



Politics, Pragmatism, and Human Rights

By Todd Landman

A review of Human Rights Horizons: The Pursuit of Justice in a Globalizing World by Richard A. Falk. New York: Routledge, 2000. 288pp.



and

Human Rights as Politics and Idolatry by Michael Ignatieff (edited by Amy Guttmann). Princeton: Princeton University Press, 2001. 187pp.

The turn of the new century offers an opportunity for reflection and critical assessment of both the achievements and setbacks in the global human rights project. The post World War II era saw the establishment and subsequent growth in the international law of human rights, the turn away from authoritarianism with the global spread of democratic forms of rule, and an increasing number of international interventions carried out on behalf of human rights. The international law of human rights includes major international and regional treaties, institutions, and organizations. By the year 2000, 191 countries had become signatories to the main international legal instruments, which many have argued comprise an international “regime” for the promotion and protection of human rights (Donnelly 1989; Hathaway 2002). This regime has grown in breadth and depth as more and more countries formally commit themselves to the human rights norms and values originally found in the 1948 UN Declaration of Human Rights, and seek to implement them within their domestic jurisdictions. Similar regimes have been established in Europe, the Americas, and Africa.

Since the Portuguese transition to democracy in 1974, the global pace of democratization has meant that over 60% of the world is now at least nominally democratic (see Diamond 1999), where the benefits of democratic rule include a decrease in international violent conflict (see Russet and O’Neal 2001) and lower levels of violations of personal integrity rights (Poe and Tate 1994, 1999; Zanger 2000). The world has witnessed an increasing number of foreign interventions carried out on

behalf of human rights, and with the establishment of the International Criminal Tribunal, there has been an “institutionalization of criminal liability” at the international level (Falk 2000: 4).

In light of these developments, David Reiff (1999) notes that the last fifty years have seen the “precarious triumph of human rights.” It is a triumph since even the most optimistic observers in 1948 could not have imagined the subsequent growth and influence of human rights discourse and doctrine. It is precarious since these same achievements can easily be reversed, where politics and power have shaped the different ways in which such gains have been achieved. Like Reiff, it is on this nexus between politics, pragmatism, and human rights that both Falk and Ignatieff concentrate their arguments and evidence. They cautiously celebrate the many human rights achievements both in principle (i.e. the growth in the formal regime) and in practice (i.e. concrete cases of human rights improvement). But they move away from the quest for philosophical and normative foundations for human rights by adopting a pragmatic stance that accepts the need for human rights as a bulwark against the permanent threat of human evil (see also Mendus 1995). For Ignatieff, human rights should be understood in minimal terms as those necessary legal guarantees for the exercise of human agency, while for Falk they represent an important political lever for the realization of global justice. Each recognizes the political nature of human rights, since concerns over individual and national self-interest, power, and access to resources determine the degree to which the human rights project is possible.

Some may brand these views as overly “realistic” in the language of international relations, but upon a closer reading, their assumptions, arguments, and conclusions appear much more akin to neo-liberal institutionalism (see Keohane 2002), which examines the relationship between institutions and behavior. Both authors accept the international law of human rights and the “normative architecture” that has developed since the mid-19th century as an important starting point, and see the increased institutionalization of human rights as an important constraint on the behavior of nation states. But equally, both recognize that the sovereignty of nation states has not yet been sacrificed and that the challenges for implementing human rights in the future rest on addressing the “unresolved tension between the juridical world of equal states and the geopolitical world of unequal states” (Falk 2000: 72). In this way, both argue that law is not enough for the full realization of human rights. Rather, they see law as the starting point and politics and pragmatism as largely responsible for how the human rights project has and will unfold.

Falk provides vast and wide-ranging substantive content in examining the “pursuit of justice in a globalizing world.” Part I frames his arguments in five chapters that consider the pursuit of justice, the history of human rights since the UN Declaration, the internalization of human rights at the domestic level, the implementation of human rights, and non-Western attitudes to human rights in the face of global dominance. Part II is comprised of five chapters on separate popular issue areas in the field of human rights, including self-determination, indigenous rights, Islam and the politics of exclusion, genocide in Bosnia and Rwanda, and genocidal politics in the era of globalization. Part III examines the extension of human rights to past and future generations (picking up on a main theme from the first part). It uses the Nanking Massacre of 1937 to address the question of redressing past grievances. It concludes with thoughts on morality and security in global politics.

