

Toward a Critical Anthropology of Human Rights

by Mark Goodale

Some 17 years after the end of the cold war, the international and transnational human rights regimes that emerged in the wake of the 1948 Universal Declaration of Human Rights are at a crossroads. On the one hand, the political openings created by the end of the bipolar postwar world have allowed what Eleanor Roosevelt described as the “curious grapevine” of nongovernmental actors to carry ideas and practices associated with universal human rights into different parts of the world as part of broader transnational development activities. On the other hand, this spread of human rights discourse has only magnified the different problems at the heart of human rights, problems that are theoretical, practical, and phenomenological. Anthropology has an important part to play in addressing these problems and in suggesting ways in which human rights can be reframed so that their original purposes, those embodied in documents like the UDHR, stand a better chance of being realized.

This article is both an exercise in historiography, a reanalysis of the ways in which American anthropology’s relationship to human rights has been represented, and an argument for a different anthropological orientation to human rights. It uses the intellectual history of American anthropology to illustrate one way in which human rights has been understood within the broader discipline. The effects of the process of engagement-disengagement-reengagement that characterizes American anthropology’s ambivalent history with human rights can be seen in the relative anthropological silence in broader human rights debates for almost 40 years. The anthropological voice was absent during the rise of the international and (eventually) transnational human rights regimes, and the case of American anthropology both symbolizes and reflects this intellectual absence. As the argument for a critical anthropology of human rights proper is developed, the intellectual history of anthropology’s engagement with human rights becomes more diverse, such that American anthropology can no longer stand in for the broader discipline, even for heuristic purposes.

Histories

American anthropology and its practitioners have had a long, strange relationship with international human rights theory

and practice. Although it must be hard for anthropologists of the most recent generation to imagine, there was a time when the discipline, through its representatives, was considered a source of authoritative and scientific opinion weighty enough that it was asked to issue public statements on matters of great moment. It was natural, then, that the United Nations—through the United Nations Educational, Scientific and Cultural Organization (UNESCO)—would ask a well-known member of the American Anthropological Association (AAA) to submit a statement to assist the UN Commission on Human Rights, which was in 1947 working on a draft version of what would eventually become the 1948 Universal Declaration of Human Rights.¹ By the mid-twentieth century, all three major Western sociocultural anthropological trajectories (“schools” is certainly too strong)—American cultural anthropology, British social anthropology, and French social anthropology—had firmly established themselves, taken together, as the undisputed scientific database of cross-social and cross-cultural research findings, including cultural universals. Thus, apart from the obviously political and philosophical dimensions of the declaration both as a statement of intent by the international community that genocide would never again be tolerated and as an international ratification of the values of liberalism, its proponents were understandably confident that professional anthropologists would endorse and then publicly substantiate the declaration’s central empirical conclusions: that human beings are naturally endowed

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1. For an account of the drafting of the declaration, see Morsink (1999); see also Roosevelt (1948).

with certain rights and that these rights are, in fact, universal, coextensive with humanness irrespective of the subjectivities embedded in history and culture.²

But this confidence would turn out to have been misplaced. After a period of some uncertainty, the executive board of the AAA, under the guiding influence of Melville Herskovits, authorized the publication of a “Statement on Human Rights” in late 1947 and its submission to the UN Commission on Human Rights.³ The statement rejected the validity of a uni-

2. Despite the antiuniversalist tendency that characterized American anthropology up through the 1930s, by mid-century a new emphasis had emerged that sought to refocus research on more generalizable or scientific purposes. The problem of cultural universals, which the early Boasians had rejected as crypto-evolutionist, was invested with greater importance. This tendency culminated in the Human Relations Area Files and the eventual rise of the neo-evolutionist schools of cultural ecology and materialism. In Europe this period (1945–55) overlapped with the growing influence of the superuniversalism of French structural anthropology (Lévi-Strauss 1949) and the continuing emphasis in British social anthropology on pursuing a “science of mankind,” that is, applying scientific epistemologies to the study of human societies.

