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Extended Commentary: Examining January 6th: Rights, Human Rights, and the Human Rights “Age”

Cover Page Footnote

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Examining January 6th: Rights, Human Rights, and the Human Rights “Age”

By the time readers get this, events may have faded partially from view. Still, I would imagine that not a small number of us were shocked by the events unfolding at the American Capitol on January 6th. A short recap:

- First, among the many theories promoted by, if not the Trump government, then Trump himself, were claims made immediately in the wake of 2016 that the President lost the popular vote due to illegal ballots and significant voter fraud. In a November 27th tweet—iterating claims Trump would make a number of times—the then-President-Elect argued that if one deducted the “millions of people who voted illegally,” he would have beaten Hillary Clinton handily, by which he meant again in the at-large vote as well as the Electoral College.¹ It’s a controversial point around American elections; can minority Presidents be said to represent the popular will? Some accept the idea in the face of American federalism.² For Trump, however, it was taken as a threat to his legitimacy. When George Bush lost the popular election to Al Gore, it was by half a million votes. When Trump lost to *Clinton*, three million more Americans voted for the person who *didn’t* win as opposed to the one who did. Only skullduggery could be behind it, Trump maintained—a point which he would insist on, come what may.³
- Still, faced with skepticism towards such claims, post-the-Inauguration, Trump instituted a presidential advisory commission on electoral as a manner of bolstering his arguments and addressing theoretical irregularities in America’s voting system.⁴ However, finding few such things, the commission was abandoned in January 2018, with several members going public to suggest the project as problematic from the start. “It was the most bizarre thing I’ve ever been a part of,” one member argued, as *what* they were doing except the

President's bidding was unclear—and even in that context, few were clear about the mandate.⁵

- With the run-up to 2020, however, the issue emerged *again*. On August 17th, the President said that “the only way we’re going to lose the election is if the election is rigged.”⁶ Of course, investment in such discourses may have been heightened due to Covid where, in the face of the fact that movement in public space need be limited, a number of states expanded access to absentee voting and mechanisms like vote-by-mail. Indeed, partly because such methods *were* widely used, tallies of results took longer with it but a few days *after* the election that outlets first declared a winner.⁷
- Now, doubt about the results was likely to come in any case as, throughout the campaign, Trump had been cagey about whether he would accept a defeat.⁸ Still, any daylight was seen as a massive crack, as this gave way to a month and a half of litigation, Trump pressuring officials, claims he won by a “landslide,” and, at its most extreme, arguments from his lawyers that the companies who made voting machines were linked to Hugo Chavez and the Clinton Foundation.⁹
- Naturally, the *coup de grâce* came on the day Congress should meet to certify results (January 6th). Around midday that day, Trump held a rally at the Ellipse in which he claimed that unnamed forces “had rigged an election like...never...before.” In the face of ne'er-do-wellism, he said, his supporters should go to the Capitol and “fight like hell.”¹⁰ Now, of the 30,000-plus Trumpists gathered in Washington that day, most didn't take him literally; they were content to make their voices heard through generalized freedom of assembly. However, roughly a thousand did, and between 1 and 2 p.m., the two faces of the Capitol were occupied, and the building was breached. By the mid part of the

afternoon, the House and Senate were evacuated as pro-Trumpists ransacked offices and even occupied the well of the Senate. Indeed, over and above violent battles with police, as it came out later, things turned quite dark. Some protestors sought to “hunt down” and “hang” Vice President Mike Pence and Speaker of the House Nancy Pelosi, and, in the commotion, five people were killed.¹¹

Now, the shock, such as it was, came at a number of levels. For one, while the U.S. has a history of issues with inclusion (we all know the histories of segregation and slavery), the country *is* one of the world’s oldest democracies and, for many, a premier symbol of international liberty. As the historian Gordon S. Wood notes, the “experiment in [American] republicanism” gained influence in the 1780s, with the nation’s reputation as a democratic leader having persevered up to the present day.” The American “empire,” Wood maintains, concerns “liberty;” it’s the nation’s greatest export.¹² Might January 6th put that in doubt? If Americans couldn’t pull off an election *sans* violence, what did it say about the nation, if not democracy itself? As several outlets noted, the U.S. fell victim to the kind of issues oft-associated with nascent republics and developing states.¹³

Then, of course, there were the divisions within the nation. Culture wars aren’t new. They were fought during Vietnam, around bussing some years later, as well as anytime anyone brings up issues such as abortion and/or guns.¹⁴ Still, not only are there arguments over *values*, but it seems that today, Americans live in different *realities*. Few Democrats saw fraud; 95 percent saw Biden’s election as legitimate. However, one poll argues that 72 percent of Republicans think Biden was *illegitimately* elected, and another that 52 percent think Trump *de facto* won.¹⁵ The country doesn’t just appear to be, but is at war over truth: what drives the country, do its systems work, and is there’s a “cultural revolution” underway to undermine American life (Trump’s

assertion on Independence Day 2020)?¹⁶ We live in “truth silos,” it’s been claimed.¹⁷ The center-left functions with one set of facts while the center-right operates via something totally else.

Nonetheless, there may be *further* dimensions to what played out on Capitol Hill on that day—again, perhaps like alongside Kent State (1970) and Rodney King (1991), constituting one of America’s more complex days. That’s to say that, *within* the matrices of each sides’ views or claims, we may have an instance of “dissensus,” or, as the political philosopher Jacques Rancière developed it, not just conflict but argument over what’s “given,”¹⁸ i.e., what societies debate.

Generally, however, they do so over concepts on which they *agree*. For example, for both Democrats *and* Republicans, democracy is important. At the level of *claims*, anyway, though the appeal might be to the American Constitution, the Universal Declaration of Human Rights (UDHR, 1948) may capture the idea when it says that “everyone has the right to participate in the government of his country, directly or through freely chosen representatives.”¹⁹ Free speech has meaning as it’s a democratic tenet; it’s hard to run a republic minus freedom of assembly or expression.²⁰ Indeed, invoking the UDHR again, “self-realization” may also be a point as the free exchange of ideas concerns the personality’s “free...development.”²¹ Again, fraud claims gained no official credence—America’s court system universally threw them out.²² Still, it may well be the case that more than a few rioters saw themselves as at the Capitol that day to defend the “rights of man.”

Now, it’s curious, that—if one squints, one can almost read “human rights.” Now, I’ll immediately say with “human rights,” I *don’t* mean support for the UN, Organization of American States, or other “internationalisms.” Rather, I rather mean privileges as “universal” or derived from “humanity alone.”²³ In this context, human rights explicitize inalienability—that rights *shouldn’t* be contingent on “judicial announcement, or some act of parliament.”²⁴ Human

rights involve us with “international imagination[s];” generalized ideas of sympathy and senses of global good.²⁵ However, they *also* concern claims present in a range of *national* constitutions—that individuals are “created equal” and all should be seen and heard. That’s to say that there’s a zone between the national and *international* in which we imagine privileges as “global” in the sense of native to all.²⁶

