human rights language.[6] Are we ready for these choices?

Furthermore, because of our increasing professionalization, the need for growth of resources has for many years been imperative for Amnesty. In a very simplified way we have repeatedly been told that only by growing will we become better. This message is very much the 'new ethos' of the modernisers. And because our growth depends on private fundraising, focusing on a continuous dialogue without clear answers becomes problematic. If we tell our donors that we want money to discuss, to engage and to learn how to tackle the problem, many will probably say 'fine, I'll give you the money when you know the solution, but not before that.' So, engaging up-front in an open-ended dialogue becomes a disincentive. Even though there are attempts to engage in a genuine dialogue with the rights-holders themselves on these issues, be it forced evictions from slums, maternal mortality or corporate responsibility, the temptation, in the end, to go back to doing what we always have done: knowing better than the rights-holders what we should do, retreating into the *Human Rights* cocoon, leaving the conversation before it began and remaining at the top of the hierarchy that Fassin describes, is always there. Even though we talk about empowerment, we are actually not re-inventing the organisation in a way that would give more power to local activists and rights-holders; on the contrary, we are striving for more centralised top-down control.

In the event that Amnesty was to take a clear counter-

6   For an easy introduction to his oeuvre see Koskenniemi (2011).

political stand, the fundraising dilemma again becomes acute. Within our current model of operation, would we find the support to fund an overtly anti-establishment political campaign? Would we find the constituency, who is ready to step up from the easy lifestyle engagement, the clicktivism that we currently offer through web appeals, and get involved seriously?

In a scenario exercise on the future of Human Rights in Europe, my colleague from Amnesty Netherlands, Dirk Steen, presents four options, one of which talks about an increasing economic and ecological crisis. He describes a not-too-implausible future situation where quite a few people in Europe find the system rotten and want to change it. He calls this scenario the *angry young women option* and asks: 'What would the human rights movement have to say here? (...) Would it be seen as relevant? Is it able to deal with such rigorous possible paradigm shifts? Or would it be seen as too slow, too limited, too cautious, too much connected to the status quo? (...) Can we adapt the "business model" of human rights in a way that makes it able to deal with these issues? (...) Can it do more than give partial responses like e.g. guaranteeing the rights to assembly and freedom of expression? Or should it simply stick to its current role: cautious, patient and in reasonable dialogue with power so as to avoid losing the strength and standing it has now?' (Steen 2013: 27).

I think that too many within the *Human Rights Empire* have too much to lose for a more political engagement to be plausible in the near future. Less money, less influence, less access to power and too many open questions, like those asked above and throughout this essay, which are likely to divide politically: we just cannot confront every problem in the world, and even if we try, we're not being very successful.

Is Amnesty prepared to re-invent solidarity?

Because of my long history in Amnesty, I have a certain attachment to the old days. The attachment is not just sentimental; I actually think that many things in the old model made sense. Therefore returning to a less ambitious, but at the same time ethically and morally sound, concept is

probably my preferred option - the third - to explore further.

The old Amnesty volunteer movement (before we became fully professionalised) contained some brilliant ideas, which unfortunately have been side-lined to a great extent along the way. The central point is focusing on the individual. To be involved in quick reactive work supported by long-term commitment.

Central in this model is the local volunteer group that meets on a regular basis in person. Its tasks are threefold: to keep up long-term sustained appeal work on behalf of a named individual; to organise Amnesty events in a public space mainly on behalf of the plight of the individual but also for political change in their own communities (more on this below); and to study, converse and learn about why and how we are doing this work, both the politics and the legal grammar of human rights, with which you can move in the political arena.

In best-case practice, the old appeal work resulted in volunteers not only communicating with the person on whose behalf they were working, but also his/her families and other support groups from around the world (Amnesty groups in Tanzania, Finland and the Netherlands could all be working for the same person). Through this work, the person was not just an object, but a real person who was able to talk in his (they were then mostly men, but need not be so in the future) own voice or at least through his relatives or friends.

Again in best practice, it resulted in the groups studying and learning the political dynamics of the home country of the individual assisted and through the triangle of their own group, other similar groups living and working in very different circumstances and the individual's own story, it cultivated both a real sense of global community and a cosmopolitan worldview. The voice of the oppressed was heard, had a history and at least some agency, and as the work usually took a number of years, the relationship was an intense one. And the commitment to keep doing this work, until a positive end-result took place, was the moral basis for Amnesty's fame.

The obligation to take your work out on the streets took people into real-life conversations with strangers (so different from on-line chatter) and therefore also into argumentation about the why and political how.

So as not to romanticize this picture, it is important to realise that best practice probably was an exception; in most cases, the work was very paternalistic: one-way, no communication with others and the meetings were more about feeling superior with tea and biscuits. But it need not be that way and we surely have the resources to develop this model in the current world of IT and digital communication.

In Amnesty's work today, all these elements are still there but on a very small scale. In 1974, Amnesty produced 2458 prisoner-of-conscience files for local groups. In the 1980s, the number of individuals for which long-term work was done had dropped below 1000. And in the 1990s, the files first became geographical action files, only to then be dropped completely in the new century. Lately the long-term work for individuals has fortunately been revived and right now the number of named individuals in the organisation's long-term database is somewhere between 200 and 300. In 1974, the budget for the International Secretariat of Amnesty was the equivalent of around 625,000 Euros and there were fewer than 100 people on staff. Today, the annual budget is over 45 million Euros and the number of staff is at around 500 (Hopgood 2006: 83-85 and Hopgood 2011).

These figures show that long-term work for individuals has been completely overshadowed by more ambitious theme campaigns, by spectacular pre-choreographed demonstrations, by online petitions and by professional media and advocacy work. And because of the size of the operation: a larger back office of administrative, financial and managerial staff. And the same is happening in national sections.

I am not saying that Amnesty could work without professional staff; without competent research staff, no work for individuals (nor any other) would be possible. Keeping the information in the individual files up-to-date is actually more resource-intensive than most things (and a reason it was

dropped). We also still need lawyers and other experts at the international level for another reason: to assist local experts' work on our own governments for human-rights-based social and political change in our own countries.

As the American international relations scholar Emilie Hafner-Burton (2013) controversially and forcefully argues, the universal Human Rights system has not really worked, the more new laws and new institutions we create, the more violations and more bureaucracy we have around the world. In her view, real human rights change only takes place if there is a local constituency working for that change. In this sense, building local constituencies is paramount and if Amnesty's relocation will create these political constituencies, it will be a good thing. But again, the questions remain: Why are we not building democratic local sections, with all the debate that it involves, but regional and international led offices? Is relocation about growing our market or really growing a local constituency? Will we listen to the local voices or will we overwhelm them with our expertise?

If our social change work becomes more national or regional - it has already this status in Europe, where the local sections have the money and the constituency - the greater the need for an expansion of the international solidarity work, and social media could easily be harnessed for this. Even today, the most celebrated successes, those given the most publicity and generating the greatest feel-good factor, are those involving the positive outcome of an individual's story — be it long-term work or the hugely important *Urgent Action* network, which fortunately is still working well.

If you ask any political activist anywhere in the world what they want from Amnesty, it is probably the knowledge that if anything happens to them, we will be there to assist them promptly (*Urgent Actions* going out as soon as possible by email and passed on through social media and mobile devices) and if the positive outcome is not immediate, we will be there long-term: both as a back rest and as a megaphone for their plight.

What they probably don't want is us taking over their struggle. I personally would see it as very arrogant if professional Human Rights workers from the West supported by however many thousands of online activists thought they knew better than the local population in for example China or Egypt what kind of society these countries want and need. But I'd be more than happy to defend people in these countries (regardless of the cause they are fighting for, be it civil and political or economic and social) if their right to organise and make their voices heard is not allowed.

Working long-term to defend activists does not require massive local resources, but it does require commitment. You can keep a group going just as well in India as in Brazil, in Russia and in the USA. It just takes five or six people, communication tools and skills and of course the commitment. *Urgent Action* networks definitely need a bit more infrastructure. This work might not change the world in itself, but done in the proper way it would not be paternalistic and would be moral education at its best. Are we prepared to step down from the pedestal of *Human Rights* and just be satisfied with 'doing good' on a small scale? By giving a voice to those we work for, making them and their view of the world known instead of promoting ourselves? Are we prepared to let social justice be the territory of other more political organisations, other system-changing emancipatory discourses? Are activists in the North ready to make this commitment; are activists in the Global South really interested in this solidarity work or do they primarily want to work on the more ambitious social justice projects? Can we provide them the room for this?

There are no easy answers and so we need to keep debating. At the moment, asking all these questions is more important than answering them. The answers will come only after a debate, and that has barely started. Let's not walk away from it.

Daan Bronkhorst

Hard times, not Endtimes:
the case for human rights defenders

In this essay I will proceed from Stephen Hopgood's *Endtimes* to discuss human rights defenders as a layer that may be overlooked between the capitalised Human Rights Regime of conventions and intergovernmental bodies, and the lower-case human rights activism. I do so based on the premise that Hopgood has touched on an important truth: some things are rotten in the State of Human Rights and these things had better be addressed before it is too late. I will present a series of recurrent problems in human rights discourse, issues that could each be called a fallacy or half-truth, or the term I prefer: pitfall, 'a hidden or not easily recognised danger or difficulty.'[1]

Truth, says German philosopher Jürgen Habermas (1990: 58), comprises three elements. A communication must correspond to the facts. It should comply with a normative system that allows others to make judgements. And a true statement should be sincere, 'truthful'. When I visit my doctor, I want her to tell me the facts, what is really wrong with me. I want to hear them in a form that reflects her professional knowledge and ethics. And whether she is soft-spoken or outright or cool, I want her to be sincere. If she doesn't comply with these conditions, I'd rather go and see another doctor. This paradigm may sum up what Stephen Hopgood elaborates in *The Endtimes of Human Rights*. The basic tenet of that book is the distinction between human rights and Human Rights. The first can be full truth, the second fails the test of truthfulness.

Human rights discourse revisited

The capitalised Human Rights Regime is a phenomenon

that gathered momentum in particular from the 1970s. It is, says Hopgood, deemed to expire, and for good reason. Hopgood's book abounds with examples of how Human Rights Regimists invented norms and institutions that were supposed to 'deal' with gruesome situations, and in the end did not live up to expectations, or made no difference at all, as was the case in Sudan, Sri Lanka and Syria, and as is happening with the International Criminal Court (ICC), the 'Responsibility to Protect' (R2P), and the Cambodia Tribunal. Those who support these institutions claim that the world tends towards a globalisation of justice. However, the actual direction, according to Hopgood, is neo-Westphalian. Countries and cultures are not converging into a huge human rights pool, they are instead diverging into the separate domains of their political culture, religion and regional power. Most scathing is Hopgood's critique of the ICC and the R2P. The first had one successful conviction in the first ten years of its existence – and for whatever that is worth: at the cost of some 900 million dollars. The second, designed to prompt international intervention once a government starts massacring its citizens, has failed as miserably in Syria as it did in all other situations since it was brought to prominence in 2005.

International human rights organisations such as Amnesty International and Human Rights Watch are far from immune to this erosion of actions and impact. They actually reinforce the gap between rhetoric and reality. Amnesty's spiritual father Peter Benenson didn't use the word 'human rights' once in his foundational book *Persecution* (1961), yet Amnesty has since claimed ever more territory under its human rights mission. Some years ago, the organisation initiated a *Demand Dignity Campaign* focusing on social

---

1 From Merriam-Webster Online Dictionary. Available at: www.merriam-webster.com/dictionary/pitfall.

and economic rights – and Hopgood wonders whether the very word 'dignity' was chosen because the organisation was not so sure of the human rights tag on these issues. That campaign has actually petered out. Amnesty's homepage (as consulted in April 2014) no longer carries word of it. The once much-promoted campaigns on women's rights has survived only in the form of a generalised campaign, *My Body My Rights*. 'Being able to make our own decisions about our health, body and sexual life,' reads the introduction to that campaign, 'is a basic human right. Yet all over the world, many of us are persecuted for making these choices – or prevented from doing so at all.' This wording could cover the work of a plethora of NGOs. Apart from that generalised activism, Amnesty's homepage nowadays is dominated by its traditional issues such as prisoners and 'individuals at risk.'

In line with Hopgood, we should note how large human rights organisations perpetuate their work, and very existence, by ever more professional promotion and fundraising. It's the numbers that count: membership, income, regional hubs, local centres. And of course, signatures on online petitions. Amnesty International takes pride in its 3.2 million 'members and supporters,' but most are not expected to pay a membership fee. At the Dutch section, activism now includes an estimated 100,000 individuals who are asked to 'return' an email, which by virtue of a single click makes them effectively a signatory of the action in that email. Although this is not a bad thing, it is a far cry from the tenacious letter-writing for prisoners of conscience, sometimes for years on end, that characterised Amnesty's local group members. The number of Dutch groups has halved since the early 1980s. Amnesty India, one of the new sections flaunted by the International Secretariat, claims to have gathered over 168,000 'signatures' (clicks) on a petition to prevent the Sri Lankan president from becoming chairman of the Commonwealth – the kind of political target that Amnesty had been steering away from for decades. Amnesty India claims the international organisation has '4.6 million supporters, members and activists.'[2]

2   Amnesty International India, 2014. Available at: www.pinterest.com/amnestyindia/.

NGOs are often well aware of the limited effects of human rights work, but find ways around admitting that. One pitfall is their viewing developments from a sort of teleological perspective: if there is human rights improvement, it's the human rights community that did it. Soviet dissidents, for instance, have been portrayed as those who have forced democracy through by their courageous resistance. Did they? The demise of the Soviet Union has been ascribed to President Reagan, the Pope, the nuclear arms race, the inherent weakness of the Communist economic system, globalised education and much more, while the role of dissidents and international NGOs is mentioned in the margin at best (Kalashnikov 2011).