3. The full text of the statement was printed in the *American Anthropologist* (AAA 1947). There is still some mystery surrounding the exact sequence of events of 1946 and 1947 that culminated in the AAA statement. Following the lead of the late Wilcomb Washburn, who published the results of some of his research in 1987, I am conducting research in the AAA archives, which are housed within the National Anthropological Archives at the Smithsonian Institution’s museum support center in Suitland, Maryland. Although this work is ongoing and is being used for a book-length manuscript, there have already been some important findings. I have studied most of the presidential and executive board correspondence and the minutes of the executive board meetings for 1946, 1947, and 1948. I have not found any official correspondence between the president or the executive board and either UNESCO or the UN Commission for Human Rights or any correspondence by other parties that refers to an official request by the UN to the AAA to draft a statement on human rights. What can be documented, however, is the following: (1) In 1945 Melville Herskovits was named chairman of the Committee on International Cooperation in Anthropology of the National Research Council, a committee made up of AAA members that acted as the association’s de facto committee for international outreach and engagement, particularly with international institutions like the UN. (2) On June 12, 1947, Herskovits sent a draft copy of the statement, written by him without any collaboration, to the president of the AAA (Clyde Kluckhohn) with a note reading, “Here is the draft of the statement I sent to the UNESCO Committee, revised in accordance with the idea that it would be forwarded to the Commission on Human Rights of the United Nations, from the Association.” (3) In the late summer and early fall of 1947 Kluckhohn corresponded regularly with J. Alden Mason, the editor of the *American Anthropologist*, in order to ensure that the final statement, which had been only slightly and nonsubstantively revised (by Herskovits himself), would be published as soon as possible. (4) In October 1947 Ralph Beals and Kluckhohn took steps to stop the production of Volume 49, Number 4, because Mason had mistakenly placed the statement in the journal’s “Brief Communications” section, whereas the executive board wanted it to appear as the number’s lead article (which it eventually did). (5) The statement was published at the end of 1947 without, as far as I could discover, a formal resolution (or ratification) from the AAA executive board at its 1947 meetings. Thus it appears that UNESCO approached the National Research Council and not the AAA for the “official” American anthropological view on human rights, even though Herskovits’s NRC committee eventually acted for and through

versal declaration of human rights on both empirical and ethical grounds. The executive board observed that anthropologists had amply documented a richness of diversity in moral systems and that the cross-cultural data did not support the assertion of a universal set of substantive rights. Thus it agreed that anthropology could provide objective information about the existence or not of universal normative values such as those asserted in the declaration but simply came to the opposite conclusion from the one necessary to legitimate the UN Commission’s project.⁴ But, as important, it opposed a universal declaration of human rights because of its imperialistic irony. No matter how well-intentioned the Commission’s effort, the end result of any internationally sanctioned statement of rights would be the imposition of hegemonic moral values on less powerful groups of people whose patterns of behavior were misunderstood and reviled by Western elites. In other words, a charter that was intended to protect the powerless from the outrages of fascism and totalitarianism in their various forms would have the unintended consequence of compelling individuals and cultures outside the majestic arc of Western liberalism to bring social practices into line with what was hoped would be a set of legal rights backed up by the mechanisms of international law.⁵

Within less than a year of the statement’s publication in the *American Anthropologist*, two critiques by prominent anthropologists appeared in the same journal (Barnett 1948; Steward 1948), followed by one more short comment the following year (Bennett 1949). Tellingly, neither Barnett nor Steward actually discussed the main bases for the executive board’s rejection of the legitimacy of what would become the 1948 Universal Declaration of Human Rights—what I have characterized as the empirical and the ethical critiques. Rather, their critiques were concerned almost exclusively with what I consider something of a red herring: the statement’s second proposition and related elaborations, in which it is asserted that “respect for differences between cultures is validated by the scientific fact that no technique of qualitatively evaluating cultures has been discovered” (AAA 1947, 542). In other words, (1) anthropologists are scientists, and scientists are

the AAA. It is to this extent only that it is correct to say that the UN “asked” the AAA to comment on a declaration of human rights.

4. As the statement says in its significant third proposition: “Standards and values are relative to the culture from which they derive so that any attempt to formulate postulates that grow out of the beliefs or moral codes or one culture must to that extent detract from the applicability of any Declaration of Human Rights to mankind as a whole” (AAA 1947, 542).