The background for this concerns notions of an “age” human rights. For roughly two decades, it’s been argued we live in the times of rights as “last utopia.”²⁷ It’s *à la* Fukuyama: that the East Bloc fell because it only provided “defective recognition,” and, come the Cold War’s end, global sought a new *raison d’être*.²⁸ As George Bush, Sr. put it at the end of the post-Cold War world’s first international action, come the “new world order” people’s rights would be defended at least minimal sense (what lawyers call *jus cogens*).²⁹ Here, rights equate with “humanitarian intervention” or “responsibility to protect.”³⁰ That exists. However, it may be but one part of the picture. “Human rights” rights cut across the discourses of the “left” and the “right,” and, as Costas Douzinas notes, they link the discourses of the “pulpit” and the “state.”³¹ Human rights are present when the *gilet jaunes* hit the street, and they’re also claimed when Antifa establishes “autonomous zones.”³² Human rights link the vocabularies “developing world” with the “liberals of ...Manhattan,” and they’re the mantra of corporate boardrooms as well as the Zapatistas.³³ For many, this designates a “culture” of rights: our “surroundedness” by rights claims due to the extensive dominance of human rights “talk.”³⁴ Another has called this human rights’ “lifeworld”: our maintenance of intuitive relations with ideas of privileges made deeper by the “end of history.”³⁵

In this sort-of thought piece, which is partly about January 6th but also much else, I’ll to make two moves: first, we can think human rights via international law (global covenants,

treaties, declarations, and the like), *or* we can see them as about privileges international law should *promote* but which don't demand "internationalist" mindsets as such. I draw here from the historian's debate on human rights: that if *human* rights are at issue, are we talking twentieth-century phenomena bound to international organizations, or are we talking Enlightenment concepts bound up with social contract theory and the universality of democracy?³⁶ No side is wrong, and the difference is thin. Still, defenders of the first point one may miss part of "human rights'" resonance—as played-out recently when arch-critic of *international* rights Marine Le Pen defended *Génération identitaire* (a European Proud Boys) through a "human right" to free speech (*Génération* was banned by the French government as an overly-extremist movement). After years of heaping attacks on transnational projects, Le Pen argued that movements agreeing with her worldview should be defended by Europe's rights human rights (the European Court of Human Rights).³⁷ (Human) rights involve what's been called "the moral architecture of suffering."³⁸ However, they *also* involve what we might think of as the mundane rights of the citizen.

Point two, though, is that this expands senses of the human rights "age." It explains the maddening ability of rights claims to justify everything from Russian separatism in the Ukraine to Amnesty letter writing. Yes, rights have gained challenge through our various waves of nationalism, including Trump's withdrawal from the UN Human Rights Council and Brexit Leader Nigel Farage's attacks on Europe's rights conventions.³⁹ Still, the concept's kept on *boil* when the State Department establishes a Commission on Inalienable Rights to describe the "correct" approach to human rights as well as when Euro-populists hold that keeping out others (read "migrants") actually *helps* defend "liberal-constitutional" values.⁴⁰ Human rights "save strangers," to use Nicholas Wheeler's vocabulary.⁴¹ However, they may also be present when

protestors storm a Capitol proclaiming “life, liberty” and various pursuit of “happiness.” Now, I’ll admit I haven’t seen footage quite showing *that*. However, it would seem to be the association when rioters tote the Betsy Ross flag and wander Congressional offices shouting “1776!”⁴²

My concern is with our culture wars: have we understood them properly? Have we contextualized them correctly and grasped the full breadth of their power? Objectively, January 6th was no “human rights riot.” *Subjectively*, though, we might be on different territory. Human rights might be Bono, George Clooney, and save-the-starving concerts. However, they’re also deployed by nationalists to defend claims to sovereignty as well as ideas that democracy should be preserved locally to minimize the distance between the people and their government.⁴³ Again, I can’t stress enough that I know 1/6 was built on a total fantasy; it was an insurrection based on nothing that concerned empirical evidence. Still, to *not* see January 6th as bound to the cultural immediacy of “human rights” claims is to blind us to its context. It also limits our possibilities for reconciliation and dialogue between our “silos.” In the twenty-first century “human rights” are nestled deep within our lifeworld. That involves the West levying sanctions against Russia and China. However, it *also* involves when Americans storm their legislature based on ideas that democracy’s been “stolen.”

(Human) Rights

Now, I will admit it as something of a specialist’s discussion. However, the idea of a specificity for “human rights” in part concerns books like Samuel Moyn’s *The Last Utopia* (2010)—a text advancing an argument not dissimilar from that I noted earlier: that in the wake of the Cold War, we live in a human rights “age,” except that, as Moyn sees it, “human rights” are a *class* of rights bound to the geopolitical imagination and a sense of global morality. Human

rights are bundles of privileges, yet also an “agenda,” for world “improvement.”⁴⁴ The idea is that we should replace the “impregnability of state borders” with “the authority of international law;” we should be driven by a spirit of *bonhomie*, in which “humanity” is our focus as opposed to national sovereignty.⁴⁵ It’s a novel concept: as Moyn notes, few considered politics this way until the 1970s when, in a confluence of events—problems around East Bloc dissidents, protest against American adventurism, the rise of Amnesty International—we gained a presage of what would play out more yet-more dramatically post-1989: that the world tired of ideological conflict and sought batteries of concepts which spoke but “humanity.” The departure of other “utopian schemes,” Moyn writes (the grand ideologies of the nineteenth and twentieth centuries), left the final one: the non-political politics of international human rights. A vocabulary born near-exclusively with the UN flourished and remade the global agenda. Another has called this the “church” of human rights: mantras of benevolence offering themselves as “moral authority.”⁴⁶ In Samantha Power’s words, human rights should address “problems from hell.”⁴⁷ They swing into action vis-à-vis material deprivation and the destruction of peoples.

In a *historical* context, though, important was that rights went from “birth” to “death” and “rebirth” as the concept was again about a new impetus—invigorations of a global ethics and *appassionatats* of the human. Outside of a handful of references (e.g., H.G. Wells in 1940), few had concepts of regimes that might monitor freedoms above and beyond state borders. Kant, Paine, and American and French revolutionaries may have discussed the “rights of man.” They didn’t discuss *human* rights, however, as the context was simply different. Outside Kant, few imagined global organizations which would monitor people’s freedoms, and even *fewer* posed social contracts as about much except the state.⁴⁸ The issue, as Moyn puts it, was “feuding citizens”: as we constituted polities, how might we do so without descending into anarchy?⁴⁹ We

might conflate the “universalism of the Enlightenment” with contemporary cosmopolitanism.⁵⁰ We shouldn’t, though, as, in the “Age of Democratic Revolution,” the issue was “a whole people incorporating itself in[to] a state.”⁵¹

It’s an intriguing thesis as it undoes a range of catechisms. The first is rights as “eternal” or that all expressions of “human responsibility to others” represent instantiations of human rights “thought.”⁵² Be it the Ten Commandments, the teachings of Christ, or Greco-Roman ethics, we often imagine “human rights” are somehow under the hood. It’s an idea advanced within human rights themselves (that we’re “outraged” by “contempt for...rights” because we maintain “conscience,” or inborn ideas of morality) and, as one voice puts it, it’s an idea proffering rights as a grand narrative or “meta” framework for interpreting the historical past.⁵³ The idea is that liberation is possible “at any time” if “men will only seize control of their...humanity, either by an act of will or... act of consciousness” (the terms of Hayden White).⁵⁴ Another has called this human rights as today’s *Bildungsroman*: that even when we’re not thinking rights we are because we presume them they’re grounded in senses of self which root the human experience.⁵⁵ *À la Kant*, remove the veils of “immaturity” and we’ll create the better society because emancipation is natural.⁵⁶ Moyn disturbs this by suggesting rights as something specific—ethics, yes, but also ideas of turning the “sacralization of the person” into a principle for global governance.⁵⁷ It resembles Rawls: that we might tolerate illiberal regimes because while liberalism is preferable, “decent hierarchical” states can honor “basic human [dignity].”⁵⁸ We should have gender equality and things like voting rights. Still, most important is assuring humanity isn’t abused and that peoples aren’t subject to destruction. “Human” rights may *resemble* France’s Declaration of the Rights of Man and Citizen (1789). Neither Lafayette

nor the Abbé Sieyès, however, imagined blue-helmeted soldiers establishing “safe zones” in Bosnia.