Another example of claimed success is how Amnesty, having campaigned for years on the closing of the Guantánamo Bay facility, celebrated the announcement of its end in January 2009. For various reasons, it's still functioning five years later and NGOs may have been insignificant in the politics of closing and non-closing. One more example is what Amnesty sections achieve in their own Western countries when it comes to changing refugee policies. After decades of campaigning, most of these policies are now even more restrictive. One may rightly blame the political winds. Regardless, there are no grounds for claiming success. Yet the times (not the endtimes) have prompted organisations in the direction of making more and further-reaching claims. In the old Amnesty days, one did not boast of achievements. Staff was instructed never to write that something was the result of an Amnesty campaign - at most one could indicate a correlation. Now Amnesty spokespersons easily use words such as 'amazing results' or 'great success'. The flip side is that it makes an organisation vulnerable to criticism - that it did not prevent Rwanda or Srebrenica or Kivu or Homs – and here organisations remain silent.

Hopgood pronounces hard truths on states and non-state actors alike. Is his critique always illuminating? One issue that may not sit easily on the reader's mind is his view on the United States. That country sank deeply, of course, in waterboarding, extraordinary renditions, administrative detention and other post-9/11 practices, all the while

heralding a neoliberalism that was condescending towards those who live in misery. The American grip on the human rights regime has been seriously waning because of this and uni-polarity had to yield to emerging countries that offer alternatives, also in human rights. At one point Hopgood pits liberal-minded US against the 'community-oriented' China. This equation, even though Hopgood at other places lists China's many human rights abuses, is poor. The US has legal institutions, a huge press and the world's most dynamic public opinion machine to address the wrongs they do as the richest, mightiest, military and technologically most advanced country in the world. While waterboarding may once have been legitimised by state lawyers, it certainly has not left political life indifferent and was fiercely rejected by the successor government.

China, on the other hand, is not at all community-steered. No village council, trade union, consumer organisation, group of elders or even parliament has a real say in China's national politics. One prominent Chinese intellectual addressed precisely that lack of communal voice in a human rights charter signed by thousands. His name is Liu Xiaobo and he is one of the most remarkable political thinkers of our time (Liu 2012). He won a Nobel Prize yet was not interviewed in Chinese media or criticised in op-ed items as he has been sentenced to eleven years in prison and for all practical purposes made a non-existent person within the country. His imprisonment, as that of other 'rights activists', is one of the main reasons why it is so difficult to amass evidence about the widespread illegality, corruption, imprisonment, torture, capital punishment, abject poverty and perplexing lack of rights in China. The US has unattractive aspects, but China is massively unattractive (Shambaugh 2013). Well-off families in Bhutan or Bahrain still aspire to send their kids to study in Boston, not Beijing.

Human rights defenders: a missing floor?

Having been an Amnesty staff member at a national section for decades, I found Hopgood's book an often shocking confrontation with the truth (and truthfulness). I recognised the hubris of my own organisation, its rhetoric, some of

the quite extravagant payments at the international level, the shallow play of figures and numbers, the threats of empty fundraising messages. I also recognised how an organisation such as mine supports institutions such as the United Nations or the International Criminal Court that seem to have delivered so little on more than one occasion, even if that support is given in good faith or within the constraints of something slightly better, being better than nothing. With Hopgood, I admire the basicality of Red Cross work, with the pursuit of the type of restricted goals that once characterised Amnesty before modesty was superseded by 'agency'. During the many reflective moments that this book prompted, I was nostalgically steered back to the time when Amnesty was proud to be a 'human rights organisation' only in the sense that it worked for a strictly demarcated mandate of some types of prisoners, and victims of only torture, execution and disappearance. That was the time when Amnesty didn't presume to advise on political options for governments. When the organisation, in Max Weber's ([1919]2004) dichotomy, was about the ethic of principles, not about the ethic of responsibility – more about that later.

My core question about Hopgood's book is this: is it possible that the author has missed one storey in his human rights building? That there are those who represent this 'ethic of principles' in a pure form, within the full meaning of human rights defence? That between the upper-case Regime and lower-case human rights, there is the human rights regime, not capitalised? This human rights defence is not interchangeable with the 'civil liberties, justice, freedom, fairness, dignity or decency' that Hopgood (2013a: 172) quotes. All those other terms lack an international legal counterpart and do not have the utility of human rights norms as instruments of social change. If Amnesty International, or the US State Department, or a Chinese blogger address the case of a Chinese prisoner, they refer to international standards of freedom of expression, a fair trial and humane prison conditions. Hopgood rightly notes that such standards are neither a necessary nor a sufficient reason for action. One may answer Hopgood by saying that now that we have them, they help. They are a lot less 'universal' than they claim, but more universal than anything else.

Yet Hopgood has good reason for doubt. The very term 'human rights' is not so clear and well-defined, let alone that the concepts are engraved in stone as some advocates would have it. Many aspects of the human rights discourse can at best be described as an 'agreement not to disagree'. NGOs active in development or humanitarian aid, national and UN officials, legal scholars and grassroots activists all have their own accents in, if not definitions of, human rights. Human rights communication has a strong tendency to be, in Niklas Luhmann's term, 'autopoietic' (Verschraegen 2006). That is, the terms of human rights discourse refer to themselves rather than to anything outside them. In 1946 one of the framers of the Universal Declaration of Human Rights, philosopher Jacques Maritain, explained to an outsider that 'we all agree on the rights as long as no one asks us why' (Glendon 2002: 77). The result is, again in Luhmann's words, 'silence'. Those of us in the human rights community do not gladly discuss one another's ideas of human rights and prefer to leave unmentioned what we differ on.

From this silence it becomes harder and harder to set limits. Witness the ever-growing number of mandates of UN special rapporteurs. Initially there were a few experts reporting on torture and disappearance and extrajudicial killings. Now there are dozens of human rights rapporteurs, addressing issues such as toxic waste or the environment or 'international solidarity'. The authors of an overview written for the Freedom Rights Project have labelled this 'human rights inflation' (Mchangama & Verdirame 2014). A case in point may be the mandate of the special rapporteur on the situation of the human rights defender. A Fact Sheet (United Nations 2004) explains that people in all kinds of circumstances and professions can be (non-violent) human rights defenders, even if only temporarily. Amnesty reports have subsumed a wide array of individuals under this defender label: an American doctor killed for working in an abortion clinic, a Nepalese forester protesting onslaughts on the natural environment by a multi-national corporation, a Pakistani woman who refuses to wear a burka in a fundamentalist community, a Brazilian boy who survived a police raid on street children, a Palestinian nurse in a rape clinic (see for instance Amnesty International 2012). In some ways and in

specific circumstances, this implies, each and every one of us can be a human rights defender. This is obfuscating rather than clarifying the human rights defender case.

I return to Weber's concept of the 'ethics of principles'. In 1919, he said: 'We must be clear about the fact that all ethically oriented conduct may be guided by one of two fundamentally differing and irreconcilably opposed maxims: by an "ethic of ultimate ends" or to an "ethic of responsibility." This is not to say that an ethic of ultimate ends is identical with irresponsibility, or that an ethic of responsibility is identical with unprincipled opportunism'. Can we conceptualise a type of human rights defender who somehow combines the best of all worlds? People who are knowledgeable about international law but also committed to action, organisations that know how to use conventions but are also connecting to the individuals most concerned? And can we do all this without undue claims to whatever success, without assigning themselves responsibilities they are not entitled to assume, without 'drinking from the well of power' (Hopgood 2013a: 141)?

The present-day confluence of human rights activism started in 1993. In Vienna, the United Nations World Conference on Human Rights was a gathering of many people who were sometimes called human rights defenders (Marks 1994) The Conference organised them into a consistent group, that includes not only 'classical' activists for integrity rights, but also advocates of much more: the rights of indigenous people, social and economic rights, compensation for comfort women from wartime Japan, rights of domestic servants and street children and AIDS patients. From this moment in history, the human rights movement could seek a way out of the labyrinth by following Hopgood's advice of opening up to 'less secular, less categorical, less universal' human rights interpretations. But not so fast. More needs to be said on the pitfalls that human rights defence is facing, for if we don't recognise them we are bound to repeat them.

Human rights pitfalls

The 1993 Vienna Declaration stressed not only the universality but also the indivisibility and interdependence

of human rights. The indivisibility notion has since been a shibboleth of the great majority of human rights organisations. It is actually a pitfall. Indivisibility and interdependence may have a valid political or philosophical meaning, but they obscure what is needed in campaigning and concrete policies. Amnesty had always said there was 'no hierarchy', yet during its first four decades it was campaigning for selected aims only. In the words of a founding father of Amnesty's Dutch section, Peter Baehr (1994: 20): 'Amnesty International draws part of its strength from its focused mandate. If it became a general human rights organization, it would risk dispersing its efforts and thereby its power to influence.'

Does Hopgood applaud this indivisibility? According to human rights veteran Aryeh Neier (2013), Hopgood's book argues that social justice is the same thing as human rights or an overlooked aspect of human rights. Neier's article is titled 'Misunderstanding Our Mission', but here he seems to misunderstand Hopgood, for Hopgood does not equate the two. It's the human rights 'movement' itself that in recent years has encroached greatly on the domain of social justice. Taking indivisibility as a starting point easily assimilates human rights with social justice. And that places human rights activism on very muddy ground. Social and economic services and provisions are always predicated upon a measure of scarcity (Cranston 1967). There is only so much food or water, there are only so many doctors and hospitals, while in protecting people from being tortured, scarcity of any goods does hardly play a role. Social and economic provisions demand investments, often huge ones, which have to be budget-balanced with other possible investments, while most of the work for 'classical' human rights comes quite cheap or for free. Of course there are costs involved in organising elections, training police, installing a proper judiciary and so on, but much of that is not a *conditio sine qua non* for protecting against attacks on their physical and mental integrity.

Another pitfall made its appearance in Amnesty in the early 2000s when then-secretary-general Irene Khan promoted the end of the 'voicelessness' of those subjugated to human rights abuse. Human rights defenders are supposedly the agents of this 'voice' (Khan 2009). This was nothing new. The Mothers of the Plaza de Mayo, Václav Havel, Andrei Sakharov, Albie Sachs, Aung San Suu Kyi, Wei Jingsheng, Wole Soyinka and many others had been such outspoken individuals during the years and decades before. But broadening this to a much more generalised 'voice of the affected groups' - a cherished maxim of those advocating human rights as an instance of social justice - is problematic. Evidently there are advantages in giving a voice to the people who are suffering the abuses. Their reports are often first-hand testimonies, local people may know the situation better than anyone else, local people may be the primary 'agents' in change and protection.

But the disadvantages are no less real. Victims often are not objective, if only because of traumatisation. They may not be bound to the tests of evidence that monitors would be submitted to. The (international) political situation may be far beyond the scope of their knowledge. The spokespersons, through their local ties, often have local interests. It may not be clear whom they are actually representing and what other voices they are suppressing. Most importantly, the 'voice' of local spokespersons is nearly always selected by international organisations, since they are the ones with access to media, politicians and public. As Hopgood remarked at the Changing Perspective on Human Rights seminar in The Hague (February, 2014) that gave rise to this collection of essays: 'The overwhelming voice in Russia nowadays is against the rights of LGBT. In that sense, Putin is the democrat who listens.' But that is not the kind of cherry that international NGOs like to pick.

The human rights defender, restrictedly defined

What if we could go beyond the pitfalls? Can a concept of 'pure' human rights defence, as defined in Weber's ethics of ultimate ends, be the way out for sustainable human rights activism? It should be noted that Weber himself was not so positive about the supporters of principled ethics. In his aforementioned essay (Weber [1919]2004), he makes

such observations as that 'I am under the impression that in nine out of ten cases I deal with windbags who do not fully realize what they take upon themselves but who intoxicate themselves with romantic sensations'. But that was in 1919, and in a country that was in the grip of violent radical movements of high-strung communists and nationalists. Nowadays, 'romantic notions' is not really what you can say of human rights principles that are so embedded in international and domestic law.

Can the present-day human rights defenders be mediators between the grand human rights narrative and the plights of those whose human rights are violated? And can they keep their hands clean from the compromises and sell-outs that are the normal ways of political life? If such a defence is at all possible, it should be conditioned by a number of factors.

First, the basis for activism can be none other than a rather limited interpretation of human rights, based on those aspects of international human rights law that are most widely accepted and are defined in the greatest detail. The integrity rights of the Universal Declaration brought us conventions and protocols on the prohibition of discrimination, racism, torture, capital punishment, extrajudicial executions and disappearances. It is not true that these rights are 'Western', nor would it be the point. It is simple enough to acknowledge that a person's physical and mental integrity is not something to be tampered with under any pretext.

Second, this 'pure' human rights defence should refrain from making any decision where interests have to be balanced, which goes for nearly all political decisions. They should only speak out when laws or policies are in clear violation of human rights norms. In line with Weber's ethic of principles, Martti Koskenniemi states (2009: 10-11):

'There is certainly much to be said in favor of human rights staying outside regular administrative procedures, as critics and watchdogs, flagging the interests and preferences of those who are not regularly represented in administrative institutions. […] If human rights cannot – as I have suggested

here – be identified with any distinct projects of social policy or economic distribution, they can be identified with a professional sensibility, a set of biases and preferences. […] To deal with that involves some capacity for critical reflection, engagement and distance, passion and coolness. This, I think, is what legal training ought to produce.'

