

Human Rights Futures

Edited by Stephen Hopgood, Jack Snyder
and Leslie Vinjamuri



"This fine book surveys what has been achieved, what social scientists have learned about those achievements, and several possible paths forward for human rights. It will be of interest to scholars, students, and citizens alike and should quickly establish itself as a standard work in the field. Excellent in every way!"

Jack Donnelly, *Denver University*

"This outstanding book identifies and examines the counter-currents and undertows in international human rights. These norms both build and remake the terrain of global politics. The insightful contributions by leading scholars show persuasively that the owl of Minerva will continue to fly at dusk – be it dawn or nightfall."

Peter J. Katzenstein, *Cornell University*

"This timely collection dares to imagine the future for human rights in a world where liberal internationalism is under challenge from many corners. It features detailed evidence that the impact of human rights promotion remains pervasive, as well as arguments that question its power and lament the minimalist ambition that has underpinned it over the past half century. The book is essential reading for those who want to transcend both categorical dismissals and defenses to achieve a deeper understanding of human rights processes and outcomes, as well as the conditions that enable the 'everyday success' of human rights promotion in the twenty-first century."

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Human Rights Futures

In one collected volume, mainstream and critical human rights scholars together examine the empirical and normative debates around the future of human rights. They ask what makes human rights effective, what strategies will enhance the chances of compliance, what blocks progress, and whether the hope for human rights is entirely misplaced in a rapidly transforming world. *Human Rights Futures* sees the world as at a crucial juncture. The project for globalizing rights will either continue to be embedded or will fall backward into a maelstrom of nationalist backlash, religious resurgence and faltering Western power. Each chapter talks directly to the others in an interactive dialogue, providing a theoretical and methodological framework for a clear research agenda for the next decade. Scholars, graduate students and practitioners of political science, history, sociology, law and development will find much, both to challenge and provoke them, in this innovative book.

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1 Introduction: Human Rights Past, Present, and Future

Stephen Hopgood, Jack Snyder, and Leslie Vinjamuri

International human rights NGOs and institutions have been at the vanguard of multiple advocacy campaigns designed to galvanize global support for human rights. The impact of these initiatives has been dramatic. States have adopted human rights conventions, ratified treaties, supported new human rights committees and courts, and extended the mandate of existing international and regional organizations to include human rights. The sheer growth of human rights NGOs and the increased reference to human rights by states, international organizations, and other actors shows that human rights are now a major focal point for transnational mobilization. The global middle class, widely seen as a mainstay of human rights observance, is projected to increase from 1.8 billion in 2012 to 3.2 billion by 2020.¹

Human rights research has also found cause for optimism. Some scholars argue we are living through a ‘justice cascade’ where transnational movements for human rights allied to international law have made accelerating gains in the elimination of human rights violations such as torture.² Some have even claimed that cruelty and killing are in decline,

¹ Homi Kharas and Geoffrey Gertz, “The New Global Middle Class: A Cross-Over from West to East,” in Cheng Li (ed.), *China’s Emerging Middle Class, Beyond Economic Transformation* (Washington DC: Brookings Institution Press, 2010). Although much of the projected growth is expected to take place in China and India where human rights advocates have so far struggled to make headway, the emergence of a global middle class is likely to narrow the material and cultural divides that slow the emergence of a global set of values. The mass of global polling data collected in the World Values Survey (WVS) provides empirical evidence of how economic development leads to value changes conducive to democracy. European Strategy and Policy Analysis System (ESPAS), *Global Trends 2030 – Citizens in an Interconnected and Polycentric World*, European Union Institute for Security Studies, 2012, p. 29: www.iss.europa.eu/publications/detail/article/espas-report-global-trends-2030-citizens-in-an-interconnected-and-polycentric-world/.

² Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics* (New York: W. W. Norton & co, 2011); Margaret Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998); Beth A. Simmons, *Mobilizing for Human Rights: International Law*

due in no small part to the rights revolution.³ Others suggest that even in a world where Western powers no longer dominate, international liberal norms embedded in global institutions will endure.⁴ These advocacy and scholarly claims all sustain a hopeful story in which the future for human rights mobilization is a positive and enduring one.

But, as many of the chapters that follow will argue, this is not the only possible future for human rights. Alternative accounts to the mobilization narrative see a future that is much more one of ambivalence, ineffectiveness, failure, and even irrelevance. We group these critiques under four headings: scope conditions, backlash, localization, and utopias and endtimes.

Scope conditions for successful human rights activism include embedding mobilization within a broader social movement for political change that harnesses actors with varying motivations to the cause, an alliance with power to realize human rights ends when persuasion is not enough, and the material capacity of states to make real the legal commitments they have made. These favorable conditions hold when countries are at peace and when they already enjoy some institutional, economic, and social facilitating conditions for democracy. But the countries where rights abuses are worst are what we will call “hard cases,” which lack these favorable conditions. Outside the scope conditions for the success of conventional mainstream approaches to rights advocacy, pragmatic innovations may be necessary.