It is clear from the arguments and evidence presented in Part I that Falk adopts an institutional neo-liberal approach,¹ and aligns himself closely with the notion of “governance without government” (Young 1999). He argues that governance in world affairs must move beyond the assumption of states as unitary international actors in order to recognize the importance of global market forces and transnational actors, which have led in some degree to the “social disempowerment” and “deterritorialization” of the state. Such forms of governance have affected issues ranging from peace and justice during the process of democratization to intergenerational solidarity. His historical “balance sheet” for human rights shows that there have been great achievements in the last half of the 20th century, but these have only come about when “grassroots activism converge[d] with geopolitical opportunism in a context of favorable historical circumstances.” Interestingly, this assessment is not unlike Krasner’s (1997) account of the struggle against slavery in the 19th century, which was only truly successful with U.S. and British pressure and commitment to use force. On the domestic front, Falk argues that the internationalization of human rights norms must be accompanied by an internalization of human rights norms across the world. This means that advanced industrial countries and lesser developing countries alike must look inward and develop a human rights culture at home. He cites the Democratic Audit in the UK as a prime example of such inward critical reflection and assessment.² In addressing the problems of implementation, he stipulates that the real challenge lies in the persistent difference between strong and weak states, as well as the difference between the formal dimensions of sovereignty and the “empirical realities” of the world (Falk 2000: 71, 73).³

In the final chapter of Part I, Falk tries to provide solutions to resolve the tension between western dominance and other cultures, but unfortunately leaves the reader hanging with woolly and unhelpful statements. For example, he argues that we need “a global vision...in which the tolerance, and even the celebration, of diversity combines with a reconstruction of the social and cultural order so as to endow the individual and collective identity of humanity with spiritual significance” (p. 93). He adds, “the world...needs to foster a new level of respect and reconciliation between and among its ever changing and ever diverse peoples and nations” (p. 93). These may be well meaning statements, but they do not provide practical solutions to precisely the kinds of practical problems he identifies in the preceding chapters.

The most thought provoking and helpful chapter in Part II is the one on Islam, as it addresses questions of identity, religion, and the nation state. It takes Huntington’s (1996) Clash of Civilizations head on by arguing that Islam and Muslim countries have legitimate civilizational rights claims, while conceding that there are “gross Western biases” in the human rights framework.

¹ This approach is not to be confused with the neo-liberal approach in developmental economics to which Falk is adamantly opposed. Neo-liberalism in economics looks to free-market mechanisms to propel economic growth, emphasizing the reduction of the state sector in the economy and “unconstrained” economic agency. Neo-liberalism in international relations sees institutions as necessary constraints on political agency in order to maintain international order (see also Forsythe 2000; Stiglitz 2002).

² The Democratic Audit is a research unit within the Human Rights Centre at the University of Essex that conducts periodic and systematic “audits” of the quality of democracy in the UK, using international human rights norms as guidelines (see Beetham et al. 2002).

³ Krasner (1999) also recognizes this gap between formal sovereignty and empirical reality, and argues that ever since the peace of Westphalia states have wittingly sacrificed their sovereignty across a whole range of policy areas, including human rights.

Indeed, Falk suggests that “[t]o accord Islam such a civilizational status would be of great symbolic value and substantive benefit in the current world atmosphere” (p. 164). This chapter is particularly welcome in the post-9/11 era and maps many of the arguments published by Western and non-Western academics since the attacks on New York and Washington.⁴

In Part III, Falk’s concern over history and intergenerational solidarity is compelling, particularly in light of the contentious debates that took place during the UN World Conference on Racism in South Africa in August 2001. One of the many claims made at the conference was for Northern (and Western) compensation for past wrongs such as slavery and (more generally) colonial domination. This sense of historical obligation in Falk helps him think about how to propel the human rights movement forward in the future and to demonstrate why morality in world politics matters. In contrast to pure realist accounts of world politics, which see moral concerns and institutions for global governance as mere epiphenomena, Falk argues for a new “morality of ends” that seeks to “exert control over of the use of force...through a combination of disarmament, demilitarization, and an ethos of non-violence” (p. 221).