Third, human rights defenders should not don the mantle of activists who 'know the solutions.' Activists may make pronouncements about the numbers of immigrants that should be accepted, protest against 'globalisation' as a violation of human rights, demand that business refrain from investing in repressive countries, press for a boycott of sport events, militate against a particular president being elected chairman of an intergovernmental organisation. But human rights defenders get lost when they take on these kinds of responsibilities. There are just too many steps and decisions involved which cannot be purely human-rights based. The human rights defender can and should campaign for upholding the principles, but then make room for others to do the wheeling and dealing.

Fourth, the defenders should refrain from making pronouncements about virtually everything that is done among citizens, be it discrimination, insult, contempt, abuse or aggression. It is not up to human rights defenders to substitute for criminal responsibility or social justice. They can speak out however when the authorities are condoning these practices or are not making the efforts that the rule of law prescribes.

And fifth, as human rights defenders never advocate the use of violent means, nor should they comment on the means that states choose to use within their territory (administration, policing) or elsewhere (intervention) unless the actual use and results of those measures clearly violate human rights.

This kind of restricted and restrained human rights defence does not arrest the progress of human rights discourse. Human rights can and should be progressively elaborated on. For instance, after torture was defined in the 1984 UN

convention, a legitimate and valuable debate ensued on what constitutes 'cruel, inhuman and degrading treatment'. Besides human rights defence, there is ample room for all the activism, action, reporting and testifying that is not strictly human-rights based in nature, nor should it be referred to as such. This brings us back to the earliest years of Amnesty International: a solidarity movement for prisoners of conscience that did not mince many words about whether it was a human rights organisation. From Amnesty and like-minded organisations have come the individuals that we should not hesitate to characterise as human rights defenders in the true sense of the word. They include persons named by Hopgood (2013a: 178): José Zalaquett (Chile), Juan Méndez (Argentina), Wilder Taylor (Uruguay) and Alex Boraine (South Africa). One might add people such as Liu Xiaobo (China), Lyudmila Alexeyeva (Russia), Hihah Jilani (Pakistan), Adam Michnik (Poland), Shirin Ebadi (Iran) or Theo van Boven (Netherlands).

Human rights between the ground and the sky

Not long ago, a staff member of a small Southern Amnesty section visited Amsterdam. His office fully depends on Western money and when there is not enough of it, well, they survive without it for a while. He told us that he, notwithstanding the international instructions of the organisation, did not want to move too 'close to the ground' (see Steve Crawshaw in this volume). He did not want to raise local money, or become intimate with local advocacy groups, or focus too much on domestic issues. Because all this would make him vulnerable to the local sponsors and spokespeople who have strong political agendas of their own. What makes his work sustainable, he explained, is that it stands under the aegis of an international human rights organisation and a human rights regime that his government endorses, most times hypocritically of course. In cases like his, human rights make a real difference. And insofar as this case is representative, the movement that adorns itself with the epithet of human rights is more than the Secular Church as Hopgood has so aptly characterised it. It's the collection of actions, minute as they may be on world scale, that is somehow protected by real-life international rules.

In the final paragraph of his book, Hopgood (2013a: 182) sums this up as to the Human Rights Regime: 'The eclipse of its moral authority at the global level [is] only a matter of time.' We may only hope Hopgood is not completely right, that even if the ICC, the R2P and other international machinery collapse, there will be enough left of covenants and commissioners and monitoring for human rights work to survive - sadder, slimmer and wiser - in the efforts of human rights defenders.

Stephen A. Lamony

International justice and the ICC: neither 'Europe's court for Africa' nor 'Africa's court'

In 2013, Stephen Hopgood published an important book whose title says it all: *The Endtimes of Human Rights*. In this book, Hopgood asks how far can 'we' push for the human rights agenda in what is fast becoming a multi-polar world, ultimately reaching a negative conclusion. With Europe declining, the United States ambivalent about permanent multilateralism, and new powers emphasizing principles of sovereignty and non-intervention, there is no political power left to defend the global human rights regime. According to Hopgood, the decline of its prime institutions has already set in, particularly the International Criminal Court (ICC) that Hopgood (2013a: 168) dubs as 'Europe's Court for Africa,' because 'African states are too fractured politically to resist.*'*

Hopgood offers a deep analysis and criticism of the Court, right down to the architecture of the ICC's temporary premises in The Hague and even the cut of the defendants' suits. Hopgood is unrestrained in his criticism of Luis Moreno Ocampo, the Court's first prosecutor. He writes (2013a: 8): 'The ICC's first prosecutor, Luis Moreno-Ocampo was not a disciplined or dispassionate man and some of those who worked with him describe his style as "erratic and irrational".' Luis Moreno Ocampo was, in fact, elected without opposition. He was determined to activate the Court quickly. Throughout his tenure as ICC prosecutor, Ocampo opened investigations in eight situations. He gathered a workforce for the Office of the Prosecutor (OTP) and created vetting procedures for information coming into the office. He was, in the opinion of some ICC supporters, an operationally sound choice for the OTP. Hopgood, however, seems to interpret Ocampo's alleged charisma and his outspoken nature as feeding into the dramatisation of the Court and its 'show trials.' He states (2013a: 126):

'International criminal trials are grand ritualized spectacles that symbolize authority and power by dramatizing the archetypal myth of the hero defeating existential threats to the community.'

Some member states of the Assembly of the African Union (AU) have been similarly vocal in their dissatisfaction with the Court. Composed of 54 or all-African states (except Morocco), the Assembly called in 2013 for the cases against the Kenyan and Sudanese leaders to be deferred. It argued that no sitting head of state shall be prosecuted before any international court or tribunal during their term of office.[1] Member states have been urged to speak with one voice against the ICC in its prosecution of African heads of states for crimes within the jurisdiction of the Court.[2]

I have problems with this perception of both Hopgood and the AU and its implication that the ICC is futile and that accountability for large-scale violations of international criminal and human rights law is, essentially, an unworthy pursuit. This perception fails to fully appreciate that the ICC is based on the principle of complementarity. After all, a case is only admissible in situations where the investigating or prosecuting State is unable or unwilling to act.[3] Thus, all cases being pursued in the ICC, including the Kenyatta case, have actually been deemed admissible based on this principle. In

---

1   See: Decision on Africa's relationship with the International Criminal Court (ICC), October 12, 2013, Ext/Assembly/AU/Dec.1: 2-3.
2   See: Decision on the Progress Report of the Commission on the Implementation of the Decisions on the International Criminal Court, January 31, 2014, Assembly/AU/Dec.493 (XXII): 2.
3   18 Rome Statute of the ICC, Article 17(1).

this essay, I will argue that the ICC is not 'Europe's court for Africa', as Hopgood and the AU claim, explaining why and how it can function as a truly international court that ensures justice and accountability globally.

Condemnation of the ICC and its positive effects

The first decade of the International Criminal Court – which has been defined by Ross O'Donnellan (2013) as the first era (1998-2013) - was wrought with difficulties and criticism. Even the most committed ICC advocates are provoked to question the institution, and rightfully so. The more academics and practitioners who study the Court, the more questions they ask. Why have there been only two convictions? Why is the Court having such trouble with the enforcement of arrest warrants? Is the Court racist? Ethiopian Prime Minister Hailemariam Desalegn, the former chairman of the African Union (AU) in 2013 thinks so. According to BBC Africa (2013), Desalegn accused the ICC of 'race hunting'. Former AU Commission Chairperson Jean Ping also believes that the ICC is biased against Africa. In a 2011 interview with Voice of America (Stearns 2011), Ping said 'the court is "discriminatory" because it only goes after crimes committed in Africa while ignoring crimes by Western powers in Iraq, Afghanistan and Pakistan.'

I understand and do respect and sympathise with the widespread African feeling that the absence of ICC investigations elsewhere implies that serious crimes are happening only in Africa. Eighteen cases in eight situations have been brought before the ICC, and all of these are in Africa. However, it should be remembered that four of these situations were referred by the states parties themselves (Central African Republic, the Democratic Republic of Congo, Mali and Uganda). The situation in Ivory Coast or Cote d'Ivoire is exceptional because it was referred to the Court (under Article 12(3) declaration and the former prosecutor initiated investigations himself). Two situations (Darfur and Libya) were referred by the United Nations Security Council (UNSC) and the situation in Kenya was initiated by the former prosecutor himself. With this in mind, it must be appreciated that the ICC was essentially *invited* to Africa.

Indeed, as Desmond Tutu reminds us in a letter sent to the delegates of the AU Extraordinary Summit in October 2013:

> 'More than twenty African countries helped to found the ICC. Of 108 nations that initially joined the ICC, thirty are in Africa. Eleven Africans hold senior management positions at the court. Five of the court's eighteen judges are African, as is the Vice President of the court. The chief prosecutor of the court [Fatou Bensouda], who has huge power over which cases are brought forward, is from Africa. Other high level offices occupied by Africans include, the director of jurisdiction complementarity and cooperation division in the OTP, the head of the UN Liaison office to the UN, the head office of public counsel for defence (OPCD) and head of International cooperation section of the OTP. The ICC is, quite literally, Africa's court.'

In fact, African countries have been heavily involved in the ICC since initial negotiations over twenty years ago. As far back as 1993, delegations from African states (Lesotho, Malawi, Swaziland, Tanzania, and South Africa) participated in discussions when the International Law Commission presented a draft statute to the United Nations General Assembly. Of the 47 African states present for the drafting of the Rome Statute, the majority of them voted in favour of its adoption and the subsequent establishment of the ICC. Hundreds of African NGOs –many of which belong to the Coalition for the ICC - would disagree with the categorisation of the ICC as a 'European Court for Africa', as this characterization would neglect the important role that African countries have played in the ongoing creation of the international human rights regime.

Still, Hopgood, the AU, and countless others, have publicly condemned the Court as having an unfair focus on Africa. In response, efforts are being made to strengthen the legal framework within Africa so that cases will not go to the ICC

---

4   Archbishop Tutu's letter on the ICC to AU delegates,11 October 2013. Available at: http://www.tutu.org.za/archbishop-tutus-letter-on-the-icc-to-au-delegates-11-october-2013.

and in addition, member states seeking to refer situations to the ICC have to seek the advice of the AU.[5] This may in fact be the ICC's biggest triumph. The ICC has always aimed to prosecute the most serious crimes only, leaving room to states for national prosecutions. If governments are not happy with the standard of justice or perceived lack of bias on the part of the ICC, they should undertake their own credible investigations.

The continuing effort by the AU to participate in the ICC process and strengthen African mechanisms to deal with African problems has been noted by the AU.[6] The Activity Report of the African Court for the Year 2013 positively noted that between April and October 2013, there had been increased human rights-related interventions at the national level by member states (particularly in Côte d'Ivoire and Ethiopia) as well as increased recognition of the need to protect children's rights and the need for peaceful, free and fair elections. Furthermore, 2016 has been declared the African Year of Human Rights. However, the difficulty of domesticating the international instruments of human rights, lack of financial resources, and fragmentation and competence of judicial officers are challenges to reinforcing the AU's ability to fight impunity through strengthening Member States' national judiciary and reconciliation mechanisms.

At the validation workshop on the subject of *International Criminal Justice System, Peace, Justice and Reconciliation as well as the Impact/Actions of the ICC in Africa and the Ways of Strengthening African Mechanisms to Deal with African Challenges and Problems,* which took place in Tanzania in 2013, the ICC was seen to be failing to encourage complementarity. Some situations outside the African continent have been under preliminary examination for a number of years, in contrast to situations in Africa. Alternatives to the ICC were considered as well as the pursuit of ICC and UN reform by the AU. The establishment of Extraordinary Chambers within national courts, with the participation of qualified foreign judges, was suggested

as an alternative to the ICC in prosecuting serious international crimes. Concerns were also raised regarding the UNSC using its power under the Rome Statute only on weaker or enemy states. It was then considered that the Peace and Security Council of the African Union may play the same role currently played by the UNSC in referring cases to the ICC, referring such cases to the African Court of Justice and Human and People's Rights.

There has thus been extensive dialogue in Africa concerning the ICC. A working document from a meeting of the AU, *Concept Note on International Criminal Justice System, Peace, Justice and Reconciliation as well as the Impact/Actions of the International Criminal Court in Africa and the Ways of Strengthening African Mechanisms to deal with African Challenges and Problems*, discusses for instance 'The fight against impunity in Africa'. The fight against impunity constitutes a fundamental principle in the basic law of the AU (e.g. Article 4(h)), and such commitment (further expressed by each Member State through various avenues) led to the establishment of the African Court on Human and People' Rights. The Concept Note highlighted three concerns of the AU on the indictment of (sitting) African Heads of State and Government by the ICC: 1) The politicisation of indictments; 2) The undermining of sovereignty; and 3) Distraction from duties (in terms of the head of state). According to the Concept Note these concerns arise from 'the functioning immunity for the Heads of State', even though the Rome Statute clearly states, under Article 27, that it 'shall apply equally to all persons without any distinction based on official capacity'.

But what are the proposed solutions to these problems? Withdrawing from the ICC? No longer calling for the indictment of Heads of State who have committed crimes against humanity? My modest contribution here would be to underline and dismiss the hypocrisy of the AU's assertions that the ICC as a racist, imperialist and ineffective court, as well as Hopgood's criticisms which regurgitate the AU's critique of the ICC as 'a European vanity project' (p. 165) (..) 'with only an imagined constituency beyond activists and advocates' (p. 141). This can be rejected easily by reviewing the Court's make-up and establishment and

5   Ext/Assembly/AU/Dec.1 (Oct 2013): 3.
6   Assembly/AU/Dec.482 (XXI).

the reality that the ICC has jurisdiction over two-thirds of African governments, two-thirds of North America governments, ninety-five percent (95%) of Europe, seventy-five percent (75%) of South and Latin America, and less than fifty percent (50%) of Central, East and South Asia.