5. The board’s fear that a universal declaration of human rights would lead to a kind of moral imperialism was not simply prospective; it drew upon historical precedents such as the fact that “so noble a document as the American Declaration of Independence, or the American Bill of Rights, could be written by men who were themselves slave-owners, in a country where chattel slavery was a part of the recognized social order. The revolutionary character of the slogan ‘Liberty, Equality, Fraternity’ was never more apparent than in the struggles to implement it by extending it to the French slave-owning colonies” (AAA 1947, 542).

epistemologically barred from validating moral propositions such as those contained in the declaration; (2) therefore, anthropologists must remain forever agnostic as to the scientific truth or falsity of claims regarding universal human rights; and (3), given this, anthropologists cannot, *as anthropologists*, endorse any intellectual or political position that assumes the existence (or nonexistence) of a universal set of rights that is coextensive with humanness. I consider this a red herring because it does not go the merits of the issues that are substantively addressed elsewhere in the statement and, moreover, transforms what was in fact the promising beginning of a concrete (and critical) anthropological engagement with human rights into yet another intradisciplinary debate—and not a very important or lasting one—over epistemology.

After 1949, the phrase “human rights” did not appear in the title of any article published in the AAA’s flagship peer-reviewed journal until 1987, when Wilcomb Washburn of the Smithsonian published a very brief comment on cultural relativism in which he described, also very briefly, some of the deliberations of the AAA executive board as it drafted and revised the 1947 statement. The absence of “human rights” from the title of any full article published in *American Anthropologist* until 1988,⁶ while not evidence per se, is at least symbolic of the fact that American anthropology had spent the preceding 40 years in exile from the most important debates over human rights theory and practice.

Despite what my research into this period has indicated, however, there are notable counterpositions in the historiography of American anthropology’s engagement with and disengagement from human rights. In 2001 Karen Engle, a law professor, published an account of the relationship between human rights and the AAA, a relationship that she characterized as moving from “skepticism to embrace.” Although her analysis of recent developments is useful, there are several difficulties with her argument. First, the history of this relationship simply does not support her assertion that anthropologists “have been embarrassed ever since” the publication of the 1947 statement (2001, 536). As I have shown, there was virtually no formal response by members of the AAA either in support of or in opposition to the statement after 1947, hardly what one would expect if there had been a general outcry of indignant embarrassment over a document that misrepresented the general will of the association’s members on this issue. Second, as have several others who have described this history, Engle makes the mistake of eliding the years between 1947 and the 1980s and then representing them in terms of the past 15 years. Thus, for example, she writes that “for the past fifty years, the Statement has caused the AAA great shame. Indeed, the term ‘embarrassment’ is continually used in reference to the Statement” (p. 541). She does

6. And it was a political scientist, Alison Dundes Renteln, who published the first article in the *American Anthropologist* after the 1940s to engage directly with human rights, although in this case only in order to explore the meanings of cultural relativism (Renteln 1988).

not reinforce this claim with any citations that reflect this “continual reference,” even if this way of describing the 1947 statement would become commonplace during the 1990s. In a sense, Engle commits a logical fallacy—*post hoc, ergo propter hoc*—in making this argument: that the sea change during the 1990s among some anthropologists was caused by a buildup of simmering “embarrassment” during the preceding 40 years. And finally, Engle does not mention that the AAA of 1999 was a profoundly different association from the AAA of 1947; in other words, she (mis-)interprets this history by holding the nature of the AAA (its size, stated mission, composition of membership, etc.) constant, much as legal scholars hold the *institutional* nature of the U.S. Supreme Court constant in order to track changes in its jurisprudence.⁷

During the period from 1947 to the mid-1980s, the Universal Declaration on Human Rights served as the foundation for the creation of an entire framework of international and transnational human rights discourse, within which the most important human rights instruments,⁸ nongovernmental organizations,⁹ and international publications¹⁰ were established, developed, and grew in power and influence. While the withdrawal of American anthropology and anthropologists from human rights debates and practice did not exactly create a vacuum, the development and increasing hegemony of human rights were facilitated by the ongoing participation of an eclectic mix of intellectuals and nonelites dominated by international legal scholars, legal philosophers, political scientists, diplomats, social activists, career bureaucrats and civil servants, politicians, and journalists. Although this article is not the place for a full analysis of the impact of this discursive history on current human rights theory and practice and its implications for current anthropology, it is enough at this

7. In fact, recent archival research shows that the AAA in 1947 would be nearly unrecognizable to AAA members today. For example, according to AAA executive board minutes from 1946, even though there were 600 professional anthropologists in the United States at that time, the association had only 200 members, and of these a “majority” (apparently more than 100) were *nonanthropologists*: “amateurs, students, [and] interested persons from other fields, and libraries” (Minutes of AAA Executive Board, March 1946–May 1954, Box 192, National Anthropological Archives). This means that the universe of professional anthropology was dramatically smaller at mid-century, and within this world the AAA played a much less significant role than it would later. This would also explain why it appears that the National Research Council, not the AAA, was approached by UNESCO.