In that context, catechism two concerns the Enlightenment; the resemblances of seventeenth- and eighteenth-century political philosophy to contemporary rights declarations *are* hard to miss. Ideas of humanity as “born free” are present from Locke to the French Revolution and they appear again in Rousseau and America’s Declaration of Independence (1776).⁵⁹ Rationalistic images of the person are also an Enlightenment hallmark; Denis Diderot claimed man as a “reflecting, thinking being, who freely walks the earth” (the UDHR [again] argues we’re born with “reason and conscience.”⁶⁰ Indeed, *specific* rights featured throughout global rights documents were also promoted by figures from Jefferson to Rousseau.⁶¹ Socialism contributed to human rights thought.⁶² Still, the calls for legal equality and the free flows of ideas central to figures from Voltaire to Kant are reproduced in many of the UDHR’s articles beyond covenants from the International Covenant on Civil and Political Rights (ICCPR, 1966) to the European Convention on Human Rights (1950). Herein, for many, it’s proper to locate human rights’ origins in the era stretching from Descartes to Kant.⁶³

Clear-cut answers aren’t easy in intellectual history. For example, it’s true that even come the end of World War I (the “war to end all wars”), few suggested the League of Nations should have anything like the portfolio of issues pursued by the UN. In one scholar’s words, the “apogee” of internationalism came with the founding of the United Nations as it asked for levels of cross-border cooperation that were decidedly new.⁶⁴ As the Versailles Treaty put it, the idea was “honourable relations between states;” the notion of “crimes against humanity” was twenty-six years away (introduced with the Nuremberg Trials).⁶⁵ When Bush, Sr. name-checked rights in discussing the “new world order,” he invoked ideas of a global consensus in which if states

didn't evaporate, concerts of nations might agree on larger sets of principles than at any time before (we might finally fulfill the "historic vision" of the UN's "founders," he said).⁶⁶ Still, *only* suggesting rights as the "Kosovo spirit" (genocide prevention and preventing deleterious violence) downplays the point.⁶⁷ Above and beyond rote humanitarianism, human rights provide a "Magna Carta" of claims about *specific* privileges people should have not only across state borders but inside the civic spaces of individual states themselves.⁶⁸

We might notice a few points. First, national self-determination *is* a human right. It's point one in the ICCPR as well as the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966). In *both* treaties (which form the International Bill of Human Rights [IBHR] together with the UDHR), it's argued that "all peoples have the right to self-determination" and "by virtue of that right, they freely determine their political status and...pursue...economic, social and cultural development."⁶⁹ As rights were formed in the mid-twentieth century, there was awareness of the claims of colonized peoples and ideas that imperialism should be left behind.⁷⁰ To be independent was to "be taken seriously," one book argues; it was a matter of dignity that peoples might "incorporate" themselves into a "state."⁷¹ As Patrice Lumumba put it, the colonized "must be as free as other citizens;" people's self-determination was the "liberty" of modernity.⁷² Still, that sets up an interesting scenario: we might be concerned with the Kosovars or South Sudanese (that they might be "free.") However, *with* their freedom, they should do their business, like the Americans or French. Human rights proclaim freedom "above and beyond the state."⁷³ However, they also ask that people's wills are represented in political life, and they dictate the "pace" of change.⁷⁴ Yes, we guaranteed fair treatment in court, press freedom, and free opinion from concern for "others."⁷⁵ However, *a*) we

guaranteed those (not just general humanitarian attitudes) and *b*) they were for *everyone* “vis-à-vis the issues around which one and one’s fellows might seek to congregate and discuss.

Point two expands this. Looking at the “core” international rights treaties (in which is the IBHR is central), items like genocide prevention or saving people from disaster in fact take up little space. Now, if genocide is thought through the right to life, it becomes a “meta” right as it precedes issues like freedom of speech. As one expert puts it, “a human being must be present in the world before being able to fill a space where he [or] she can unfold and assert his [or] her identity.”⁷⁶ Still, *within* the IBHR, genocide comes up *once*—that in suggesting that countries maintaining the death penalty shouldn’t use it as cover for destroying peoples through claiming one has but executed “individuals” who have broken “laws.”⁷⁷ Now, it *is* maintained that the Covenant on the Prevention and Punishment of the Crime of Genocide (1948) should be contravened under absolutely no circumstances.⁷⁸ Still, ranges of basic civil rights—free speech, representation, due process, religious freedom, and even issues like healthcare (of the socio-economic variety)—take up *dozens* of articles, appearing in the UDHR and *again* inside the Covenants. We sense this but can sometimes lose sight of it. News reports on famine and inter-communal violence often capture the imagination as “human rights” issues. If we listen carefully, though, the term *is* used vis-à-vis issues like the manipulation of Poland’s judiciary or if Minneapolis police killed George Floyd out of discriminatory mindsets.⁷⁹ That’s correct. In no human rights declaration is the preservation of “bare life” a complete end in itself. That’s a precondition for citizens’ rights, even if it need be acknowledged that *all* need have citizenship and that we need make sure everyone has a nationality, as the IBHR also says.⁸⁰

And, indeed, is nation-formation a “non-international” act? In this context, I think not only of decolonization but the Enlightenment revolutions as well as the revolts of Europe’s

“long” nineteenth century. Clearly, few democracies realized their early promise. Even the most liberal among them— except perhaps the French Revolution in its radical phase—excluded women from politics, and we’re aware of the American Constitution’s designation of slaves as “three-fifths” of a person.⁸¹ Still, the vocabularies of universal humanity had surprising effect. We might look at the case of Olympe de Gouges. As Rancière notes, a liberal *par excellence*, she observed the exclusion of women from the promise of democracy. Speaking of “all men” meant became men, and not just an abstract universal. In response, de Gouges penned the Declaration of the Rights of Woman and the Female Citizen (1791), a point-for-point reply to the Declaration of the Rights of Man and Citizen, only with women at the center. All “free and equal” people should be accorded rights or, using the UDHR’s words, they should be accorded “without distinction.”⁸² À la the petitions of Mary Wollstonecraft, it was a first step in a range of claims that would transform women’s status in global society.⁸³ It bears resemblance to Martin Luther King’s invocation of the Declaration of Independence: “all men are created equal,” he argued at the March on Washington (1963);” no one should be denied the rights that were *every* American’s inheritance. However, was the issue but *national* law? Or did it concern *human* principles on which the nation was built?⁸⁴ It was “human” events about which Thomas Jefferson spoke; it was because we were individuals with freedoms that we might form polities to support them.⁸⁵ This is a common occurrence. For example, when Ho Chi Minh announced Vietnamese independence, he started by quoting America’s Declaration of Independence. “All men are created equal; they are endowed by their Creator with certain unalienable rights,” he said.⁸⁶ Indeed, he’d later use that ideology to combat America precisely under the idea that it was behaving as an imperial power and trampling people’s freedoms.