Human rights mobilization not only fails because of its lack of anchorage in social coalitions, its inadequate alliance with state power, or a lack of state capacity, it also faces resistance. *Backlash* is driven by those threatened by human rights and powerful enough to resist. They sometimes exploit the opportunity to reframe or even demonize global rights to mobilize the many against the rights message, while at other times more subtle methods of non-engagement and resistance are employed. Backlash encompasses a wide variety of strategies, in other words, ranging

in *Domestic Politics* (Cambridge: Cambridge University Press, 2009); Christopher J. Fariss, “Respect for Human Rights Has Improved over Time: Modeling the Changing Standard of Accountability,” *American Political Science Review* 108, no. 2 (2014): 297–318; Ann Marie Clark and Kathryn Sikkink, “Information Effects and Human Rights Data: Is the Good News about Increased Human Rights Information Bad News for Human Rights Measures?” *Human Rights Quarterly* 35, no. 3 (August 2013): 539–68; Jo Becker, *Campaigning for Justice: Human Rights Advocacy in Practice* (Stanford: Stanford University Press, 2012); Alison Brysk, *Speaking Rights to Power: Constructing Political Will* (New York: Oxford University Press, 2013).

³ Steven Pinker, *The Better Angels of Our Nature: A History of Violence and Humanity* (London: Penguin, 2012); Joshua S. Goldstein, *Winning the War on War: The Decline of Armed Conflict Worldwide* (New York: Plume Books, 2012).

⁴ G. John Ikenberry, *Liberal Leviathan: The Origins, Crisis and Transformation of American World Order* (Princeton: Princeton University Press, 2011).

from confrontation (openly resisting the obligations rights impose), to evasion (ignoring rights demands) or instrumentalization (e.g., using rights language to justify repressing individual speech or due process to protect the “rights of the community”). Democracies as well as autocracies can engage in behavior along this spectrum.

In an era that is marked by increasing political upheaval not only in many parts of the Global South, but also in the United States and Europe, we ask the question of whether backlash is increasing and what this means for human rights going forward. The recent assault on human rights in the United States provides a laboratory for evaluating the role of domestic institutions, civil society, and norms in securing human rights. Protests in support of rights in the weeks following the election of Donald Trump also remind us that backlash can be deployed in favor of, and not only against, human rights. Like previous critiques, backlash theorists underscore the need to trim unbending principles in the face of political reality. Pursuing some rights, such as religious freedom, may at times be counter-productive. Similarly, backlash in support of rights faces the challenge of tailoring principle to politics.

Human rights as they are understood in Western capitals have often been poorly integrated in struggles for freedom and equality in the South. To be effective, a greater awareness of local needs, actors, and strategies – manifest in different forms of advocacy, and in alternative campaign priorities – may be essential to achieve positive results. We label this *localization*. The most influential account of this process, where global principles are translated into local struggles, has been termed ‘vernacularization’ and we examine it in depth. We also acknowledge the agency that local human rights actors often display by examining how they use human rights in their own customized ways to achieve their priorities. This is all ‘human rights activism,’ but it may not look much like the human rights with which we are familiar.

Finally, in *utopias and endtimes*, some scholars ask whether there is really any future at all for human rights. They suggest that human rights may represent a mistaken path taken on the road to delivering more genuine freedom and equality, an illusion of a post-ideological world of liberal freedoms that actually serves to deflect us from real progress toward social and economic justice. Others claim that human rights may be an artifact of a postcolonial world dominated by Western states that are declining in the face of newly emerging non-liberal global powers, revitalized nationalism, resurgent religion, and the refusal of the middle classes to part with any of their privilege.

Although normative discussions are in evidence throughout the volume, we do not deal explicitly with the moral and philosophical basis

of human rights. Questions about the foundations and justification of rights, about what a right is, what kinds of rights there are, about universality, about the conception of the person underlying rights, whether that person must necessarily be conceived in 'liberal' terms, the justifiability of natural rights claims, whether political rights have priority, deontology vs. utilitarianism, and the role of dignity as a moral foundation for rights are not explicitly addressed for three reasons.

First, other recent works have considered these normative issues in forensic detail.⁵ Second, normative arguments can be made for or against both human rights as such, and against certain rights in particular. Such moral claims as these admit of no empirical resolution. However, for some participants in these normative debates, it makes a difference whether and how rights can be instantiated in specific real world conditions: *ought* implies *can*. In this spirit, we focus on what makes the difference in everyday success for human rights – the alignment of social and political forces, globally, nationally, and locally, and the interests they pursue, including but not limited to those in greater equality or freedom.

Third, following on from this, we see many of the sharpest debates about human rights at the present juncture as about the feasibility of making rights a reality and what tactics to use in pursuing that goal. So, while we do have chapters that stake out opposing normative positions in the debate, and while almost all the chapters discuss norms and normative beliefs as empirical facts, we focus in the main on the politics of making rights real rather than the strength of the moral argument behind them.

In Section 1, we give due attention to what are, on the face of it, the remarkable achievements of generations of human rights advocates. Following this, in Section 2, we take an audit of scholarship into human rights. In Section 3 we outline the four critiques introduced above in more depth. Section 4 is a brief conclusion.

1 Globalizing Human Rights

The emergence of human rights as a global discourse was the culmination of a long historical process. There is no consensus on the social and

⁵ See, for example, Rowan Cruft, S. Matthew Liao, and Massimo Renzo (eds.), *Philosophical Foundations of Human Rights* (Oxford: Oxford University Press, 2015); Cindy Holder and David Reidy (eds.) *Human Rights: The Hard Questions* (Cambridge: Cambridge University Press, 2013); Costas Douzinas and Conor Gearty (eds.), *The Meanings of Rights: The Philosophy and Social Theory of Human Rights* (Cambridge: Cambridge University Press, 2014).