Such a morality stands in sharp contrast to the moralities that influenced the establishment of League of Nations in the inter-war period, or the notions of “rational deterrence” and “mutually assured destruction” during the Cold War. For a fleeting moment after the Gulf War, Falk was optimistic about the re-emergence of morality in world politics. He laments that George Bush Senior’s post-Gulf War vision of a “new world order” built on a kind of Wilsonian morality was a mere “flash in the pan,” an observation made more telling in light of George W. Bush’s security strategy, whose pre-emptive nature represents a new doctrine of American foreign policy that moves far beyond anything declared by the Monroe, Truman, or Reagan administrations.⁵ As in 1991, it appears that the U.S. has once again used the United Nations opportunistically as it seeks a (nearly) unilateral approach to the crisis in Iraq. This example reinforces Falk’s observation that “aggression against weaker states will be tolerated so long as it does not infringe upon strategic interests of regional or global actors” (p. 226).

In developing this idea of a morality of ends, Falk argues that global security rests on an encompassing vision that includes “social activism, oppositional tendencies, and transnational initiatives to give political weight to moral aspiration” (p. 231). Such a vision returns him to the neo-institutional liberal ideas laid out in the first part of the book by recognizing the need for “cosmopolitan democracy,” borrowing from a model developed most notably by David Held. The proliferation of democracies since 1974 is not enough for Falk (and he unfortunately misreads the democratic peace literature),⁶ as he envisages a world that must move beyond a loose collection of

⁴ See, in particular, the two volume collection of essays on September 11th by Calhoun et al. (2002) and Hershberg and Moore (2002).

⁵ The Monroe Doctrine in the 1820s declared U.S. hegemony in the Americas and through the Roosevelt corollary (1904) established a police presence in the region. The Truman Doctrine (1947) sought to contain the Soviet Union, while the Reagan Doctrine (1985) opposed all wars supported by the Soviet Union through covert and overt means. These three doctrines were all essentially reactive in the face of developments in the world, while the Bush Doctrine (if it is one) is proactive, effectively reinterpreting the legal understanding of “imminent threat” and legitimizing pre-emptive attacks on those countries and organizations suspected of planning attacks on the U.S.

⁶ The democratic peace literature merely demonstrates that democracies tend not to go to war with one another. The literature does not claim that democracies are less war prone, which Falk implies in arguing that the “political culture of leading democracies has become more war prone” (p. 231).

like-minded states (i.e. liberal democracies) to one that is comprised of states who forego military conflict and establish institutions for global democratic governance that guarantee the kind of participation and accountability found at the domestic level.

Taken together, the book is a *tour de force* of global issues that strives to provide a moral vision for mediating the inevitable conflict between the realization of human rights values and the persistence of power-based international behavior. In a similarly pragmatic vein, Ignatieff attempts to offer a minimal set of guidelines for international action with respect to human rights. His book is divided between an essay on human rights as politics, in which he advances his thin theory of human rights, and an essay on human rights as idolatry in which he warns against human rights becoming a secular religion. These essays are complemented by commentaries from Anthony Appiah (Professor of Afro-American Studies at Harvard), David Hollinger (Professor of History at Berkeley), Thomas Laqueur (Professor of History at Berkeley), and Diane Orentlicher (Professor of Law and Director of War Crimes Research Office at American University).

Like Falk, Ignatieff concedes that the last fifty years has seen a “juridical revolution,” coupled with a rise in advocacy and enforcement, but argues for an even thinner theory of human rights that is meant to “travel” to all parts of the globe and achieve true universality. He argues that the expansion of human rights discourse threatens to turn them into a secular religion that loses its political edge. Only by adopting a strategically minimal view of human rights can continued progress be made. This view is grounded in a quite conservative assumption about the worst that human beings can do, instead of assumptions about “hopeful expectation of the best” they can do (p. 80). He therefore limits the possibilities of human rights. Indeed, in unintentionally borrowing Falk’s language, Thomas Laqueur’s commentary on Ignatieff’s essays argues that “a *horizonless* view of the potential of the human rights movement” undermines its legitimacy, particularly when human rights are used to justify military and other forms of intervention (p. 130, emphasis mine). Ignatieff does not want such a horizonless view, but a common understanding of humanity that recognizes that “the *basic intuition* that what is pain and humiliation for you is bound to be pain and humiliation for me” (p. 95, emphasis mine). Such a common understanding, whether in the language of rights or what the anthropologists call their “homeomorphic equivalents,” provides “the shared vocabulary from which our arguments can begin, and the bare human minimum from which differing ideas of human flourishing can take root” (p. 95).