In fact, this use of rights may not have been *unintended*. That's either by foundational social contract theorists or various revolutionaries. Discussing Locke, it's been noted that his work addresses humanity's universality not just through arguments that we're "born" with rights but through references to peoples of different *cultures*. In *A Letter Concerning Toleration* (1685), he maintained that "for the reason of the thing is equal, both in *America* and *Europe* [that] neither Pagans there, nor...Dissenting Christians here, can with any right be deprived of their worldly goods." This was because "all [possess] the same rationality [as] reason is likewise" regardless of where one is.⁸⁷ In his *Treatise on Toleration* (1765), Voltaire offered that "I say we should regard all men as our brothers."⁸⁸ "Turk" or "Jew," we might choose our modes of life, and we had the right to decide. Indeed, leading the *Risorgimento*, Giuseppe Mazzini argued that "without country, you have neither name, token, voice, nor rights [nor] admission into the fellowship of...peoples."⁸⁹ Though a premier statement of nationalism, it bears a closer look: in the struggle for Italian unity, Mazzini maintained that nations should *admit* us to humanity—not *exclude* us from it, nor deliver some promises that others should not have. As the Czechoslovaks put it in 1918, the question was humanity—that "mankind" might reorganize.⁹⁰ We can monitor rights to see who upholds them; we can scan the world for people's denigration. *Or* we can erect borders to keep out worlds *hostile* to rights; establishing enclaves to assure that the freedoms we desire are available to us in the places where we live.⁹¹

My point's this: we have a right to life and that might be defended. "Sympathy for...suffering and pain" dominates the "acres of space" we grant human rights inside the popular mind.⁹² Still, is that the end of human rights? Is that the full breadth of what they are? In the past seven decades, rights have gained an institutional platform that allows us to institute tribunals on Yugoslavia and intervene in Libya or Syria. Still, if something *more* is at play—

democracy, self-expression, justice in courts, if not a dignified retirement and the right to education—we're on different territory. We're talking ideas promoted in nearly all democratic states. We might think of it this way: in 2020, the European Court of Human rights made eight hundred seventy-one judgments. Forty-four involved “deprivation of life” and the “prohibition on torture.” *Five hundred and twenty* concerned liberty and security, the right to fair trial, as well as protection of individual property.⁹³ Rights can be the breathless passion play of a movie like *Blood Diamond* (2006). However, they can also be the average citizen walking with their ballot to a voting box to make sure that they vote.

The Human Rights “Age”

When the '90s came, it's clear there was excitement about the ideas of consensus, e.g., come the end of the Cold War, the UN convened the World Conference on Human Rights (1993) in an attempt to engage rights absent the filter of Cold War realism. Participation was massive: one 171 governments, 800 NGOs, thousands of civil society actors, and swathes of activists who hoped to avail themselves of the new global reality. As one lawyer put it, the decision to reengage rights seemed vindicated as “events following the fall of the Berlin Wall opened up” and there was an opportunity to not think systems but “people,” as such.⁹⁴ This resulted in the Vienna Declaration and Programme of Action (1993), a document reaffirming commitments to the UN Charter and the centrality of the IBHR. We should continue our commitment to UN principles, the document said, and uphold the vision of the UN's founders. Yet, we might do more. While the UDHR asked for rights' “recognition,” Vienna asked for their “promotion and protection.”⁹⁵ We might not preserve every freedom. However, as the UN put it in 2005, we might at least guard against “ethnic cleansing and crimes against humanity.”⁹⁶

The new spirit was quickly tested—in Rwanda in 1994 and Bosnia in 1995. Rwanda was catastrophic; major actors froze and, while interventions don't happen seamlessly, non-intervention may have resulted in three months of genocide.⁹⁷ Bosnia was better. Reacting to events in Srebrenica, the U.S., NATO, and UN coordinated a bombing campaign that managed to stop hostilities and force combatants to the table. This was repeated in 1999 with Kosovo, though under murkier conditions as NATO acted without UN Security Council approval.⁹⁸ Still, a precedent was set—as the younger Bush acknowledged addressing the UN in 2002, even the invasion of Iraq need defend “human rights.” We should fight terror, yet war need involve more than striking back.⁹⁹

It's hard to evaluate “cultural minds”; That's especially true vis-à-vis culture on global or “international” scales. Charting the *Zeitgeist* is like charting the weather by sticking one's finger in the air. Still, post-Cold War, it seems we found ourselves in the midst of a human rights “chic.” Let's step outside policy for a moment and look at the world of fiction and film. Next to policy, cinema and artistic media *also* seemed caught up in the new imagination, joining ideas of a greater morality to a defense of the human. Seminal might be *Schindler's List* (1993), perhaps the preeminent artifact in advancing the Holocaust narrative for a new generation. Through “prosthetic memory” and vivid imagery, the film built “empathy and alliances” among a larger community that might recognize emerging standards and take interest in global brotherhood.¹⁰⁰ Speaking to the new values—remembering “barbarous acts”—the film was a hit due to its artfulness, yet also resonance with a moment in which global society seemed concerned to reflect. In two authors' words, we gained a genre joining “catastrophe and care.”¹⁰¹ Indeed, that genre sold well: from *The Interpreter* (2005) to *The Kite Runner* (2007) to books like *Persepolis*

(2000), its works topped best-seller lists, and it seemed the mark of a culture interested in underlining new commitments to global sympathy.¹⁰²

This links with other phenomena. Primary may be the expansion of global rights institutions. This involves the growth of NGOs, whose numbers exploded come the 1990s.¹⁰³ However, it concerns the growth of rights institutions not only in areas with historical rights commitments (say, Europe and the Americas) but in regions from the Mid East to Southeast Asia. The Arab Charter on Human Rights was adopted in 2004; in 2014, this was turned into a statute for an Arab *Court* of Human Rights (though that remains in limbo).¹⁰⁴ The African Charter on Human and Peoples' Rights was adopted in 1981. However, in 2004, it became paired with an African Court on Human and People's Rights to enforce that document.¹⁰⁵ The Association of Southeast Asian Nations has no human rights court. Still, it produced its own human rights declaration in 2012.¹⁰⁶ Indeed, India and Great Britain strengthened commitments to international standards through legislation at home: the Protection of Human Rights Act (India, 1993) and the Human Rights Act in the UK from 1998.¹⁰⁷ Over the past few decades, there haven't been fewer human rights laws—on the contrary, in fact. The global “regime” of human rights has expanded, with few states not attaching themselves to both UN and regional human rights covenants.¹⁰⁸

Again, though, what's a “human rights” concept? Are internationalist attitudes the end of human rights “thought?” The notion of a conceptual victory for rights is an oft-discussed concept—that in the post-Cold War age, human rights became a conceptual “empire.”¹⁰⁹ “Cultural dominant” might be another term. Borrowed from Fredric Jameson, “cultural dominants” are ideas we return to again and again.¹¹⁰ Indeed, some speak of compulsions to

speak rights. Are human rights always spoken just from desire? Or has the concept been hooked into our subconscious by way of normativity and systems of power?¹¹¹

Vis-a-vis the latter, the answer is “yes.” There’s no intervention without force, and even those who appear to flaunt democracy (e.g., Trump) can only do so in the name of democracy itself. As concerns 2020, his claim was that an *election* was stolen; he wasn’t robbed of a birthright or ascension to the throne. His supporters say they *protect* democratic rights; they claim they’re assuring their votes aren’t watered down by people who vote twice or were supposed to have voted somewhere elsewhere. Again, massively few instantiations of such things were actually found; among all voting that happened in 2020 (not just the 160 million that voted in the Presidential election), even the Heritage Foundation only notes 1333 instances of demonstrable fraud.¹¹² Still, whether Trump could have mustered thousands to storm the Capitol in the name of, say, fascism, is an open question. Three Percenters (III%ers) and Proud Boys might not be “small d” democrats (and I know; Charlottesville);¹¹³ however, if you ask them, most will say they are.¹¹⁴