Still, there is a clear benefit to the AU's complaints. They will spur the international community to monitor the ICC and ensure that cases outside of Africa that are worthy of scrutiny and trial are being pursued. Also, clearly, it is forcing Africa to re-evaluate the strengths and weaknesses of their own mechanisms. This will ideally ensure that justice and accountability are effectively sought within Africa, thus allowing the Court to operate as it was truly intended, as a court of last resort. Examples of steps taken within Africa to strengthen institutions include (Kariri & Mayekiso 2014):

- The AU's establishment of a Commission of Inquiry in South Sudan.
- The installation of Uganda's War Crimes Division (WCD), now known as the International Crimes Division (ICD) of the High Court.
- (Failed) attempts to establish a special tribunal in Kenya.
- The formation of an International Crimes Division of the High Court of Kenya that, while not yet in operation, will deal, *inter alia*, with international crimes.
- The extension of the jurisdiction of the East Africa Court of Justice (EACJ) to cover crimes against humanity (Lamony 2013).
- The recommendations of the AU High Panel on Sudan (the Mbeki Panel) how to bring peace to Sudan (while still recognising the role of the ICC).
- The establishment of the Special Criminal Court for Events in Darfur (SCCED), however, the cases at the SCCED do not address major issues of accountability in Darfur (Lamony 2013).
- The suggestion by the AU's Panel of the Wise for an African Union Transitional Justice Policy Framework (ATJF), which addressed peace, justice and reconciliation in Africa.

Internationalisation of the ICC and its challenges

It is clear that the ICC, including the OTP and Assembly of State Parties (ASP), have learned from the first investigations and prosecutions, and the need for corrections and improvements are being taken seriously by all. Still, NGOs, including the CICC, have raised many concerns and wish to work with the ICC, the Assembly, the AU and all others in making the ICC more effective. There remains a particular need to see the ICC trying cases outside of Africa. But this is a difficult issue which cannot be addressed simplistically.

First, indications that the ICC will open investigations elsewhere as a result of pressure from the AU or other states will lead to conclusions that the ICC is politicised. A belief exists amongst several academics that opening any investigation outside Africa will tackle the misperception that the court is picking on alleged criminals from one continent only. Perhaps Fatou Bensouda, Ocampo's successor, will find a way of addressing this huge challenge for the OTP.

Second, a higher case load naturally means higher expenses. This increased financial strain upon the Court is compounded by the global financial crisis. The ICC is an independent body, and the majority of its funds come from States parties. The contributions of each state are based on a determination of the country's income.[7] The global economic crisis has had a negative effect on most of the Court's Member States, resulting in delayed or partially paid contributions. Whereas some contributors originally paid in one instalment in the first quarter of the year, new trends show payments in two instalments spread out over the course of the year. Thus, the issue of funding is a key factor that needs to be addressed so that the Court can operate effectively and not fall victim to criticism from Hopgood and many others. Obviously, improving the effectiveness of the Court by addressing these pressing

---

7   Note that additional funding is provided by voluntary government contributions, international organisations, individuals, corporations, and other entities.

issues will, to some extent, assuage the fears of ICC sceptics. There is a need to see the court overcoming these logistical obstacles so that it may affirm its legitimacy.

In sum, the Court does not need to function as 'Europe's court for Africa,' as Hopgood views it. Nor does it need to function as 'Africa's Court,' as perceived by Desmond Tutu. The International Criminal Court should be just that: an *international* court, ensuring justice and accountability in not one, but every region of the world.

How to ensure an even greater internationalisation of the ICC is a challenge that ties into Hopgood's broader perception of the doomed future of international human rights law in a neo-Westphalian world. As Kenneth Roth (2014), Executive Director of Human Rights Watch has [observed](#):

> 'Certain obvious non-African candidates for prosecution are from states that have never joined the court, such as Sri Lanka, North Korea, Uzbekistan, Israel, Palestine, Syria, or Iraq. The Security Council could have given the ICC jurisdiction over crimes in these cases, but the council's permanent members have tended to shield nations they favour from the court's attention. The UN General Assembly, where no state has a veto, lacks the power to grant the court jurisdiction.'

The ICC is not a useless institution, but unsatisfactory ratification of the Rome Statute prevents it from fulfilling its potential. Only increased ratification, particularly by the more powerful states, will allow the Court to function effectively. Will this ever happen?

In a [lecture delivered](#) in 2013, Hopgood dismisses the possibility that the world's most powerful countries will ever ratify the Rome Statute of the ICC. He poses the rhetorical question: 'If you're a serious aspirant to global power, why would you join this Court?'. What about the US? A 2012 poll by the Chicago Council on Global Affairs provides that seventy percent of Americans believe that the US should ratify the Rome Statute. There is a more positive approach to the ICC by the Obama administration compared to

the Bush administration, which completely withdrew US support for the ICC by removing its signature from the Rome Statute. The US already has laws in place to punish the crimes that the ICC has jurisdiction over. But despite increased engagement with the ICC, it remains difficult to imagine the US ratifying the Rome Statute in the near future. What conditions would have to be in place for it to do so? And what about Russia? China? India?

My assessment is that the efforts of civil society groups are of fundamental importance in this regard. Increased dialogue and understanding spurred by NGOs (e.g. American Non-Governmental Organizations Coalition for the International Criminal Court ([AMICC](#))) may be the best hope for facilitating ratification. It is useful to believe that this is possible, even though it takes time and might not happen in the near future. It is politics that has prevented the US and others from joining the ICC. This is why the work of civil society is so important in this regard.

Opportunities for a complementary human rights advocacy

The author makes some dubious assertions concerning the ICC, and argues that a Western-controlled human rights regime will fail in a neo-Westphalian world, because the UN system and the idea of a top-down approach are flawed and difficult to maintain. Although I agree with Hopgood on the need for a bottom-up approach, I believe he too easily dismisses the efforts of Amnesty International and other INGOs to adapt within Africa and to cooperate with local NGOs that engage their communities to advocate international justice and human rights.

First, the same concerns about a top-down approach, or about credibility issues, could be raised with regard to the role of local organisations (capital city-based NGOs vs. rural-based or grassroots NGOs).

Second, INGOs are not only gatekeepers of human rights claims but have also facilitated the advocacy process by bringing local concerns to the highest level at the United Nations and gaining success. For example, in 2011 and 2013, when the government of Kenya requested that the

UN Security Council defer the ICC investigation in Kenya, coalition members in Kenya opposed the request, and the coalition wrote a letter to the president of the UNSC supporting the position of its members in opposition. INGOs have also facilitated the process of communication between UNSC members and the legal representative for victims in the *Uhuru Kenyatta* case by putting them in contact with one another so they could express victims' concerns and opposition to delays in the case.

Third, INGOs have provided opportunities for local NGOs to better influence policy decisions by improving the flow of information between New York and their nations' capital cities and by sharing with them timely, daily reports or briefings, analysis and recommendations from the UN. This has resulted in local NGOs writing letters to UNSC members and governments, the AU and to newspapers, raising their organisations' concerns or recommendations. Conversely, consultations and collaboration with the coordinator of African States Parties in New York and legal advisers from Africa have increasingly been hallmarks of INGOS. Together they draft position papers aimed at influencing negative outcomes at AU summits -- such as withdrawal from the ICC -- or provide clarity on misperceptions or political concerns about the ICC. Whenever the *Coalition for the ICC* (CICC), for instance, has concerns to share with African states or generally states parties, the CICC has lobbied them, distributed papers and information to states parties, as well as monitored and discussed ways of improving the tensions between the Court and Africa. The CICC has obtained agendas and reports of AU meetings on the ICC held in Addis Ababa and New York, received feedback from these meetings and disseminated this information to our members, ICC officials and friends of the ICC group in New York.

Fourth, INGOs have mobilised local, regional and international NGOs to speak with one voice. This carries more weight before the governments they intend to influence in comparison to advocacy campaigns conducted by either INGOs or individual local NGOs only.

In sum, I would like to state that INGOs and local NGOs have a complementary role to play in preventing human rights

abuses and promoting the protection of human rights. INGOs should continue to facilitate network strengthening at local and regional levels by facilitating collaboration between member organisations. Local NGOs should develop innovative projects or activities for engaging their communities and avoid duplicating projects, which leads to confrontation or competition for donor funding or claiming credibility or the success of an advocacy campaign. The relationships between INGOs and local NGOs must be based on trust, consensus, mutual understanding and support, and not petty competition so that they can remain motivated to work together. Cross-cutting issues should be mainstreamed across international, local and regional human rights work. Through dialogue and consensus, INGOs and local NGOs can settle on a mutually beneficial division of labour, with INGOs playing a role in engagement at the UN and other IGOs, while local NGOs address local and regional problems on the ground. Donors or funders should be encouraging partnerships between INGOs and local NGOs because they (donors and NGOs together) are powerful agents of change.

The way forward

In this manner a balance can and should be struck between universal human rights and a rights regime which respects different cultures and traditions. This does not mean that INGOs should not continue their mission. INGOs have an enormous amount of resources at their disposal to initiate dialogue and action that may inspire change. But we need to see the continued rise of human rights organisations born in the Global South. They face a number of difficulties including, but not limited to 1) Lack of funding; 2) Poor governance within the sector; 3) Limited technical and organisational capacity; 4)Political interference hindering operations such as a climate of intimidation; and 5) Draconian/repressive CSO laws that impose restrictions on the operations of Civil Society Organisations (CSOs), and

8   In 2005, for instance, two anti-poverty workers, Netsanet Demissie and Daniel Bekele were arrested by the Ethiopian government along with 129 others and charged with the crime of 'outrage against the constitution and the constitutional order.' These charges were levied against them owing to the critiques of the government made in the course of their work.

hinder them in their fight against human rights abuse and impunity.

Nonetheless, advancements in media and social media are making it easier for human rights organisations to make an impact. Over the past number of years we have seen videos and images go viral via Facebook, Twitter and YouTube. This can be used to great advantage by human rights NGOs operating in the South to relate what is actually occurring on the ground. Communication is important, not just between NGOs and the public, but also between NGOs themselves. Cooperation and communication help to avoid duplication of efforts and will allow small NGOs to make a greater impact.

Finally, I do agree with Hopgood that we need a redistribution of power in order to be effective in our human rights and international justice work. The UN and international human rights organisations are not perfect and need improvement. We need a re-evaluation or even reform of the UN and international NGOs. The future of human rights advocacy lies in collaboration between international, regional and local NGOs and supporting local and regional efforts. Reformation and transformation of international systems are of crucial importance for the future of human rights and international justice. So, it is solely Hopgood's analysis of the International Criminal Court that I deem unfair. I fully agree with some of his broader arguments on the advancement of human rights. His observations are important, for anyone seeking to promote human rights in today's multi-polar world to read *The Endtimes of Human Rights*, even if it is just to remind you that the human rights sphere is changing, and we must not be afraid to re-evaluate, re-think and re-structure.

Noel M. Morada

The Responsibility to Protect: Why This Evolving Norm Matters and Is Here to Stay

This essay dissects Hopgood's main arguments in his book and focuses on three important flaws in his examination of the Responsibility to Protect (R2P) norm. In particular, his book: 1) fails to present a more nuanced discussion of the status of the R2P as a universal norm; 2) focuses only on the third pillar of the R2P, which is the use of coercive force or military intervention; and 3) exaggerates the role of major powers in advancing international support for the R2P norm.

Stephen Hopgood's work is a post-modernist deconstruction of the international Human Rights regime – including the emerging global norm of the Responsibility to Protect – which he considers to have become 'dependent on the successes of liberal power and money' and thus 'the eclipse of its moral authority at the global level was only ever a matter of time' (p. 182). He points out that Human Rights dominated international humanitarianism in the 1990s, which contributed to the building of an interventionist infrastructure based on protection and justice. Specifically, he examines the structure and dynamics of cases in the International Criminal Court (ICC) and how the principle of Responsibility to Protect (R2P) was debated in the UN and applied in Libya and Syria. Both the ICC and the R2P are important pillars of what he calls the 'Human Rights Imperium' that prefers universal norms over local forms of authority. He described the ICC as the 'cathedral of humanist authority' that not only has to symbolise international justice but, more importantly, also to show or perform justice.

In addition, Hopgood argues that the creation of the *International Commission on Intervention and State Sovereignty* (ICISS), which launched the principle of R2P in 2001, serves to make sense and legitimise – albeit after the fact – NATO's attack in Belgrade that was supported

by Western powers. As a norm, according to him, the R2P encapsulates the merging of the two discourses on Human Rights and 'just war' law. He sees R2P advocates as norm entrepreneurs who build their legitimacy through a spiral process of transforming the norm from morality (natural law) to politics (positive law), then back to morality and politics again (p. 135). He contends, for example, that ICISS 'implicitly claims that there is a moral authority, that of humanity, over and above the Security Council' (p. 137), which to him is a political act that could then lead to further innovation based on precedent. For example, failure on the part of collective organisations like the UN to respond could lead to intensifying pressures for collective action to intervene 'by ad hoc coalitions or individual states' (ibid.).

Following the ICISS Report, the R2P was embedded in various statements and reports of UN Secretaries-General Kofi Annan and Ban Ki-moon and in the 2005 *World Summit Outcome Document*, launched on the occasion of the UN's 60th anniversary. The Security Council invoked the norm in Libya in 2011 and, mainly by Western powers, in the ongoing crisis of Syria. France also applied it in the case of Cyclone Nargis in Myanmar/Burma in 2008 (Curiously, however, Hopgood does not cite Russia's use of R2P in the Ossetia crisis in Georgia in 2008 as another example. It is significant to underscore here, however, that the Cyclone Nargis and Ossetia cases are incorrect applications of R2P).