Such pragmatism and minimalism is helpful to delineate the fundamental boundaries of what state and non-state actors can and cannot do. The commentaries at the end of the book endorse Ignatieff’s main instinct, which is to cut through foundational debates and supply a concrete notion of human rights with which to bring about progressive political change. The vision of hope that he provides is based on a pessimistic set of premises that seek to lower our expectations and recognize the great failures in the last century. However, his application of the thin model to real human rights issues appears quite problematic across quite a few areas. One example appears in his discussion of the tension between tolerance for certain cultural practices and women’s human rights. In separate parts of both essays, he addresses the question of women’s human rights in societies who value “traditional” cultural practice. He starts by arguing,

If, for example, religious groups determine that women should occupy a subordinate place within the rituals of the group, and this place is accepted by the women in question, there is no warrant to intervene on the grounds that human rights considerations of equality have been violated (p. 19).

In his discussion of the Islamic challenge to human rights during the drafting the Universal Declaration, he argues,

The Saudi delegate in effect argued that the exchange and control of women is the very raison d'être of traditional cultures, and that the restriction of female choice in marriage is central to the maintenance of patriarchal property relations (p. 59).

Applying the logic from his first quotation, if the women of such traditional cultures accepted these practices, then there is no reason for a human rights inspired intervention. But he contradicts this conclusion in two later passages, where he argues “[h]uman rights is the only universally available moral vernacular that validates the claims of women and children against the oppression they experience in patriarchal and tribal societies” (p. 68). Much to the feminist’s chagrin, he does not recognize the legitimacy of false-consciousness on the part of women: “Some women will come to resent these positions [of subordination in traditional cultures], others will not, and those who do not cannot be supposed to be trapped inside some false consciousness that it is the business of human rights activism to unlock” (p. 74).

So which is it to be? On the one hand, human rights should not be used to intervene, but can be used as the moral vernacular against oppression. For Ignatieff, the answer lies in the consent of the affected party. If the affected group (in this case women) give consent for the intervention, then intervention is morally acceptable. “What may be an abuse of human rights to a human rights activist may not be seen as such by those whom human rights activists construe to be victims” (p. 74). Such a cautious and conservative approach may actually encourage the continued oppression of women (or human rights victims more generally) around the world. It recognizes that human rights abuses are occurring, but precludes intervention unless the aggrieved party has given consent. But surely, intervention comes in many forms, and human rights education, lobbying, grass roots mobilizing and consciousness-raising can play a part in promoting human rights.

There are other problematic statements in the book. For example, Ignatieff argues that the United Kingdom has contained the secessionist challenge in Northern Ireland without major violations of human rights (p. 23), but one wonders what is meant by “major” and by whom such violations are being committed. He also claims that civil and political rights are the motor of economic development in themselves, but the empirical political science and political economy literature on the relationship between democracy and development shows that democracies are no better at promoting economic development than non-democracies. For example, cross-national quantitative comparisons of democracy and development show that democracies are not any better

at promoting economic growth or income distribution, but are better at promoting overall levels of human development.⁷

Beyond these minor objections, both books offer pragmatic and highly political views of human rights, while drawing boundaries around the topic that provide guidelines for those interested in promoting and protecting human rights. Ignatieff takes more risks in attempting to stick to his thin definition of human rights, while Falk allows a broader set of concerns to be included in his discussion. Both books, however, start from narrow and political definitions of human rights and use them ultimately to establish an optimistic vision for the future. In recognizing the worst of human nature and the limits imposed by powerful state interests and actions, both books provide ways in which human rights scholars and activists can navigate the uncharted waters of international politics that lie ahead.

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⁷ Such comparisons have been carried out by Przeworski, Alvarez, Cheibub, and Limongi (2000), and Ersson and Lane (1996).

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