Regarding point two—are globalist attitudes are the end of human rights mindsets—the answer is “no.” Rights ask for a “brotherhood” and they involve intervention; there are no civil rights if one must starve. Still, rights involve pretty specific privileges people should have, including privileges frequently guaranteed by the constitutions of states. Generally, we agree on civil rights—things like free speech, legal equality, freedom of religion, and a free press. Those are the “first generation” of human rights thought, or the freedoms of what we think of as liberal democracy.¹¹⁵ Few nations don’t gesture in their direction either in their state constitutions or participation in the IBHR.¹¹⁶

More complex are socio-economic rights: health care, housing, retirement, education, and the like. These form human rights' "second generation" and they extend from social democracy and liberal reformism. In the U.S., they're most frequently discussed around healthcare, though they're present in debates over universal basic income.¹¹⁷ However, few pose them as ends in themselves. As even Marx put it, we need material rights because they assist with freedom of mind.¹¹⁸

Come the Cold War's end, it was assumed that for Westerners, such rights were had. Europe and North America were democratic, and though the U.S. was light on social guarantees, the society's general wealth might compensate for its skewed distribution. In other locales, democracy had to be built—from the former East Bloc to the Middle East to Southeast Asia—and to the extent the concern was economics, the question was bringing nations into the systems that made the West rich. Still, as polities built themselves, *what* should they be (a debate opening the door for today's nationalism) and while *internationalism* might be lauded, it met with resistance. *Why* might the U.S. station thousands of troops on Saudi soil and to what *end* did it maintain no-fly zones in Iraq? *How* might we achieve equality in the age of globalization, and how did we ensure we didn't "revassalize" the developing world to the West? As goods moved freely through the EU and NAFTA, how might jobs not just be shipped to the lowest bidder? What of new arrivals? More permeable borders meant greater movement and increased levels of multiculturalism. Such questions provide genealogies of events from the Battle in Seattle (the 1999 World Trade Organization Conference protests) to 9/11 to Europe's migration crisis and its contests over national identity. As many have noted, it took little time before the "new world order" was met with a great deal of skepticism.¹¹⁹ Still, that was partly *due* to rights: that in our age, we should pray as we want and vote as we want; we should speak our own languages and

build our own states. We should have freedom of speech and economic security. Indeed, after Cold War, did we not have the indubitable right to be ourselves?

Our culture wars didn't just come with the last *fin de siècle*. From American Civil Rights to '68 in France, problems of who's in and who's out (and what values we should follow) have weighed heavily on the politics of any number of states. The "clash of civilizations" may play out within societies as much as across international divides.¹²⁰ Still, come the era of Clinton and Blair, what were we fighting? "National" law? Or a *gestalt* atmosphere in which we felt promised things in part due to *international* law about opportunity, representation, and material security? Was the idea not *precisely* that we might finally get what for a long time we had been told we were supposed to have had? In *Hillbilly Elegy* (2016), J.D. Vance asks what happened to the "millions of working-class whites" who "have no college degree?"¹²¹ It explains much, from the *gilets jaunes* to the Tea Party to nationalism's rise in the states of the former East Germany which are today the Federal Republic's most depressed. The circulation of human rights talk underlined ideas that we should express ourselves freely, and we deserved welfare; that we should be seen and have reasonable lives. It's interesting that right wing-populists now form cross-border networks—that Steve Bannon makes league with Nigel Farage and Marine Le Pen.¹²² At work's a convergence of claims concerning the primacy of peoples and popular democracy yet that today's global norms reinforce our right to such things. As one commentator wrote in a proto-Brexit plea, "what about OUR human rights?"¹²³ If the things Britons and Americans had been promised shouldn't be had by all, what was the point of defeating "anti-rights" systems (Cold War victory)? "All" was "all," though—including Americans and Britons themselves.

Conclusion: A Historical Phenomenology of Human Rights

Today, we may today stand at a crossroads. As of now, the populist right still hasn't won. While January 6th happened, Joe Biden *was* inaugurated, and Democrats took the House and the Senate. Le Pen has captured significant momentum; still, for two election cycles, she has come up short in France's run-offs. In Germany, there's a chance for a Green Party Chancellor and, after the Trump government's hand slap at the UN's Human Rights Council, we (I am an American) want back *into* the body.¹²⁴ No one thinks right-wing populism is going away. However, we shouldn't be overly fascinated by the world's January 6th as, in many cases, they've lost.

Still, how can they stay? Short of imagining oneself as a xenophobe or inegalitarian (few people) do, how could anyone say, "no, we shouldn't have a Congressional committee to address January 6th?" I'll turn to a 2016 Le Pen interview: she's a "democrat," she said—she gladly defends *les droits de l'homme*.¹²⁵ Or the "Q-Shaman," if we actually return to January 6th—the fellow with the buffalo skins and American flags from the Capitol riots. Leading a prayer for his companions on the floor of the Senate, he said they were there for "inalienable rights." What we might call "human rights" founded the American way.¹²⁶

I'll end with two points: analytically, there is a question of how to account for the immediacy of concepts and their intellectual dominance. Indeed, vis-à-vis the Capitol riots, the most provocative figure might not be the Q-Shaman, but Ashli Babbitt. As we know, *so* convinced of the urgency of her cause, she launched herself knowingly at Capitol security wielding a loaded gun. She became one of the day's tragedies in terms of lives lost. The sociologist Émile Durkheim spoke about social facts, cultural mores which result in concrete behavior.¹²⁷ Foucault wrote of "epistemes" and phenomenologists "lifeworlds"—deep epistemic

conditions which determine our senses of knowledge. Together with investigations of the history of ideas, we may need to establish a “historical phenomenology” of human rights to explain not only the idea’s availability but how it becomes an intuitive, unthought point of reference. As Moyn writes, human rights may be but one “ideology among others.”¹²⁸ The question isn’t just how historically it seems to have carved out a cultural space, but the mechanisms through which the concepts through which we’re confronted turn into belief. As Clifford Geertz put it, culture may be “webs of significance” that we have “spun.”¹²⁹ *Once* spun, however, how do we relate to ideas and translate perception into ideas of reality?

Politically, our task might draw from such analyses. While I have no tactic to offer, underneath our disputes may lay massive opportunities. Americans, Brazilians, Germans, and Indians may need a dialogue about who’s excluded and not, or who, empirically, is “really” left out. Yet, we might also talk about the concepts on which we *agree*. Eighty-five percent of Democrats and 88 percent of Republicans view the other party unfavorably; the numbers go into the 90s among hardcore partisans.¹³⁰ Still, eight out of ten Americans think that governments should be democratically elected, 85 percent believe in the liberties in the the U.S. Constitution, and 88 percent believe in a fair judiciary and the rule of law.¹³¹ That is *extensive* consensus over what can well be read as “human rights” ideals. And it indicates that our silos are only silos to the extent that we’re blind to the fact that, within them, we often say the same thing.

Was January 6th a “human rights riot?” No. Still, it may provide evidence for the ongoing history of the human rights “age.”