Hopgood's book is an excellent scholarly work that, overall, contributes to ongoing academic and policy debates on universal human rights norms in general and the institutions of the ICC and the R2P in particular. His post-modernist approach to explaining the 'endtimes' of Human Rights provides an alternative perspective to understanding the

dynamics of social and state power in building international institutions and global norms. However, his portrayal of the R2P norm is not accurate and is somewhat contrived to suit his major thesis that it is part of a Western liberal project that seeks to impose certain human rights values that are far from universal. The following section presents the three major flaws in his book in more detail.

R2P as an evolving and contested norm

Hopgood's book gives the false impression that the R2P has achieved full status as a universal norm. This is problematic because he fails to recognise the nuances not only in regard to the substance or contents of the R2P, but also the complexity and difficulties in its implementation. The fact of the matter is that it remains a contested norm even before the Libyan and Syrian crises started in 2011. Relying mainly on the ICISS Report published in 2001, he fails to present a more nuanced discussion of how the R2P is still traveling and evolving based on debates, discussions, and consultations between important stakeholders at various levels of the global community.

The ICISS was formed upon the initiative of Canada in response to the challenge posed by former UN Secretary General Kofi Annan in the General Assembly in 1999 and 2000 for the international community to, once and for all, seek a consensus on the basic questions related to humanitarian intervention. The ICISS report is R2P 1.0 at its conceptual stage. Even though the report identified the critical elements of the responsibility to protect (to prevent, to react, and to rebuild), its most elaborate discussion was of the interventionist principle that should guide the international community in using military force for purposes of stopping mass atrocities. While the report acknowledged that prevention is 'the single most important dimension of R2P' (ICISS 2001: XI),[1] it only devoted one chapter to this

---

1   The ICISS R2P Report builds on the work of African diplomat Dr Francis Deng and his colleagues at the Brookings Institution on Sovereignty As Responsibility (1996), which argued that sovereignty can no longer be invoked as protection against interference, but as an obligation or responsibility where the state is accountable to both domestic and external constituencies.

element compared to three chapters related to intervention. The scope of mass atrocities covered by R2P 1.0 includes not just the four crimes – genocide, ethnic cleansing, war crimes, and crimes against humanity – but also the large-scale loss of lives arising from state collapse, civil war, and environmental and natural disasters.

By taking the ICISS report as the starting point for his analysis, Hopgood overlooks a series of important evolutions of R2P that show that it is far from an uncontested or final doctrine. R2P 2.0 is paragraphs 138 and 139 of the World Summit Outcome Document (WSOD), which was adopted by the UN General Assembly in 2005 in the largest meeting of world leaders in New York. This version of the R2P narrows the scope of crimes covered by the principle to four: genocide, ethnic cleansing, war crimes, and crimes against humanity. It also underscored both the primary responsibility of states to protect their people from these crimes, and the responsibility of the international community to assist states in building their capacity to prevent them. If there is a 'manifest failure' on the part of states to exercise their primary responsibility to protect their population, the international community, through the UN Security Council and in cooperation with regional and sub-regional arrangements, has the responsibility to respond in a 'timely and decisive manner' and on a 'case-by-case basis' to prevent and halt mass atrocities.

From these evolutions came the three-pillar approach to implementing R2P: prevention (focusing on the primary responsibility of the state), assistance (focusing on capacity-building of states through international assistance), and timely and decisive response (focusing on the role of the UN and regional organisations/sub-regional arrangements). These were presented in the first Secretary General's Report on R2P in 2009 on 'Implementing the Responsibility to Protect,' which was the basis of the first interactive dialogue on R2P in the UN General Assembly. To date, there is still no consensus among member states whether these three pillars should be applied sequentially and, particularly with regard to the third pillar (timely and decisive response), whether all peaceful means should first be exhausted before military intervention or the use

of coercive force is invoked. The crises in Libya and Syria highlighted this issue further with certain supporters of R2P questioning the 'excessive use of force' and overstepping the mandate of NATO in Libya.

Brazil's 'Responsibility while Protecting' (RwP) proposal in 2011 may be referred to as further updating the norm to R2P 3.0. It called for creating an effective monitoring system in the UN Security Council and the exercise of prudential principles – such as the right intention, use of coercive force as last resort, proportional means, and reasonable prospects, which were already identified in the ICISS Report in 2001 and various UN documents – when applying Chapter VII of the UN Charter in the name of R2P. The Brazilian initiative also highlighted the importance of transparency and accountability in implementing R2P in the aftermath of NATO operations in Libya. Specifically, it raised questions about how Resolution 1973, which authorised military action to protect civilians, turned into intervention in a civil war and, subsequently, the aim shifted to regime change. Among the set of principles proposed in RwP are: 1) emphasising prevention; 2) exhausting all peaceful means; 3) strict adherence to the Security Council mandate; 4) diligent use of force to minimise violence and do no harm; and 5) judicious and proportionate action carried out within the limits of the mandate.

The initial response to the RwP proposal was somewhat mixed, although the US and other Western countries were generally supportive of the concept that calls for judicious exercise in the use of force and if all peaceful means have failed. Disagreements remain on the following points: first, equating 'manifest failure' with strict chronological sequence and, second, that collective action is needed when all diplomatic means have been 'exhausted' inasmuch as diplomacy is even more important in situations that require forceful action (Morada 2014: 316). Even then, in his R2P Report in 2012 on 'Timely and Decisive Response', the Secretary General recognised the value of RwP in enhancing further the R2P norm and called for continuing debate on the concept.

From the foregoing, it is evident that the R2P is still an evolving and *contested* norm, which is far from what Hopgood tries to portray as one that is already a universally accepted principle rooted in Western liberal values. It is in fact, according to Welsh (2013), a 'complex' norm that continues to face procedural and substantive contestation. Much of this stems from the pluralist nature of the international system where both the principle of equality of states (a legal 'fiction' according to Welsh) and the reality of hierarchy of power exist (Welsh 2013: 394). It has only achieved limited institutionalisation within the UN (Marlier & Crawford 2013), which is quite contrary to what Hopgood attempts to portray in his book.

In addition, the R2P principle also needs to be 'mainstreamed' within the UN system particularly in regard to various agendas such as the protection of civilians in conflict situations, peacekeeping, and the protection of refugees and internally displaced persons (Bellamy 2013). The 'consensus' achieved in 2005 is at best a political declaration rather than a binding legal norm (Loiselle 2013), and its operationalisation will continue to face challenges as the international community grapples with the appropriate ways of implementing it, particularly with regard to the use of coercive force in stopping mass atrocity crimes.

The Future of R2P in a Neo-Westphalian world

There is no question, however, that at the minimum there is general agreement amongst UN member states that the primary responsibility to protect populations against mass atrocity crimes rests on states and that the international community should also assist in building state capacity for the prevention of these crimes. In contrast to Hopgood, I do not believe that in a neo-Westphalian world, progress in advancing the R2P norm is absolutely impossible. In fact, notwithstanding the reality of hierarchy of power in the international sphere, one could argue that human rights protection and humanitarian values are increasingly being shared by more states and societies in general. This stems mainly from the process of globalisation, where social media plays a critical role in disseminating information and creating networks of advocates worldwide that will continue to exert pressure on states to take their commitments to

R2P and human rights protection seriously. In addition, images and reports of human suffering brought about by mass atrocities committed by states or non-state actors (such as rebels in Syria, Central African Republic, and Democratic Republic of Congo, to name a few) are realities that cannot be ignored by the international community.

It is significant to note that over the last three years, an overwhelming majority of the member states of the UN have supported the five resolutions in the General Assembly that strongly condemned the systematic violation of human rights in Syria despite the continuing stalemate in the UN Security Council. Specifically, a number of developing states from the global South have expressed frustration over the failure of the Security Council to respond more effectively to the crisis to end the continuing suffering there based on the report of the panel of UN investigators headed by a Brazilian diplomat and scholar (Associated Press 2014).

More importantly, the issue of past and ongoing mass atrocities in different parts of the world has been kept alive not only by UN agencies, such as the Human Rights Council, but also by major international media networks, various international humanitarian organisations, and the global network of human rights advocates. Recently, a Global Action Against Mass Atrocity Crimes (GAAMAC), which is mainly a state-led initiative supported by academic institutions and civil society groups, was launched in Costa Rica in an effort to sustain a global 'community of commitment' in preventing genocide and mass atrocities. This initiative by various states from Europe, Latin America, Africa, and the Asia Pacific, can undoubtedly contribute to the realisation of the R2P as it focuses on building mass atrocities prevention architectures that are appropriate in national and regional contexts through the exchange of ideas, lessons learned, and good practices.

It can also be argued that the R2P should be seen as a friend – rather than an enemy – of sovereignty. Specifically, the norm can actually enhance the state's legitimacy at home

if it is linked to the promotion of good governance and rule of law at the domestic level, particularly in 'securitising' the issue of human rights protection. As Welsh (2013: 395) points out, 'Given the continued strength of attachment to sovereign equality, and states' wariness about creating a clear *international* responsibility to protect, greater consensus on R2P might emerge by continuing to emphasize individuals' right to be protected but by avoiding the spectre of hierarchy and external enforcement.' This may be done by establishing a 'floor of decency' that will be expected of governments to 'take human rights to security' seriously, and any extreme violation will be met with an appropriate response, such as suspension – 'subject to the checks and balances provided by international institutions' – of some the prerogatives that come with sovereignty (Welsh 2013: 395-396). This underscores even more the importance of the R2P's prevention pillar, which focuses on the primary *responsibility* of states in protecting populations from mass atrocity crimes.

In other words, states not only have sovereign rights, but also certain *obligations* to fulfil. In the context of ASEAN, for example, its charter includes provisions for duties and obligations of member states in ensuring that they take their primary responsibilities seriously in implementing the norms and principles of the organisation, including the promotion and protection of human rights. In fact, even prior to the ratification of the ASEAN Charter in 2008, the practice of exerting pressure on erring member states especially if their behaviour undermines the collective interest of the regional organisation has been ongoing. It may be recalled that, in 2005, Myanmar/Burma was pressured by other member states to pass on the ASEAN chairmanship after Western dialogue partners threatened to boycott the organisation's annual meetings due to dismal human rights conditions in that country. Following general elections in 2011 and the release of political prisoners including Aung San Suu Kyi, the other members of ASEAN approved Myanmar/Burma's request to assume chairmanship of the organisation ahead of schedule (in 2014 instead of 2016).

2   For more details about GAAMAC, see www.gaamac.org.

Similarly, in Africa, the AU suspended Libya's membership

in 2011 at the height of the crisis in that country, and Syria's membership in the Arab League was also suspended in 2011 because of systematic human rights violations by the Assad government. These regional organisations could also use institutions in the UN, such as the peer review mechanism of the Human Rights Council, in strengthening their case vis-à-vis their members who fail to fulfil their human rights protection and mass atrocity crime prevention obligations, for example.

Thus, rather than signalling the endtimes of Human Rights in general and the R2P in particular, these examples show that certain regional organisations already hold their member states to account when they fail to assume their human rights protection responsibilities. Even in a neo-Westphalian order, these practices can actually be enhanced further through state capacity-building assistance from the international community (under Pillar 2 of the norm) and can serve as an incentive for member states of regional organisations to fulfil their commitments to the norm. In the long-term, the R2P will even contribute greatly to enhancing the legitimacy of states as it is linked to capacity-building in good governance and rule of law.

R2P is not all about military intervention

Much of Hopgood's discussion about the R2P highlights the sharp end of the norm, which is about the use of force or military intervention, focusing primarily on the crises in Libya and Syria since 2011. These two cases, however, do not define what the R2P norm is all about despite criticism regarding its implementation in Libya and the impotence of the Security Council in breaking the current stalemate over Syria. In the case of the elections in Kenya in 2008, for example, the UN and the African Union employed mediation in a timely and decisive manner among protagonists in the dispute to avert what could have been a potential R2P crisis situation (Sharma 2012). The R2P's prevention pillar was again utilised in Kenya's 2012 elections to contain the escalation of inter-communal violence in that country. In 2011, the principle was also invoked in Cote D'Ivoire when the UN Security Council passed Resolution 1975 imposing targeted sanctions against recalcitrant Gbagbo

and his associates to prevent them from using heavy weapons against civilians in the post-election crisis in that country. Also in the same year, the Security Council passed Resolution 2014, in cooperation with the Gulf Cooperation Council (GCC), which called on the government in Yemen to halt the use of force against unarmed civilians and invoked the norm in reminding the government of its primary responsibility to protect is population.