8. For example, the Declaration of the Rights of the Child (1959), the Declaration on the Granting of Independence to Colonial Countries and Peoples (1961), the International Covenant on Economic, Social, and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966), the International Convention on the Elimination of All Forms of Racial Discrimination (1966), and the Convention on the Elimination of All Forms of Discrimination Against Women (1976).

9. For example, Amnesty International (1961), Helsinki Watch/Human Rights Watch (1978), and Peace Brigades International (1981). One important exception is the founding of Cultural Survival by David and Pia Maybury-Lewis in 1972.

10. For example, *Human Rights Quarterly* (1978).

point to observe that current human rights discourse bears the traces of its genealogy's first 40 years.

Beginning in the 1980s, however, the formal relationship between American anthropology and human rights changed, and the period from about 1987¹¹ to the present marks the current and third distinct era in this uneasy engagement.¹² Apart from the resurrection of the earlier debates over universalism and cultural relativism, as a matter of *practice* the discipline of anthropology underwent a much more profound realignment in its orientation toward human rights. Partly on the basis of the work of the earlier cultural-survival anthropologists and those involved in the emerging indigenous-rights movements, the AAA began to consider ways in which it could employ anthropological knowledge to advocate for indigenous peoples who were either direct targets or indirect victims of state and multinational corporate abuses.¹³ This intent was signaled by the appointment by the AAA of a special investigating commission in 1990, chaired by Terrence Turner, to investigate the aggressive encroachments by the Brazilian state on traditional Yanomami territory.¹⁴ The creation of this commission and its subsequent report (1991), which, according to the Committee for Human Rights (2001), "appears to have played a role in stopping the appropriation of all but small, isolated reserves in the Yanomami area and precipitating Brazilian agreement to a very large, contiguous Yanomami homeland," led institutionally to the establishment by the AAA executive board in 1992 of a Commission for Human Rights, which was directed "to develop a human rights conceptual framework and identify relevant human rights issues, to develop human rights education and networking, and to develop and implement mechanisms for or-

11. The mid- to late 1980s was the time when, partly stimulated by the 1984 publication of Clifford Geertz's 1983 AAA Distinguished Lecture "Anti Anti-Relativism," the discipline suddenly rediscovered the complexities of some of the early issues surrounding anthropology and human rights, specifically the problem of universalism and cultural relativism. Other indications of this renewed intellectual interest are Washburn's 1987 article and Ronald Cohen's 1989 article in the *American Anthropologist*, in which he argues for a "new approach" to human rights from anthropology. Cohen's characterization of the period between the creation of the Universal Declaration and the time of his article reinforces my own. He asks, rhetorically, "What for instance has anthropological research (not simply pious pronouncements) to say about the rights described in the U.N. Charter, or the African Charter . . . ?" (1989, 1015). The answer, I have argued for this period, is not much.

12. Just to be clear, I see three distinct eras or phases in American anthropology's (dis-)engagement with human rights: (1) 1945–50: formal and public consideration of the Universal Declaration on Human Rights, rejection of it, denial of possibilities for engagement; (2) 1950–87: anthropological absence from important developments as an international and transnational human rights discourse emerged and became pre-eminent; and (3) 1987–present.

13. Perhaps coincidentally, much of the most important early cultural-survival work involved indigenous groups in Amazonia (the Yanomami, the Kayapo, the Xerente).

14. The following information is drawn from the five-year evaluation report of the AAA's Committee for Human Rights (2001).

ganizational action on issues affecting the AAA, its members, and the discipline."¹⁵

During this time period (1992–94), one of the founding members of what would become the Committee for Human Rights (the permanent standing committee created from the Commission), Ellen Messer, published in the *Annual Review of Anthropology* something of a manifesto for this latest phase in anthropology's engagement with human rights (Messer 1993). In it she made the somewhat curious argument that even though anthropologists had been largely absent from most of the political and intellectual development of human rights, this absence had actually "contributed to the expansion of the human rights concept" (1993, 222). In other words, even though, as she admitted, a search of "computerized databases and major human rights journals such as *Human Rights Quarterly* . . . uncover[s] few articles by anthropologists" (pp. 223–24), the "editors and authors of some collections on human rights in cross-cultural perspective that appeared over the past decade . . . are predominantly political theorists, legal scholars, and philosophers" (p. 224), and "these nonanthropological disciplines also appear to dominate the ongoing UN process of defining, advocating, and advocating human rights" (p. 224), anthropology's marginalization from the core of human rights theorizing and practice had allowed it during the 1980s to research and advocate for what were either ignored issues within long-standing human rights doctrine (e.g., linguistic or ethnic rights) or issues that had not yet been accepted as human rights issues per se (e.g., cultural rights or rights of indigenous peoples).