ENDNOTES

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⁴ Ken Thomas, “Trump Launches Commission to Investigate Voter Fraud,” *AP*, May 12, 2017, <https://apnews.com/article/donald-trump-elections-kris-kobach-voter-registration-voting-78ecd2bdc0ca46a5ad2a1afb4cd122a2>.

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⁶ Adam Gabatt, “Could Donald Trump Refuse to Accept Defeat in US Presidential Election?” *The Guardian*, November 3, 2020, <https://www.theguardian.com/us-news/2020/nov/03/could-donald-trump-refuse-to-accept-defeat-in-us-presidential-election>.

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⁹ Reuters Staff, “Fact Check: Dominion is Not Linked to Antifa or Venezuela, Did Not Switch U.S. 2020 Election Votes in Virginia and Was Not Subject to a U.S. Army Raid in Germany,” *Reuters*, November 26, 2020, <https://www.reuters.com/article/uk-factcheck-dominion-idUSKBN2861TB>; Michael M. Grynbaum and Jonah E. Bromwich, “Fox News Faces Second Defamation Suit Over Election Coverage,” *The New York Times*, March 26, 2021, <https://www.nytimes.com/2021/03/26/business/media/fox-news-defamation-suit-dominion.html>.

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¹¹ Associated Press, “Video Shows Capitol ‘Mob Calling for the Death of the Vice President,’ Plaskett Says,” *PBS Newshour*, February 20, 2021, <https://www.pbs.org/newshour/politics/watch-video-shows-capitol-mob-calling-for-the-death-of-the-vice-president-plaskett-says>. For a timeline of events, see Shelly Tan, Youjin Shin and Danielle Rindler, “How One of America’s Ugliest Days Unraveled Inside and Outside of the Capitol,” *The Washington Post*, January 9, 2021, <https://www.washingtonpost.com/nation/interactive/2021/capitol-insurrection-visual-timeline/>.

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¹⁵ See Domenico Montenaro, “Just a Quarter of Republicans Accept Election Outcome,” *NPR*, December 9, 2020, <https://www.npr.org/2020/12/09/944385798/poll-just-a-quarter-of-republicans-accept-election-outcome>; Eric Oliver and Thomas Wood, “A New Poll Shows 52% of Republicans Actually Think Trump Won,” *The Washington Post*, December 18, 2020, <https://www.washingtonpost.com/news/monkey-cage/wp/2016/12/18/a-new-poll-shows-an-astonishing-52-of-republicans-think-trump-won-the-popular-vote/>.

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¹⁹ Office of the United Nations High Commissioner for Human Rights, “Universal Declaration of Human Rights” in *The Core International Human Rights Treaties* (New York: United Nations, 2006), art. 21. Hereafter UDHR.

²⁰ See, e.g., Timothy Garton Ash, *Free Speech: Ten Principles for a Connected World* (New Haven: Yale University Press, 2016).

²¹ UDHR., art. 29.

²² See William Cummings, Joey Garrison and Jim Sargent, “By the Numbers: President Donald Trump's Failed Efforts to Overturn the Election,” *USA Today*, January 6, 2020, <https://eu.usatoday.com/in-depth/news/politics/elections/2021/01/06/trumps-failed-efforts-overturn-election-numbers/4130307001/>. One case among roughly sixty was decided in Trump’s favor in the rash of post-election litigation – and that not concerning “fraud,” but the distance poll watchers were allowed from stand from vote counters in Pennsylvania.

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²⁴ Morsink, *Inherent Human Rights*, 21.

²⁵ On “international imaginations,” see Kate Manzo, “The International Imagination: Themes and Arguments in International Studies,” *Review of International Studies* 25, no. 3 (1999): 493-506.

²⁶ See Catherine Dupré, *The Age of Dignity: Human Rights and Constitutionalism in Europe* (Portland: Hart, 2015).

²⁷ See Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, MA: Harvard University Press, 2010). This point has also been made in Costas Douzinas, *The End of Human Rights: Critical Legal Thought at the Turn of the Century* (Portland: Hart, 2000); Douzinas, *Human Rights and Empire: The Political Philosophy of Cosmopolitanism* (London: Routledge, 2007); Stephen Hopgood, *The Endtimes of Human Rights* (Ithaca, NY: Cornell University Press, 2013).

²⁸ Francis Fukuyama, *The End of History and the Last Man* (New York: Penguin, 1992), xix.

²⁹ See, e.g., Menno T. Kamminga and Martin Scheinin, *The Impact of Human Rights Law on General International Law* (Oxford: Oxford University Press, 2009). See also Robert Kolb, *Preemptory International Law – Jus Cogens: A General Inventory* (Portland: Hart, 2017). *Jus cogens* designates theoretically inderogable rights – minimums that can’t be contravened. For Bush’s “new world order speech,” see The New York Times, “Transcript of President Bush’s Address on End of the Gulf War,” March 7, 1991, A8.

³⁰ See, e.g., Chih-Hann Chang, *Ethical Foreign Policy?: US Humanitarian Interventions* (Farnham: Ashgate, 2009); Douzinas, *Rights and Empire*.

³¹ Douzinas, *End of Human Rights*, 1.

³² See Olivie McGhie, “Gilets Jaunes: A Reaction and Response to the French Representative System,” *University of Leeds Human Rights Journal* 8, no. 1 (2020): 32-41; Eamon Doyle, ed., *Antifa and the Radical Left* (New York: Greenhaven, 2019).

³³ Douzinas, *End of Human Rights*, 1.

³⁴ *Ibid.* See also Michael J. Perry, *The Idea of Human Rights* (Oxford: Oxford University Press, 1998), 43-56.

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³⁶ See Moyn, *Human Rights and the Uses of History* (London: Verso, 2017), 1-18.

³⁷ Sylvane Chazot, “Marine Le Pen, défenseuse des droits de l’homme quand ça l’arrange,” *Libération*, January 27, 2021, https://www.liberation.fr/france/2021/01/27/marine-le-pen-defenseuse-des-droits-de-l-homme-quand-ca-l-arrange_1818569/. See also France24, “Le groupe d’extrême droite Génération identitaire dissous par le gouvernement,” March 3, 2020, <https://www.france24.com/fr/france/20210303-france-le-groupe-d-extrême-droite-génération-identitaire-dissous-par-le-gouvernement>.

³⁸ Hopgood, *Endtimes of Human Rights*, 69.

³⁹ See Adam Wegner, “After Brexit, They Will Come for Human Rights,” *Prospect*, June 9, 2019, <https://www.prospectmagazine.co.uk/politics/after-brexit-they-will-come-for-human-rights-and-this-time-the-public-debate-must-be-won>; Gardiner Harris, “Trump Administration Withdraws U.S. From U.N. Human Rights Council,” *The New York Times*, June 19, 2018, <https://www.nytimes.com/2018/06/19/us/politics/trump-israel-palestinians-human-rights.html>.

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⁴² See 3:43 in *The New Yorker*, “A Reporter’s Footage.”

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⁴⁴ Moyn, *Last Utopia*, 1. See also Moyn, *Not Enough: Human Rights in an Unequal World* (Cambridge, MA: Harvard Belknap, 2018); Moyn and Jan Eckel, eds., *The Breakthrough: Human Rights in the 1970s* (Philadelphia: University of Pennsylvania Press, 2014).

⁴⁵ *Ibid.*

⁴⁶ Hopgood, *Endtimes of Human Rights*, 1, 24.

⁴⁷ Samantha Power, *A Problem from Hell* (New York: Basic Books, 2002).