Indeed, there is no question that there are still 'dissenters' and reluctant supporters of the R2P for various reasons and, in the aftermath of the Libyan crisis, some degree of 'buyer's remorse' may have come about as a result (Welsh 2012). But what needs to be underscored here is that dissenters of the R2P do not necessarily share the same objections to the norm even as their dissent is not about *why* the international community should stop the four mass atrocity crimes but *how* it should be done (Quinton-Brown 2013: 274-275). Accordingly, while conscious dissenters view the first two pillars of the R2P favourably, much of their criticism is focused on the third pillar (ibid.).[3]

However, there are quite a number of opportunities to advance the norm further by responding to many of these concerns. Quinton-Brown (2013: 278) suggests, for example, that the international community should further develop the R2P at the UN level on four key points, namely: 1) non-coercive prevention and domestic capacity building; 2) enhanced prudential criteria for intervention (which is similar to the RwP initiative of Brazil); 3) global norm entrepreneurship from the Global South; and 4) veto restraint in R2P scenarios. Of these points, the normative entrepreneurship of the global South is critical in driving home the point that R2P is not a Western idea but a universal one, notwithstanding Hopgood's assertion to the contrary. This is the case because support and advocacy by

---

3   Specifically, Quinton-Brown (2013: 265) identifies six general themes of dissent to R2P: 1) politicisation, misuse, and abuse; 2) traditional sovereignty and non-interference; 3) aversion to the use of force; 4) post-colonial ideology; 5) Security Council illegitimacy; and 6) early warning deficiencies.

many developing states and non-state actors, especially in countries that have experienced past atrocity crimes (e.g., Rwanda, Guatemala, Indonesia, Cambodia, to mention a few), should endeavour to build national architectures to avoid atrocities from happening again in the future. To date, there are a number of states and non-government organisations in Central and South America (e.g., Argentina, Brazil, and Costa Rica), Africa (e.g., Tanzania, Ghana, Uganda, and Kenya), and Asia (e.g., Indonesia, Cambodia, the Philippines, Singapore, and Thailand) that are supportive of the R2P. A network of civil society groups has, in fact, been growing continuously since 2008 across different regions of the world that provide training and education on the R2P through seminars and workshops, and actively mainstreaming this principle in the areas of peace-building and conflict prevention; women, peace, and security issues; and human rights protection.[4]

More importantly, even the idea of intervention is not necessarily an alien concept for some non-Western countries. Interestingly, Hopgood's book fails to even mention the importance of Article 4(h) of the African Union's Constitutive Act, which deals with the AU's 'right to intervene' in a member state in order to halt genocide, war crimes, and crimes against humanity. This provision of the AU's Charter, which preceded the ICISS Report in 2001 and the formal adoption of the R2P in the UN in 2005, is anchored in the principle of non-indifference that is a radical departure from the traditional norms of sovereignty and non-interference that were enshrined in the old Organization of African Unity (OAU).

Indeed, with the decline of American power and the constraints faced by the UN Security Council, one could argue that the role of regional organisations and sub-

regional arrangements in Africa and elsewhere will increasingly become more important in implementing the R2P. In fact, enhancing the coordination between the UNSC and regional organisations becomes even more necessary in implementing R2P, not just in terms of the use of force, but more importantly in the prevention and capacity-building pillars of the norm at regional levels. States and civil society groups could work in partnership in order to strengthen the role of regional organisations in mass atrocity crime prevention. For example, there are currently ongoing efforts in the AU to strengthen its role in dealing with mass atrocities on the continent through a more robust set of mechanisms related to the three pillars of R2P, including the implementation of Article 4(h). Specifically, the Pretoria Principles on ending mass atrocities were submitted to the AU as part of operationalising the continent's commitment to R2P under Article 4(h). This is an important output produced by a group of scholars, civil society groups, and practitioners within and outside of Africa that resulted from a conference organised by the Centre for Human Rights Studies of the University of Pretoria in December 2012 (Kuwali & Viljoens 2014: 347-352).

Similarly, the *Council for Security Cooperation in the Asia Pacific* (CSCAP), a network of think-tanks engaged in Track II diplomacy, produced a report on R2P in 2011 that, among other things, recommended a number of ways to mainstream mass atrocities prevention in the region and endeavour to convince states in the Asia Pacific to take their commitment seriously to implement the norm (CSCAP 2011). A Southeast Asia High Level Panel on R2P was created in 2013, composed of former diplomats in the Association of Southeast Asian Nations (ASEAN), in an effort to implement some of the CSCAP R2P Report's recommendations in the context of ASEAN's norm-building agenda. And in 2012, the Latin American Network for Genocide and Mass Atrocities Prevention was launched by Argentina, Chile, Panama, and Brazil as part of their efforts to implement R2P in the region. Primarily a state-led initiative, this network covers over ten fully functioning national initiatives on training and education on mass atrocity crimes prevention, which contribute significantly

---

4   The International Coalition for the Responsibility to Protect (ICRtoP) based in New York, for example, now has over 70 members from non-government organisations across the globe, not only from the Global North but also from Africa, Middle East, Latin, America, and Asia Pacific. See ICRtoP's current list of members that support R2P on its website: http://responsibilitytoprotect.org/index.php/aboutcoalition/current-members.

to strengthening regional capacity in implementing R2P (Kousouros 2013).

R2P norm cascade in the Global South

Hopgood's work privileges the role of major powers, in particular the importance of American-led liberal international order and Western bourgeois identity, in writing the story of the rise and inevitable demise of universal Human Rights and humanism international. He portrays the creation of ICC and institutionalisation of R2P as essentially a Western project aimed at imposing universal norms and structures to deal with mass atrocity crimes. To recapitulate, he contends that: 1) without American support, R2P is a 'meaningless doctrine' 2) the ICC is 'a European vanity project' and 3) both the ICC and R2P are institutions 'with only an imagined constituency beyond activists and advocates'.

These statements, however, betray the lack of appreciation for, if not total ignorance of, what is happening outside of New York and Geneva with regard to the process of R2P norm cascade or internalisation that has been taking place at regional and domestic levels in different parts of the world. Over the last five years, various civil society groups, academic institutions, and government agencies in the global South have been engaged in building awareness and constituency around the R2P. They have been involved in capacity-building efforts through education and training programmes, international and regional conferences, national workshops and seminars across sectors in Africa, Asia and Latin America.

For example, the UN Office of the Special Adviser for Genocide Prevention (OSAPG) in New York, in partnership with the Global Centre for R2P (GCR2P), the International Coalition for the Responsibility to Protect (ICRtoP), the Stanley Foundation, and the Auschwitz Institute for Peace and Reconciliation – all based in the United States – have held various regional and national workshops and seminars on R2P and mass atrocity crimes prevention in Africa, Asia and Latin America.

The Asia Pacific Centre for the Responsibility to Protect

(APR2P), based at the University of Queensland in Brisbane, Australia, has been engaged in policy-relevant academic research, and regional diplomacy and capacity-building activities in Southeast Asia and Africa through the training of diplomats and government officials, as well as holding workshops and seminars for scholars and civil society organisations on the importance of mass atrocity crime prevention, peacekeeping, civilian protection, gender and sexual violence, and the protection of refugees and internally displaced persons. Efforts in mainstreaming R2P in the Asia Pacific region have been undertaken through Track II diplomacy seminars involving government officials and think-tanks, which produced the Council for Security and Cooperation in the Asia Pacific (CSCAP) Report on R2P in 2011 (CSCAP 2011) as well as the creation of a Southeast Asia High-Level Advisory Panel on R2P in order to generate support for mass atrocity crime prevention in ASEAN.

In Africa, the University of Pretoria's Centre for Human Rights Studies and the Kofi Annan International Peacekeeping Training Centre (KAIPTC) have been at the forefront of academic and policy-relevant studies on operationalising R2P in the context of the African Union's norms and human rights protection framework. These non-Western institutions, together with other African civil society organisations, have been keen on advancing the R2P-norm cause with due regard to the unique national and regional contexts within which they pursue their advocacy work on human rights protection, women, peace and security, and mass atrocity crime prevention.

Indeed, the R2P norm does not automatically cascade down to regions and the domestic sphere. As was already pointed out above, there is a need for home-grown champions and advocates who are committed to pursuing a bottom-up strategy in advancing mass atrocity crime prevention as part of their advocacy program. They need to work in partnership with other critical stakeholders in government, academia, local communities, and the media in order to help build the capacity of states and societies to prevent genocide, ethnic cleansing, war crimes, and crimes against humanity. In many multi-ethnic societies in Asia and Africa that are mired in identity-based conflicts and governed

by weak states, the R2P norm resonates strongly with communities and local advocates of human rights because they see first and foremost the promise of holding states accountable if they fail to exercise their responsibility to protect people within their territory from mass atrocity crimes. There are, for example, civil society groups in these two regions – such as the *Global Partnership for the Prevention of Armed Conflict* (GPPAC), *Alternative ASEAN Network for Burma* (ALTSEAN), the *African Centre for Peace and Justice*, and the *Pan Africa Lawyers Union* – that have supported R2P because the norm is an important framework in which they could anchor their advocacies in promoting human rights protection, genocide prevention, conflict prevention, and peace-building.

Additionally, these civil society groups can also use R2P as a powerful tool to exert pressure on governments in the global South to promote rule of law, create and enhance human rights protection mechanisms, and push for security sector reform at home. For example, non-government organisations have engaged with states in implementing R2P at various levels through: 1) ratifying international treaties like the ICC; 2) legislating domestic laws against mass atrocity crimes; and 3) creating and strengthening national institutions for human rights protection. Indeed, the Inter-Parliamentary Union (IPU) in its resolution on R2P in March 2013 recognised these as important tools, among others, in enhancing the role of parliamentarians in preventing and responding to mass atrocity crimes.[5]

While there are varying levels of success in different parts of the world in implementing the norm thus far, it is clearly important to recognise that these norm-entrepreneurship efforts by non-state actors are as important as states declaring support in the UN for resolutions and agreements on human rights protection and R2P. Moreover, the message of the R2P is that perpetrators of mass atrocity crimes cannot escape accountability and state leaders can no longer hide behind the principle of sovereignty and non-interference. At the end of the day, if states take their prevention responsibilities against mass atrocity crimes at home seriously, then there is no need to be fearful of external coercive intervention. However, this entails not just political will but also readiness to accept international assistance for capacity building and the capability of the international community to provide such help.

Conclusion

There will always be difficulties in the implementation of the R2P, particularly with respect to its third pillar, as this will be influenced by the dynamics of hierarchy of power and competing interests in the international arena. Even so, its core value as a universal principle is certainly not in decline. Contrary to what Hopgood asserts, the R2P matters and is here to stay because since 2005 the global consensus on this norm has grown deeper roots despite controversies in its application in Libya in 2011 and elsewhere. Much of this can be attributed to the expanding network of norm entrepreneurs and stakeholders across the world that spare no effort in building a 'community of commitment' to preventing genocide and mass atrocity crimes. Far from it being just another project of Western liberal democracies rooted in their 'bourgeois identity', the R2P norm resonates well with populations of non-Western societies that have experienced (or are still experiencing) mass atrocity crimes and those who are also at risk of facing these.

In the long run, the viability of the norm is not going to depend on American hegemony but on how it is tightly anchored in shared humanitarian values and contextualised in various regions, as well as the sustained vigilance of its supporters as part of their efforts to protect human rights and to end human suffering caused by mass atrocity crimes.

---

5   See 'Enforcing the Responsibility to Protect: The Role of Parliaments in Safeguarding Civilians' Lives,' Inter-Parliamentary Union Resolution, 128th Assembly, 27 March 2013, Quito, Ecuador, from http://www.ipu.org/conf-e/128/res-1.htm.

References

Abouharb, R. & Cingranelli, D. (2007) *Human Rights and Structural Adjustment: The Impact of the IMF and World Bank*, Cambridge: Cambridge University Press.

Abramovich, V. & Pautassi, L. (2009) *La revisión judicial de las políticas sociales,* Buenos Aires: Editores del Puerto.

Adcock, R. & Collier, D. (2001) 'Measurement validity: A shared standard for qualitative and quantitative research', *The American Political Science Review*, 95(3), pp. 529-546.

Amnesty International (2012) *Transforming Pain into Hope: Human Rights Defenders in Latin America*. Available at: http://www.amnesty.org/en/campaigns/human-rights-defenders-americas.

Appleby, R. (2000) *The Ambivalence of the Sacred: Religion, Violence, and Reconciliation*, Lanham: Rowman and Littlefield Publishers, Inc.

Archbishop Tutu's letter on the ICC to AU delegates, 11 October 2013. Available at: http://www.tutu.org.za/archbishop-tutus-letter-on-the-icc-to-au-delegates-11-october-2013.

Associated Press (2014) *UN panel extends Syria blame on major powers*. Available at: http://newsinfo.inquirer.net/582604/un-panel-extends-syria-blame-to-world-powers.

Baehr, P. (1994) 'Amnesty International and its Self-Imposed Mandate', *Netherlands Quarterly of Human Rights,* 12(1), pp. 5-22.

Barber, B. (1996) *Jihad vs. McWorld: How Globalism and Tribalism are Reshaping the World*, New York: Ballantine Books.

Barnett, M. (2011) *Empire of Humanity, A History of Humanitarianism*, Ithaca: Cornell University Press.

BBC News Africa (2013) 'African Union accuses ICC of 'hunting' Africans', 27 May. Available at: http://www.bbc.com/news/world-africa-22681894.

Becker, J. (2012) *Campaigning for Justice: Human Rights Advocacy in Practice*, Stanford: Stanford University Press.

Bellamy, A. (2013) 'Mainstreaming the responsibility to protect in the United Nations system: dilemmas, challenges, and opportunities', *Global Responsibility to Protect*, 5(2), pp. 154-191.

Benenson, P. (1961) *Persecution 1961,* London: Penguin.

Berger, P. (1999) 'The Desecularization of the World: A Global Overview' in: P.L. Berger (ed) *The Desecularization of the World: Resurgent Religion and World Politics*, Washington: Eerdmans/Ethics and Public Policy Center, pp. 1-18.

Berger, P. (1968) 'A Bleak Outlook is Seen for Religion', *The New York Times,* 25 February, p. 3.

Bobbio, N. (1996) *The Age of Rights*, Cambridge: Polity Press.

Boddy, J. (2007) *Civilizing Women: British Crusades in the Sudan*, Princeton: Princeton University Press.

Brysk, A. (2013) *Speaking Rights to Power: Constructing Political Will*, New York: Oxford University Press.

Carpenter, R. (2009) 'Orphaned Again? Children Born of Wartime Rape as a Non-Issue for the Human Rights Movement' in: C. Bob (ed) *The International Struggle for New Human Rights*, Philadelphia: University of Pennsylvania Press, pp. 14-29.

Castells, M. (2009) *The Rise of the Network Society*, New York: Blackwell.