What made Messer's article historically significant was exactly what transformed it into a call to action. In attempting to "counter" the "conventional wisdom" that anthropological knowledge and praxis had been insignificant in the development of human rights, she compressed the history of this relationship so that what I have called the second period (1950–87) was subtly elided, with the result that the events immediately prior to and including what I have described as the third and current phase (1987–present) came to represent the history of the relationship between anthropology and human rights itself. In doing this, Messer was both right and wrong. She was wrong to the extent that she created the impression that anthropological research or theorizing had had any noticeable impact on the development of international human rights theory and practice between 1950 and the early to mid-1980s; she was absolutely right that anthropology had had the impact she described—participation in the development of new categories of collective rights and the

15. In the introduction to a 1997 special issue of the *Journal of Anthropological Research*, guest editors Carole Nagengast and Terrence Turner acknowledge the important role played by Patrick Morris in the creation of the permanent Committee for Human Rights.

pursuit of new epistemologies that fused anthropological knowledge with human rights activism.¹⁶

The programmatic nature of Messer's article received ratification by the AAA itself in 1999, when a new "Declaration on Anthropology and Human Rights" was formally adopted by the general AAA membership. This declaration was the culmination of a process that began in the mid-1980s and, in the event, marked the definitive repudiation of the 1947 statement.¹⁷ The declaration is a relatively short and ambiguously worded document, but its central point is that the AAA now affirms that the weight of anthropological knowledge demonstrates that "people and groups have a generic right to realize their capacity for culture" (Committee for Human Rights 1999). Far from rejecting the validity of international human rights instruments such as the Universal Declaration of Human Rights, the AAA's declaration emphatically subsumes the putative human right to realize a capacity for culture within a set of as-yet-to-be-articulated human rights that go beyond those currently recognized in international law. As the declaration states, this new position "reflects a commitment to human rights consistent with international principles but not limited by them." I will discuss the declaration's allusion to the capabilities "solution" to the rights "problem" in greater detail below, but it is enough here to reiterate that practical and ethical commitments on the part of a group of anthropologists led not only to a reversal by the AAA of its earlier position on human rights but to something much more: the emergence of the AAA as a major human rights advocacy NGO in certain world regions focused on leading-edge issues in human rights practice.

Finally, in 2000 the Committee for Human Rights augmented its original set of guidelines and objectives, and this list remains the current (as of 2005) set of operating principles for the committee: (1) promote and protect human rights; (2) expand the definition of human rights within an anthropological perspective; (3) work internally with the membership of the AAA to educate anthropologists and to mobilize their support for human rights; (4) work externally with foreign colleagues, the people and groups with whom anthropologists work, and other human rights organizations to develop an anthropological perspective on human rights and consult with them on human rights violations and the appropriate actions to be taken; (5) influence and educate the media, policy makers, NGOs, and decision makers in the

16. Messer went on to serve as an original member of the AAA's Committee for Human Rights between 1995 and 1998 at the same time as continuing to play an important international role in efforts to have a distinct human right to food recognized and institutionalized, most recently through her directorship of the World Hunger Program at Brown University.

17. In this regard it is interesting that no mention is made of the 1947 statement at any place on the committee's web site, the section entitled "Documents of Historical Value" being limited to the small number of historically important documents produced by the committee itself since 1995.

private sector; and (6) encourage research on all aspects of human rights from the conceptual to the applied (Committee for Human Rights 2001).

If we divide what I have called the third phase (1987–present) into two subperiods, 1987–93 (from the late 1980s to Messer's review article) and 1994–present, it is clear that Messer's argument for the discipline's influence on human rights, which was, even in 1993, still incipient, has been strengthened over the past 15 years, partly through the direct involvement of the Committee for Human Rights¹⁸ but also through the collective work of a small but growing group of anthropologists who have begun to study human rights as cultural practice. Nevertheless, with respect to the development of human rights theory—the expansion and deepening of what Michael Perry (1998) calls the "idea of human rights"—anthropology's contributions remain marginal at best. In other words, despite the fact that the 1992 AAA Commission of Human Rights was directed "to develop a human rights conceptual framework and identify human rights issues" and the commission's successor is under an ongoing mandate to "expand the definition of human rights within an anthropological perspective," even a generous evaluation of the vigorous conceptual and analytical debates over the content and meaning of human rights reveals that the AAA's goals for these areas remain as yet unrealized.