⁴⁸ Moyn, *Last Utopia*, 28. Indeed, as Moyn notes, even Kant may have been limited in this regard. He largely addressed the right to hospitality – different than a fuller sense of defending a full battery of civil (never mind socio-economic) privileges. See Immanuel Kant, “Towards Perpetual Peace: A Philosophical Sketch” in *Towards Perpetual Peace and Other Writings on Politics, Peace, and History*, ed. Pauline Kleingeld (New Haven: Yale University Press, 2006), 82.

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⁵⁰ Moyn, *The Last Utopia*, 20.

⁵¹ *Ibid.*, 20, 26. On the “Age of Democratic Revolution” see R.R. Palmer, *The Age of the Democratic Revolution: A Political History of Europe and American 1760-1800* (Princeton: Princeton University Press, 2014).

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⁵⁴ Hayden White, *Metahistory: The Historical Imagination in Nineteenth-Century Europe* (Baltimore: Johns Hopkins University Press, 1973), 25.

⁵⁵ Joseph Slaughter, *Human Rights Inc.: The World Novel, Narrative Form, and International Law* (New York: Fordham University Press, 2007).

⁵⁶ See Kant, “An Answer to the Question: What is Enlightenment?” in *Towards Perpetual Peace*, 17.

⁵⁷ On the sacralization of the person, Hans Joas, *The Sacredness of the Person: A New Genealogy of Human Rights* (Washington, D.C.: Georgetown University Press, 2013); Michael J. Perry, *The Idea of Human Rights: Four Inquiries* (Oxford: Oxford University Press, 1998).

⁵⁸ John Rawls, “The Law of Peoples,” *Critical Inquiry* 20, no. 1 (1993): 37.

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⁶⁰ In Peter A. Schoulis, *Descartes and the Enlightenment* (Kingston: McGill-Queen's University Press, 1989), 138; UDHR, art. 1.

⁶¹ See Ishay, *Human Rights Reader*, 486-91.

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⁶⁴ Glenda Sluga, *Internationalism in the Age of Nationalism* (Philadelphia: University of Pennsylvania Press, 2011), 79.

⁶⁵ "The Covenant of the League of Nations," *League of Nations – Official Journal* (February 1920): 3; M. Cherif Bassouini, *Crimes against Humanity: Historical Evolution and Contemporary Application* (Cambridge: Cambridge University Press, 2011).

⁶⁶ In the wake of one of the first major military actions towards the end of the Cold War, Bush remarked that "freed from Cold War stalemate," the world might fulfill the "historic mission" of the UN founders and encourage "freedom and respect for human rights" without boundaries. See The New York Times, "Transcript of President Bush's Address."

⁶⁷ Douzinas, *Rights and Empire*, 6.

⁶⁸ "Magna Carta" is the term Eleanor Roosevelt used to refer to the UDHR. See Ishay, *History of Human Rights*, 218.

⁶⁹ Office for the United Nations High Commissioner on Human Rights, "International Covenant on Civil and Political Rights" in *The Core International Human Rights Treaties* (New York: 2006), art. 1. Hereafter ICCPR. This is precisely repeated in article 1 of the Economic, Social and Cultural Covenant.

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⁷⁴ See Bonny Ibhawoh, "Seeking the Political Kingdom: Universal Human Rights and the Anti-Colonial Movement in Africa" in *Decolonization, Self-Determination, and the Rise of Global Human Rights Politics*, 35.

⁷⁵ See UDHR, art. 7, 19.

- ⁷⁶ See Christian Tomuschat, “The Right to Life – Legal and Political Foundations” in *The Right to Life*, Christian Tomuschat, Evelyne Lagrange and Stefan Oeter, eds. (Leiden: Martinus Nijhoff, 2010), 3.
- ⁷⁷ ICCPR, art. 6.2.
- ⁷⁸ Ibid., art 6.3.
- ⁷⁹ BBC News, “Poland Lower House Approves Controversial Judge Law,” December 20, 2019, <https://www.bbc.com/news/world-europe-50874320>; BBC News, “George Floyd Death: PM Urged to Tell Trump to ‘Respect Human Rights,’” June 4, 2020, <https://www.bbc.com/news/uk-politics-52925410>.
- ⁸⁰ See UDHR, art. 15; ICCPR, art. 24.3. See also David Weissbrodt, *The Human Rights of Non-Citizens* (Oxford: Oxford University Press, 2008).
- ⁸¹ See David Waldstreicher, *Slavery’s Constitution: From Revolution to Ratification* (New York: Hill and Wang, 2009). This is the so-called “three-fifths compromise,” involving how slaves would be counted into representation in the U.S. Congress until slavery’s outlawing with the thirteenth amendment. Of course, that also involved the disenfranchisement of African-Americans until the fifteenth amendment in 1870, never mind their *de facto* disenfranchisement in America’s South under the Jim Crow Laws. See also Jerrold M. Packard, *American Nightmare: The History of Jim Crow* (New York: St. Martin’s, 2002).
- ⁸² Rancière, “Rights of Man,” 57; UDHR, art. 2.
- ⁸³ See, e.g., Ellen Hunt Botting, *Wollstonecraft, Mill, and Women’s Human Rights* (New Haven: Yale University Press, 2016).
- ⁸⁴ NAACP, “I Have a Dream: Full Text March on Washington Speech,” August 28, 1963, <https://www.naacp.org/i-have-a-dream-speech-full-march-on-washington/>.
- ⁸⁵ In Ishay, *Human Rights Reader*, 488.
- ⁸⁶ See Ishay, *Human Rights Reader*, 324. See also Israel, *The Expanding Blaze: How the American Revolution Ignited the World, 1775-1848* (Princeton: Princeton University Press, 2017); Janet Polasky, *Revolution without Borders: The Call to Liberty in the Atlantic World* (New Haven: Yale University Press, 2015).
- ⁸⁷ David Armitage, *Foundations of Modern International Thought* (Cambridge: Cambridge University Press, 2013), 129.
- ⁸⁸ Voltaire, *Treatise on Toleration*, trans. Brian Masters (Cambridge: Cambridge University Press, 2000), 89.
- ⁸⁹ Giuseppe Mazzini, “The Idea of Nationhood” in *Basic Texts in International Relations: The Evolution of Ideas about International Society*, ed. Evan Luard (Houndmills: Macmillan, 1992), 199.
- ⁹⁰ See “Declaration of Independence” in Mary Beth Norton, et al., *A People and a Nation, Volume Two: Since 1865* (Boston: Houghton Mifflin, 2001), A-50; Government of Czechoslovakia, *Declaration of Independence of the Czechoslovak Nation* (New York: Marchbanks Press, 1918), 7.
- ⁹¹ An argument along these lines is offered in Yael Tamir, *Why Nationalism?* (Princeton: Princeton University Press, 2019).
- ⁹² Douzinas, *Rights and Empire*, 67.
- ⁹³ See European Court of Human Rights, “Violations by Article and State,” 2020, https://www.echr.coe.int/Documents/Stats_violation_2020_ENG.pdf.
- ⁹⁴ Susan Marks, “Nightmare and Noble Dream: The 1993 World Conference on Human Rights,” *The Cambridge Law Journal* 53, no. 1 (1994): 54.

⁹⁵ See United Nations Human Rights Office of the High Commissioner, “Vienna Declaration and Programme of Action,” June 25, 1993,

<https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>.

⁹⁶ United Nations General Assembly, “Resolution Adopted by the General Assembly on 16 September 2005” (A/RES/60/1), <https://undocs.org/A/RES/60/1>, art. 138, 139.