Chouliaraki, L. (2013) *The Ironic Spectator, Solidarity in the age of Post-Humanitarianism*, Cambridge: Polity.

Council for Security Cooperation in the Asia Pacific (CSCAP) (2011) *CSACP Study Group on the Responsibility to Protect Final Report*. Available at:
http://www.r2pasiapacific.org/docs/R2P%20Reports/CSCAP%20Study%20Group%20on%20RtoP%20Report%20FINAL%202011.pdf.

Cranston, M. (1967) 'Human Rights: Real and Supposed' in: D. Raphael (ed) *Political Theory and the Rights of Man*, Bloomington: Indiana University Press, pp. 43-53.

Crawshaw, S. (2013) 'In Defence of Human Rights', *The World Today*, Oct.-Nov., pp. 46-47.

Decision on Africa's relationship with the International Criminal Court (ICC), 12 October 2013, Ext/Assembly/AU/Dec.1. Available at: http://www.iccnow.org/documents/Ext_Assembly_AU_Dec_Decl_12Oct2013.pdf.

Decision on the Progress Report of the Commission on the Implementation of the Decisions on the International Criminal Court, 31 January 2014, Assembly/AU/Dec.493 (XXII). Available at:
http://au.int/en/sites/default/files/Assembly%20AU%20Dec%20490-516%20(XXII)%20_E.pdf.

Deng, F. (1996) *Sovereignty as responsibility*, Washington: Brookings Institution.

Dezalay, Y. & Garth, B. (2002) *The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States*, Chicago: Chicago University Press.

Donnelly, J. (1999) 'Democracy, Development, and Human Rights', *Human Rights Quarterly*, 21(3), pp. 608–632.

Douzinas, C. (2007) *Human Rights and Empire, The Political Philosophy of Cosmopolitanism*, Abingdon: Routledge-Cavendish.

The Economist (2010) 'Hello America' 16 August. Available at: http://www.economist.com/node/16834943.

Ellis, M. (2012) 'The Decline of Universal Jurisdiction over International Crimes: Is It Irreversible?', lecture, SOAS, University of London, 22 February. Available at: http://www.unawestminster.org.uk/pdf/grot12_mark_ellis_lecture.pdf.

Fariss, C. (2014) 'Respect for Human Rights Has Improved Over Time: Modeling the Changing Standard of Accountability', *American Political Science Review,* forthcoming.

Fassin, D. (2012) *Humanitarian Reason, A Moral History of the Present*, Berkeley: University of California Press.

Finnemore, M. (2003) *The Purpose of Intervention: Changing Beliefs about the Use of Force*, Ithaca: Cornell University Press.

Foundation Centre (2013) *Advancing Human Rights: The State of Global Foundation Grantmaking,* New York: Foundation Centre.

Freedom House Annual Report (2013) 'Democratic breakthroughs in the balance'. Available at:
http://www.freedomhouse.org/report/freedom-world/freedom-world-2013#.UxO9WP3ePwI.

Gargarella, R. (2011) 'Dialogic Justice in the Enforcement of Social Rights' in: A. Yamin & S. Gloppen (eds) *Litigating Health Rights*, Cambridge: Harvard University Press.

Gauri, V. & Brinks, D. (eds) (2008) *Courting Social Justice: Judicial Enforcement of Social and Economic Rights in the Developing World,* Cambridge: Cambridge University Press.

Gladwell, M. (2010) 'Small Change: Why the Revolution Will Not Be Tweeted', *New Yorker*, 4 October. Available at:
http://www.newyorker.com/reporting/2010/10/04/101004fa_fact_gladwell?currentPage=all.

Glendon, M. (2002) *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*, New York: Random House.

Goodale, M. & Engle Merry, S. (eds) (2007)*The Practice of Human Rights: Tracking Law Between the Global and the Local*, Cambridge: Cambridge University Press.

Gowan, R. & Brantner, F. (2008) *A Global Force for Human Rights? An Audit of European Power at the UN. Policy Paper*, September, London: European Council on Foreign Relations.

The Guardian (2014) 'Pussy riot members attack bandmates for appearing at Amnesty concert', 6 February. Available at:
http://www.theguardian.com/music/2014/feb/06/pussy-riot-madonna-amnesty-concert.

Guilhot, N. (2005) *The Democracy Makers: Human Rights and International Order*, New York: Columbia University Press.

Gwertzman, B. (2008) 'Interview on the Dilemma on International Justice', Interview with Steward M. Patrick. *The Council on International Relations*. Available at: http://www.cfr.org/international-law/dilemma-international-justice/p16867.

Habermas, J. (1990) *Moral Consciousness and Communicative Action*, Cambridge: The MIT Press.

Hafner-Burton, E. (2013) *Making Human Rights a Reality*, Princeton: Princeton University Press.

Hafner-Burton, E. & Ron, J. (2009) 'Seeing double: Human rights impact through qualitative and quantitative eyes', *World Politics*, 61(2), pp. 360-401.

Hathaway, O. (2001) 'Do human rights treaties make a difference?', *Yale Law Journal*, 111(8), pp. 1935-2042.

Hawkins, D (2002) *International Human Rights and Authoritarian Rule*, Lincoln: University of Nebraska Press.

Hayner, P. (2002) *Unspeakable Truths: Facing the Challenge of Truth Commissions*, London: Routledge.

Hayner, P. (1994) 'Fifteen Truth Commissions—1974–1994: A Comparative Study', *Human Rights Quarterly*, 16(4), pp. 597–655.

Hertel, S. (2006) *Unexpected Power: Conflict and Change among Transnational Activists,* Ithaca & London: ILP Press & Cornell University Press.

Hoffmann, S. (ed) (2011) *Human Rights in the Twentieth Century*, New York: Cambridge University Press.

Hopgood, S. (2014) 'The end of Human Rights', *Washington Post*, 3 January. Available at:
   www.washingtonpost.com/opinions/the-end-of-human-rights/2014/01/03/7f8fa83c-6742-11e3-ae56-22de072140a2_story.html.

Hopgood, S. (2013a) *The Endtimes of Human Rights*, New York: Cornell University Press.

Hopgood, S. (2013b) 'Human Rights: Past Their Sell-By Date', *openGlobalRights,* 18 June. Available at:
   http://www.opendemocracy.net/openglobalrights/stephen-hopgood/human-rights-past-their-sell-by-date.

Hopgood, S. (2013c) 'The Endtimes of Human Rights?', Lecture at Humanitarian Congress Berlin, 30 October. Available at:
   https://www.youtube.com/watch?v=UaQKjT3n1rY.

Hopgood, S. (2011) 'Amnesty International's growth and development since 1961' in: W. de Jonge, B. McGongile Leyh, F. Mihr, & L. van Troost (eds) *50 years of Amnesty International, Reflections and Perspectives, SIM Special* 36, Utrecht: University of Utrecht.

Hopgood, S. (2006) *Keepers of the Flame, Understanding Amnesty International*, Ithaca: Cornell University Press.

Howse, R. & Teitel, R. (2010) 'Beyond Compliance: Rethinking Why International Law Really Matters', *Global Policy* (Online), 1(2). NYU School of Law, Public Law Research Paper No. 10-08. Available at: http://ssrn.com/abstract=1551923.

Human Development Report (2013) 'The Rise of the South'. Available at:
   http://hdr.undp.org/sites/default/files/reports/14/hdr2013_en_complete.pdf

Human Security Report (2013) *Simon Fraser University*. Available at: http://www.hsrgroup.org.

Hunt, L. (2007) *Inventing Human Rights: A History*, New York: W.W. Norton & Company.

Huntington, S. (1991) *The Third Wave: Democratization in the Late Twentieth Century*, Norman: Oklahoma University Press.

Ikenberry, G. (2011) *Liberal Leviathan*, Princeton: Princeton University Press.

Inter-American Commission on Human Rights (IACHR) (2012) *Sarayaku indigenous people v. Ecuador*. Ruling of 27 June 2012 (Substance and Reparations) Available at: www.corteidh.or.cr/docs/ casos/articulos/seriec_245_esp.pdf.

International Commission on Intervention and State Sovereignty (ICISS) (2001) *The Responsibility to Protect*, Ottawa: International Development Research Centre.

Iriye, A., Goedde, P. & Hitchcock, W. (eds) (2012) *The Human Rights Revolution: An International History*, New York: Oxford University Press.

Ishay, M. (2008) *The History of Human Rights: From Ancient Times to the Globalization Era*, California: University of California Press.

Jabine, T. & Claude, R. (eds) (1992) *Human Rights and Statistics: Getting the Record Straight,* Philadelphia: University of Pennsylvania Press.

Joas, H. (2013) *The Sacredness of the Person*, Washington: Georgetown University Press.

Jones, B. (2014) 'American leadership in a world of flux', *Huffington Post Politics*, 3 October. Available at:
   http://www.huffingtonpost.com/bruce-jones/american-leadership-in-a_b_4934290.html.

Kalashnikov, A. (2011) 'Differing Interpretations: Causes of the Collapse of the Soviet Union', *Constellations,* 3(1) pp. 75-82.

Kariri, J. & Mayekiso, T. (2014) 'International criminal justice in Africa; it's not all about the ICC', *Institute for Security Studies*, 24 February. Available at:

http://polity.org.za/article/international-criminal-justice-in-africa-its-not-all-about-the-icc-2014-02-24.

Kassam, A. (2014) 'Spain moves to curb legal convention allowing trials of foreign rights abuses', *The Guardian*, 11 February. Available at:

http://www.theguardian.com/world/2014/feb/11/spain-end-judges-trials-foreign-human-rights-abuses.

Keck, M. & Sikkink, K. (1998) *Activists Beyond Borders: Advocacy Networks in International Politics*, Ithaca: Cornell University Press.

Kennedy, D. (2012) 'The International Human Rights Regime. Still Part of the Problem?' in: R. Dickinson, E. Castelli, C. Murray & O. Windahl Petersen (eds), *Examining Critical Perspectives on Human Rights*, Cambridge: Cambridge University Press, pp. 19-34.

Kennedy, D. (2001) 'The International Human Rights Movement: Part of the Problem?' *European Human Rights Law Review*, 3/2001, pp. 245-267.

Kennedy, P. (1987) *The Rise and Fall of the Great Powers*, New York: Random House.

Keys, B. (2014) *Reclaiming American Virtue: The Human Rights Revolution of the 1970s*, Cambridge: Harvard University Press.

Khan, I. (2009) *The Unheard Truth. Poverty and Human Rights*, New York & London: W.W. Norton & Company.

Koskenniemi, M. (2011) *The Politics of International Law*, Oxford: Hart Publishing.

Koskenniemi, M. (2010) 'Human Rights Mainstreaming as a Strategy for Institutional Power', *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, 1(1), pp. 47-58.

Koskenniemi, M. (2009) 'The Politics of International Law – 20 years later', *European Journal of International Law,* 20(1), pp. 7-19.

Kousouros, C. (2013) 'Bridging the gap between words and action: the Latin American Network on Genocide and Mass Atrocities Prevention', *Auschwitz Institute,* 22 August. Available at:

https://aipr.wordpress.com/tag/latin-american-network-for-genocide-and-mass-atrocity-prevention/.

Krasner, S. (1999) *Sovereignty: Organized Hypocrisy*, Princeton: Princeton University Press.

Kupchan, C. (2012) *No One's World: The West, the Rising Rest and the Coming Global Turn*, Oxford: Oxford University Press.

Kuwali D. & Viljoen, F. (eds) *Africa and the Responsibility to Protect: Article 4(h) of the Constitutive Act of the African Union,* Oxford: Routledge, pp. 347-352.

Lamony, S. (2013) 'Kenya following Sudan tactics to undermine ICC', *African Arguments*, 3 April. Available at:

http://africanarguments.org/2013/04/03/kenya-following-sudan-tactics-to-undermine-icc-by-stephen-a-lamony/.

Landman, T., T. Antonio-Cravo, H. Edwards, & D. Kernohan (2011) 'The Economic Geography of Human Rights', paper prepared for the Regional Studies Association Conference, Newcastle University, 17-20 April 2011.

Landman, T. & Carvalho, E. (2009) *Measuring Human Rights*, London: Routledge.

Landman, T. & Larizza, M. (2009) 'Inequality and Human Rights: Who Controls What When and How', *International Studies Quarterly*, 53(3), pp. 715-736.

Landman, T. (2005a) *Protecting Human Rights: A Comparative Study*, Washington: Georgetown University Press.

Landman, T. (2005b) 'Review article: The political science of human rights', *British Journal of Political Science*, 35(3), pp. 549-572.

Langford, M. (ed) (2009) *Social Rights Jurisprudence. Emerging Trends in International and Comparative Law,* Cambridge: Cambridge University Press.

Layne, C. (2009) 'The Waning of U.S. Hegemony—Myth or Reality? A Review Essay', *International Security*, 34(1), pp. 147-172.

Lemaitre, J. (2009) *El Derecho como Conjuro: Fetichismo Legal, Violencia y Movimientos Sociales,* Bogotá: Ediciones Uniandes.

Levine, I. (2014) Internationalizing the Human Rights Movement: Creating a North-South Bridge?' *openGlobalRights*, 30 July. Available at:

http://www.opendemocracy.net/openglobalrights/iain-levine/internationalizing-human-rights-movement-creating-northsouth-bridge.

Liberti, F. (2011) 'Defence Spending in Europe: Can We Do Better Without Spending More?', *Notre Europe Policy paper* 46. Available at: http://www.notre-europe.eu/media/policy46_fliberti_en.pdf?pdf=ok.

Liebenberg, S. (2010) *Socio-Economic Rights. Adjudication Under a Transformative Constitution,* Johannesburg: JUTA.