As with the use of American anthropology to symbolize the anthropological engagement with human rights more generally, this is a debatable point, but a consideration of a cross section of major works in human rights theory during the past decade shows how little the definition of human rights has been expanded "within an anthropological perspective." A list of these works would include the various writings from the "capabilities" perspective (e.g., Nussbaum 2000 [law/philosophy]; Sen 2000 [development or welfare economics]; Ignatieff 2003 [history/journalism]; Perry 1998 [legal philosophy]; and Shute and Hurley 1993 [law and philosophy]). Even more revealing, anthropologists have been absent from many of the major works in "culture and human rights" or "human rights in cross-cultural perspective," including Bell, Nathan, and Peleg (2001 [no anthropologists among 14 contributors]) and An-Na'im (1992 [2 anthropologists among 15 contrib-

18. It is, of course, difficult to measure degrees of "influence" in this sense with any degree of certainty, but if one simply restricts the unit of analysis to the actions of the AAA through the Committee for Human Rights one can point to several cases in which anthropologists and the AAA were partly responsible for either influencing human rights practice by states or major institutions or took the lead in bringing what were considered violations of international human rights law to the attention of the global media. The most prominent example of this is the case of the Yanomami, in which the active intervention of the special commission mentioned earlier played a major role in forcing a change in policy by the Brazilian government favorable to the Yanomami nation. At the same time, when the alleged human rights violators are not nation-states or multinational corporations but anthropologists themselves, the record of the Committee for Human Rights and the AAA is more ambiguous, as in the infamous *Darkness in El Dorado* affair (see Borofsky 2005).

utors]).¹⁹ Other anecdotal evidence of a relative anthropological silence in the development of human rights theory includes the fact that only 2 of the 31 fellows of Harvard's Carr Center for Human Rights, a major human rights think tank, have been anthropologists; the fellowships, predictably, have overwhelmingly gone to lawyers, philosophers, historians, and political scientists. And finally, it can hardly be gainsaid that anthropology has contributed little to the much broader and older debates about rights in general—*human rights* being a category of the general with unique properties—in moral philosophy and political theory. If Dworkin (1977) urged us to take rights seriously, the same cannot be said of anthropology as a source of moral or ethical theory, which is, I would argue, ironic given that anthropology remains the academic discipline best suited to understanding the human experience in its fullest terms.

In light of the above, this article is necessarily a sally from the theoretical margins of human rights debates. But in order to develop what I understand to be a critical anthropology of human rights, I will suggest several ways in which the conceptual framework of human rights can be expanded so as not merely to take account of but rather to *rely on* the peculiar anthropological blend of cultural critique, ethnography and other hybrid methodologies, and intersubjectivity.

In this sense, the arguments in this article are meant to point to an anthropological “third way” in relationship to human rights. Since at least Messer's 1993 article, anthropologists on both sides of the Atlantic (if not elsewhere) have sought to clear new ground on which anthropological knowledge could contribute to expanded articulations of human rights. The first move is perhaps best represented by Terrence Turner's argument (1997) that anthropologists have an obligation to use their knowledge of cultural difference and richness to help form the foundation for an “emancipatory cultural politics,” and his own inspired and pathbreaking writings and activities on behalf of the Kayapo are a clear expression of how an anthropologist can link anthropological knowledge with a rights-based framework within which indigenous people can advance claims.²⁰ The second move was to transform the social practice of human rights into an object of anthropological inquiry. An important recent example of this approach is Sally Merry's (2005) book on the regulation of violence against women through human rights, in which she employs a transnational and mobile ethnography in order to track the production and localization of human rights discourse in China, Fiji, Hong Kong, India, Switzerland, and the United States. My call for a critical anthropology of human

rights is intended to complement these efforts. Although I argue for a type of anthropological engagement that is quite distinct from both the cultural/political and the ethnographic/descriptive and although the goals of the alternative orientation I develop are also directed outside of anthropology itself, my efforts here are part of a broader intellectual history, one which makes a new formulation possible and (ideally) credible.