⁹⁷ See Dale C. Tatum, *Genocide at the Dawn of the Twenty-First Century: Rwanda, Bosnia, Kosovo, and Darfur* (New York: Palgrave, 2010).

⁹⁸ In part, U.S. and UN inaction in Rwanda concerned worry over repetition of the ineffectual and ultimately defeated intervention in Somalia, perhaps the headline of which was the famed “Black Hawk down” episode, which wound up with some nineteen Americans being killed. See Wheeler, *Saving Strangers*.

⁹⁹ George W. Bush, “A Grave and Gathering Danger” in *The Iraq War Reader: History, Documents, Opinions*, ed. Micah L. Sifry and Christopher Cerf (New York: Touchstone, 2003), 314.

¹⁰⁰ Sarah Farmer, “Going Visual: Holocaust Representation and Historical Method,” *The American Historical Review* 115, no. 1 (2010): 120.

¹⁰¹ See, e.g., Michael Lawrence and Rachel Tavernor, eds., *Global Humanitarianism and Media Culture* (Manchester: Manchester University Press, 2019).

¹⁰² Puce, *Mass Appeal of Human Rights*.

¹⁰³ John D. Montgomery, “Fifty Years of Human Rights: An Emergent Global Regime,” *Policy Sciences* 32, no. 1 (1999): 79-94; Thomas Davies, *NGOs: A New History of Transnational Civil Society* (Oxford: Oxford University Press, 2014).

¹⁰⁴ See Konstantinos Magliveras and Gino Naldi, “The Arab Court of Human Rights: A Study in Impotence” in *Revue québécoise de droit international* 29, no. 2 (2016): 147-72; Salen Alsheri, “An Arab Court of Human Rights: The Dream Desired,” *Arab Law Quarterly* 31, no. 1 (2016): 34-52.

¹⁰⁵ See African Court on Human and People’s Rights, “AFCHPR Cases,” accessed April 20, 2021, <https://www.african-court.org/cpmt/statistic>.

¹⁰⁶ Coming as part of the debate over “Asian Values,” the ASEAN rights declaration was charged with making too many overtures to cultural relativism, iterating the notion that human rights must be considered in “national and regional context,” bearing in mind “different political, economic, legal, social, cultural, historical and religious backgrounds.” See Association of Southeast Asian Nations, *ASEAN Human Rights Declaration* (Jakarta: ASEAN Secretariat, 2013), art. 7; Chien-Huei Wu, “Human Rights in ASEAN Context: Between Universalism and Relativism” in *Legal Thoughts between the East and the West in the Multilevel Legal Order* (Singapore: Springer, 2016), 277-90.

¹⁰⁷ See Kamal Hossain, et al., eds., *Human Rights Commissions and Ombudsman Offices: National Experiences throughout the World* (The Hague: Kluwer, 2000).

¹⁰⁸ See Dinah L. Shelton and Paola G. Carozza, eds., *Regional Protection of Human Rights* (New York: Oxford University Press, 2013).

¹⁰⁹ See again Douzinas, *Rights and Empire*.

¹¹⁰ See Fredric Jameson, “Postmodernism, or the Cultural Logic of Late Capitalism,” *New Left Review* 146, no. 1 (1984): 56.

¹¹¹ See Douzinas, *Rights and Empire*.

¹¹² The Heritage Foundation, “A Sampling of Recent Election Fraud Cases from Across the United States,” accessed August 8, 2021, <https://www.heritage.org/voterfraud>.

¹¹³ For my own commentary on the issue, see Dorfman, “Dog Whistles You Can Hear” in *Rights under Trial, Rights Reflections: 13 Further Acts of Academic Journalism and Historical Commentary on Human Rights* (Frankfurt am Main: Peter Lang, 2020), 47-66.

¹¹⁴ Emblematically, at a press conference in Pacifica, California, Patriot Prayer leader Joey Gibson offered “I stand in the middle; I’m a huge advocate for freedom.” This is typical of right-populist rhetoric. See KPIX CBS SF Bay Area, “Patriot Prayer Organizer Speaks to Reporters in Pacifica,” August 27, 2017, https://www.youtube.com/watch?v=QhHd_mVAQxA&t=367s.

¹¹⁵ See Karal Vasak, “A 30-Year Struggle: The Sustained Effort to Give Force of Law to the Universal Declaration of Human Rights,” *The UNESCO Courier*, November (1977): 29-32.

¹¹⁶ Currently, one hundred and seventy-three nations are party to the ICCPR. See United Nations Treaty Collection, “International Covenant on Civil and Political Rights,” March 31, 2021, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en.

¹¹⁷ See, e.g., Dorfman, “Human Rights and American Politics: The Surprising Case of Bernie Sanders” in *13 Acts of Academic Journalism*, 55-72; The Economist, “Universal Basic Income Gains Momentum in America,” August 8, 2020, <https://www.economist.com/united-states/2020/08/08/universal-basic-income-gains-momentum-in-america>.

¹¹⁸ See Karl Marx and Friedrich Engels, *The German Ideology* in *Marx & Engels Collected Works, Vol. 5* (London: Lawrence & Wishart, 2010), 47; Marx, “On the Jewish Question” in *Marx & Engels Collected Works, Vol. 3* (London: Lawrence & Wishart, 2010), 166.

¹¹⁹ See, e.g., Michael Hardt and Antonio Negri, *Multitude: War and Democracy in the Age of Empire* (New York: Penguin, 2004); Barry Axford, *Populism vs The New Globalization* (London: Sage, 2021); Valentine M. Moghadam, *Globalization & Social Movements* (Lanham: Rowman & Littlefield, 2020).

¹²⁰ See Dieter Senghaas, *The Clash within Civilizations: Coming to Terms with Cultural Conflicts* (London: Routledge, 1998).

¹²¹ J.D. Vance, *Hillbilly Elegy: A Memoir of a Family and Culture in Crisis* (New York: Harper, 2016), 2.

¹²² Peter Walker and Paul Lewis, “Nigel Farage Discussed Fronting Far-Right Group Led by Steve Bannon,” *The Guardian*, May 22, 2019, <https://www.theguardian.com/politics/2019/may/22/nigel-farage-discussed-fronting-far-right-group-led-by-steve-bannon>.

¹²³ Anthony Brown, “What About OUR Human Rights?” *Mail Online*, October 5, 2007, <https://www.dailymail.co.uk/news/article-486003/What-OUR-human-rights.html>.

¹²⁴ Reuters, “Biden Administration Moves to Rejoin U.N. Human Rights Council,” February 8, 2021, <https://www.reuters.com/article/us-usa-un-rights-idUSKBN2A806N>.

¹²⁵ Marine Le Pen, “France’s Next Revolution?: A Conversation with Marine Le Pen,” *Foreign Affairs* 95, no. 6 (2016): 5.

¹²⁶ See The New Yorker, “A Reporter’s Footage” at 8:30.

¹²⁷ See Émile Durkheim, *The Rules of Sociological Method: And Selected Texts on Sociology and Its Method*, ed. Steven Lukes (New York: Palgrave Macmillan, 1982), 20-8.

¹²⁸ Moyn, *Last Utopia*, 5.

¹²⁹ Clifford Geertz, *The Interpretation of Cultures* (New York: Basic Books, 1973), 5.

¹³⁰ Pew Research Center, “Views of Democratic and Republican Parties,” March 11, 2021, <https://www.pewresearch.org/politics/2021/03/11/views-of-the-democratic-and-republican-parties/>.

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