Lieber, R. (2012) *Power and Willpower in the American Future: Why the United States Is Not Destined to Decline*, New York: Cambridge University Press.

Link, P., Martin-Liao, T. & Liu, X. (eds) (2012) *No enemies, no hatred: selected essays and poems*, Cambridge: The Belknap Press of Harvard University Press.

Loiselle, M. (2013) 'The normative status of the responsibility to protect after Libya', *Global Responsibility to Protect*, 5(3), pp. 317-341.

Mamdani, M. (2013) 'The Logic of Nuremberg'*, London Review of Books,* 35(21), pp 33-34.

March, J. & Olsen, J. (1989) *Rediscovering Institutions: The Organisational Basis of Politics*, New York: Free Press.

Marks, S. (1994) 'Nightmare and the Noble Dream: The 1993 World Conference on Human Rights' *The Cambridge Law Journal*, 54(1), pp. 54-62.

Marlier, G. & Crawford, N. (2013) 'Incomplete and imperfect institutionalisation of empathy and altruism in the 'responsibility to protect' doctrine', *Global Responsibility to Protect*, 5(4), pp. 397-422.

Mazower, M. (2004) 'The Strange Triumph of Human Rights, 1933-1950', *The Historical Journal,* 47(2), pp. 379-398.

Mchangama, J. & Verdirame, G. (2014) 'Human Rights Inflation', *Freedom Rights Project*. Available at:
http://www.freedomrights.info/activities/new-frp-report-1377-human-rights/.

Merry, S. (2006) *Gender Violence and Human Rights: Translating International Law into Local Justice*, Chicago: Chicago University Press.

Mitchell, N. & McCormick, J. (1988) 'Economic and Political Explanations of Human Rights Violations', *World Politics*, 40(4), pp. 476–498.

Morada, N. (2014) 'Ensuring responsibility while implementing Article 4(h)' in: D. Kuwali & F. Viljoen (eds) *Africa and the Responsibility to Protect: Article 4(h) of the African Union Constitutive Act.* Oxford: Routledge, pp. 312-324.

Moravcsik, A. (2000) 'The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe', *International Organization*, 54 (Spring), pp. 217-252.

Moyn, S. (2010) *The Last Utopia, Human Rights in History*, Cambridge: Belknap-Harvard University Press.

Mutua, M. (2002) *Human Rights, A Political and Cultural Critique*, Philadelphia: University of Pennsylvania Press.

Nagaraj, V. (2013) 'Global Human Rights: For futures unlike the past', *openGlobalRights*, 31 July. Available at:
http://www.opendemocracy.net/openglobalrights/vijay-nagaraj/global-human-rights-for-futures-unlike-past.

Neier, A. (2013) 'Misunderstanding Our Mission', *openGlobalRights,* 23 July. Available at:
http://www.opendemocracy.net/openglobalrights/aryeh-neier/misunderstanding-our-mission.

Neier, A. (2012) *The International Human Rights Movement: A History,* Princeton: Princeton University Press.

O'Donnellan, R. (2013) 'A New Era of Justice: The ICC Grows and Matures', *AMICC*, 24 July. Available at:
http://www.amicc.org/docs/A_New_Era_of_Justice_by_Ross_O-Donnellan_July_24_2013.pdf.

Olsen, T., D. Payne, A. Leigh & A. Reiter (2010) *Transitional Justice in the Balance: Comparing Processes, Weighing Efficacy*, Washington: United States Institute for Peace.

Orford, A. (2011) *International Authority and the Responsibility to Protect*, Cambridge: Cambridge University Press.

Organisation for Economic Co-operation and Development (OECD) (2012) 'Development aid: Net official development assistance (ODA)', *Development: Key Tables from OECD*, No. 1.

Osiander, A. (2001) 'Sovereignty, International Relations and the Westphalian Myth, *International Organisation*, 55(2), pp. 251-287.

Pachucki, M., Pendergrass, S. & Lamont, M. (2007) 'Boundary Processes: Recent Theoretical Developments and New Contributions', *Poetics,* 35(6), pp. 331–351.

Pegram, T. (2010) 'Diffusion Across Political Systems: The Global Spread of National Human Rights Institutions', *Human Rights Quarterly*, 32(32), August, pp. 729-760.

Pew Research (2013) 'Public sees US power declining as support for global engagement slips'. Available at:
http://www.people-press.org/2013/12/03/public-sees-u-s-power-declining-as-support-for-global-engagement-slips/.

Pinker, S. (2012) *The Better Angels of Our Nature: A History of Violence and Humanity*, London: Penguin.

Pinker, S. (2011) *The Better Angels of Our Nature: Why Violence Has Declined*, New York: Penguin.

Poe, S. & Tate, C. (1994) 'Repression of Human Rights to Personal Integrity in the 1980s: A Global Analysis,' *American Political Science Review*, 88(4), pp. 853–872.

Quinton-Brown, P. (2013) 'Mapping dissent: the responsibility to protect and its state critics', *Global Responsibility to Protect*, 5(3), pp. 274-275.

Rajagopal, B. (2003) *International Law from Below: Development, Social Movements, and Third World Resistance,* Cambridge: Cambridge University Press.

Reiff, D. (1999) 'The Precarious Triumph of Human Rights,' *New York Times*, 8 August. Available at:
www.nytimes.com/1999/08/08/magazine/the-precarious-triumph-of-human-rights.html.

Rejali, D. (2009) *Torture and Democracy*, Princeton: Princeton University Press.

Reuters (2014) 'China rejects U.N. criticism in North Korea report, no comment on veto', 18 February. Available at:
http://www.reuters.com/article/2014/02/18/us-china-korea-north-idUSBREA1H0E220140218.

Risse, T. & Ropp, S. (2013) 'Introduction and overview' in: T. Risse, S. Ropp & K. Sikkink (eds) *The Persistent Power of Human Rights: From Commitment to Compliance*, Cambridge: Cambridge University Press.

Risse, T., Ropp, S. & Sikkink, K. (eds) (1999) *The Power of Human Rights: International Norms and Domestic Change*, Cambridge: Cambridge University Press.

Rodríguez-Garavito, C. (2013a) 'Against Reductionist Views of Human Rights', *openGlobalRights*, 30 July. Available at:
www.opendemocracy.net/openglobalrights/c%C3%A9sar-rodr%C3%ADguez-garavito/against-reductionist-views-of-human-rights.

Rodríguez-Garavito, C. (2013b) 'Multiple Boomerangs: New Strategies in Human Rights Advocacy', paper presented at Brown University's Workshop on '*Think Tanks, NGOs, and Human Rights in the Americas: Looking Back and Forward',* 19 april.

Rodríguez-Garavito, C. (2011) 'Beyond the Courtroom: The Impact of Judicial Activism on Socio-Economic Rights in Latin America', *Texas Law Review,* 89(7), pp. 1669-1698.

Rome Statute of the International Criminal Court, Text of the Rome Statute circulated as document A/CONF.183/9 of 17 July 1998 and corrected by process-*verbaux* of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002, entering into force on 1 July 2002. Available at:
http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome_Statute_English.pdf.

Rorty, R. (1994) 'Human Rights, Rationality, and Sentimentality' in: Shute, S. & Hurley, S. (eds) *On Human Rights*, New York: Basic Books, pp. 111-35.

Roth, K. (2014) 'Africa Attacks the International Criminal Court', *The New Yorker Review of Books*, February 6. Available at:
http://www.nybooks.com/articles/archives/2014/feb/06/africa-attacks-international-criminal-court/?pagination=false.

Roth, K. (2004) 'Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization', *Human Rights Quarterly,* 26(1), pp. 63-73.

Said, E. (1977) *Orientalism*, New York: Vintage.

Santos, B. & Rodríguez-Garavito, C. (eds) (2005) *Law and Globalization from Below: Toward a Cosmopolitan Legality,* Cambridge: Cambridge University Press.

Santos, B. (2004) *Towards a New Legal Common Sense: Law, Globalization, and Emancipation*, London: Butterworths.

Sen, A. (2011) *The Idea of Justice,* Cambridge: Harvard University Press.

Sen, A. (2006) 'Human Rights and the Limits of the Law', *Cardozo Law Review,* 27(6), pp. 2913-2927.

Shambaugh, D. (2013) *China Goes Global: The Partial Power*, Oxford: Oxford University Press.

Sharma, S. (2012) 'The 2007-08 post-election crisis in Kenya' in: J. Hoffman & A. Nollkaemper (eds), *Responsibility to Protect: From Principle to Practice*, Amsterdam: Amsterdam University Press, pp. 27-39.

Sikkink, K. (2011) *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics*, New York: W.W. Norton & Company.

Simmons, B. (2009) *Mobilizing for Human Rights: International Law in Domestic Politics*, Cambridge: Cambridge University Press.

Singer, J., Bremer, S. & Stuckey, J. (1972) 'Capability Distribution, Uncertainty, and Major Power War, 1820-1965,' in: B. Russett (ed), *Peace, War, and Numbers*, Beverly Hills, CA: Sage, pp. 19-48.

SIPRI Fact Sheet (2013) 'Trends in World Military Expenditure', April. Available at: http://books.sipri.org/product_info?c_product_id=458.

Smith, K. (2010) *Genocide and the Europeans*, Cambridge: Cambridge University Press.

Smith-Cannoy, H. (2012) *Insincere Commitments: Human Rights Treaties, Abusive States and Citizen Activism*, Washington: Georgetown University Press.

Stearns, S. (2011) 'African Union Says ICC Prosecutions Are Discriminatory', *Voice of America*, July 4. Available at: http://www.voanews.com/content/article--african-union-says-icc-prosecutions-are-discriminatory-125012734/158424.html.

Steen, D. (2013) 'The Future of Human Rights in Europe: A Scenario Approach' in, *The Future of Human Rights in Europe*, NHC Conference Report, 25 January, pp. 19-27.

Sunstein, C. (1996) 'Against Positive Rights' in: A. Sajo (ed), *Western Rights? Post-Communist Applications,* The Hague: Kluwer.

Suresh, V. (2014) 'Funds and civil liberties', *openGlobalRights*, 6 January. Available at: http://www.opendemocracy.net/openglobalrights/v-suresh/funds-and-civil-liberties.

Thatcher, M. (1999) 'Pinochet was this country's staunch, true friend', full text of her speech to the Blackpool fringe, *The Guardian,* 6 October. Available at: http://www.theguardian.com/world/1999/oct/06/pinochet.chile.

Toft, M., Philpott, D. & Shah, T. (2011) *God's Century: Resurgent Religion and Global Politics*, New York: W.W. Norton & Company.

UNICEF (2013) *Female Genital Mutilation/Cutting: A statistical overview and exploration of the dynamics of change*. Available at: http://www.unicef.org/media/files/FGCM_Lo_res.pdf.

United Nations (2011) *Report of the Secretary General's Panel of Experts on Accountability in Sri Lank,* New York: United Nations. Available at: http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf.

United Nations (2004) *Human Rights Defenders: Protecting the Right to Defend Human Rights. Fact Sheet No. 29,* Geneva: Office of the United Nations High Commissioner for Human Rights. Available at: http://www.refworld.org/docid/479477470.html.

United Nations Development Programme (UNDP) (2013) *Human development Report 2013*. Available at: http://hdr.undp.org/en/2013-report.

UN Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, February 2014. Available at: http://www.ohchr.org/EN/HRBodies/HRC/CoIDPRK/Pages/ReportoftheCommissionofInquiryDPRK.aspx.

Uprimny, R., Sánchez, C. & Sánchez, L. (2014) *Justicia para la Paz: Crímenes Atroces, Derecho a la Justicia y Paz Negociada*, Bogotá: Dejusticia.

Verschraegen, G. (2006) 'Systems Theory and the Paradox of Human Rights' in: M. King & C. Thornhil (eds) *Luhmann on Law and*

Politics, Oxford: Hart, pp. 101-125.

Wahl, R. (2013) 'Policing values, and violence: Human rights education with law enforcers in India', *Journal of Human Rights Practice*, 5(2), pp. 220-242.

Wallis, A. (2014) 'France and Rwanda's Genocide: A long wait', *Open Democracy*, 20 February. Available at: http://www.opendemocracy.net/andrew-wallis/france-and-rwandas-genocide-long-wait.

Weber, M. ([1919]2004) *The vocation lectures*. Indianapolis: Hackett.

Weiss, T. (2005) 'R2P after 9/11 and the World Summit', *Wisconsin International Law Journal*, 24(3), pp. 741-760.

Welsh, J. (2013) 'Norm contestation and the responsibility to protect', *Global Responsibility to Protect*, 5(4) pp. 365-396.

Welsh, J. (2012) *What a difference a year makes*. Available at: http://opencanada.org/features/syria-un/.

Wolf, W. & Warner, E. (2013) *China's Foreign Aid and Government Sponsored Investment Activities*, RAND National Defence Institute.

World Public Opinion (2011) 'Polls finds strong international consensus on human rights', 7 December. Available at: http://www.worldpublicopinion.org/pipa/articles/btjusticehuman_rightsra/701.php.

The World Today (2013) 'US-Europe', *Chatham House*, 69(5), pp. 22-27.

World Trade Organisation (2013) *International Trade Statistics 2013*. Available at: http://www.wto.org/english/res_e/statis_e/its2013_e/its2013_e.pdf.

Zacher, M. (1992) 'The Decaying Pillars of the Westphalian Temple: implications for international order and governance,' in: J.R. Rosenau & O. Ozempiel (eds) *Governance without Government: Order and Change in World Politics*, Cambridge: Cambridge University Press, pp. 58-101.

Zuckerman, E. (2013) *Rewire: Digital Cosmopolitans in the Age of Connection*, New York: Norton.