To say this is also to ground the remaining sections in the foregoing reinterpretation of this intellectual history. In other words, any arguments I develop must be contextualized both in relation to the particular history I describe above and in relation to broader human rights currents outside of anthropology toward which my argument for a critical anthropology of human rights is ultimately directed. A recast historiography of American anthropology's relationship with human rights is, therefore, both a necessary starting point and an epistemological resource for what follows.

Before moving to a discussion of my proposals for a critical anthropology of human rights, however, it may be useful to make explicit the way I have been employing “human rights” throughout this article. By “human rights” I do not mean exclusively a body of positive international law that forms the “starting point for a process . . . intended to render certain kinds of argument successful before judges in international courts,” as one reader defined “human rights” in a review of an earlier draft of this article. This is an entirely reasonable way of understanding “human rights,” one that limits the usage to the narrow confines of positive law *as informed by* an analysis of this law's ability to demonstrate that (again in this reader's words) it has “acquired teeth.” This way of defining and studying human rights is best left to international lawyers and others for whom the analysis of processes of justiciability is within their competence. I use “human rights” much more broadly: the phrase captures the constellation of philosophical, practical, and phenomenological dimensions through which universal rights, rights believed to be entailed by a common human nature, are enacted, debated, practiced, violated, envisioned, and experienced. When I describe “human rights discourse” I am referring to the coterie of concepts, practices, and experiences through which human rights have meaning at different levels, levels which are prior to and go beyond the merely instrumental or legal, important as these levels are. My understanding of human rights is not quite as broad as Upendra Baxi's (“protean forms of social action assembled, by convention, under a portal named ‘human rights’” [2002, v]), but conceiving of human rights as discourse does, obviously, broaden the referent beyond any one of its most consequential parts (e.g., international human rights law).²¹

21. Conceptualizing human rights in these broader terms makes it clear why the period 1948–89 is so important, as this was the period when human rights discourse was developed and embedded conceptually and institutionally. Indeed, the post-1989 emergence of international hu-

19. This has begun to change (see Cowan, Denbour, and Wilson 2001; Goodale and Merry 2006; Wilson 1997; Wilson and Mitchell 2003).

20. See also Messer (1997), Nagengast (1997), and Zechenter (1997). The special issue that contains all these articles began as a panel at the 1995 AAA annual meetings in which human rights were a topic of focused interest. More recent work in the “emancipatory cultural politics” tradition can be found in Nagengast and Vélez-Ibáñez (2004), which received a commendation from former president Jimmy Carter.

Proposals

To begin with, what do I mean by a “critical” anthropology? It is critical in two senses, the first mundane but essential, the second more complicated and not as self-evidently necessary for reconfiguring our understanding of human rights. First, by calling it “critical” I do not mean simply to distinguish this application of anthropology from those that might be seen as either dogmatic or naïve, but there is an important kernel of truth in this. In other words, I do not intend this approach to signal the strategic adoption of what Andrew Collier, in discussing the “critical realism” of Roy Bhaskar, calls “a term of approval in philosophical contexts” (Collier 1994, xi), but a critical anthropology is indeed one that self-consciously creates space between itself and ideas and practices that have become coextensive with or, in fact, constitute the experience of everyday life. An anthropology that is critical in this sense is especially salient in relation to human rights, which has become, I would argue, the most (necessarily) axiomatic of (neo-)liberalism’s global discourses. A critical anthropology represents a mode, a tone, an ongoing orientation which is not intended to supplant other possibilities—an intention that led to the hubristic errors made by some of the pioneering anthropological reformers in the 1980s—but reserved for ideas that have become ideology and social practices that have come to form part of the collective habitus.

But there is a second sense in which an anthropology can be critical. This is a purposive criticality whose task is to effect what Gunzelin Schmid Noerr (2002, 230), in his discussion of Horkheimer and Adorno’s (2001[1944]) *Dialectic of Enlightenment*, calls a “change in function”: the identification, contextualization, and, most important, practical employment of (in this case) normative principles in order to explain their “failure to be realized in existing society.” For critical theorists, of course, this is the criticality that tends toward an enlightenment of the Enlightenment—the recovery of the originally progressive nature of eighteenth-century reason, which had regressed into self-destruction during the intervening years—and is—apropos of human rights discourse—the “fate which has always been reserved for triumphant thought. If it voluntarily leaves behind its critical element to become a mere means in the service of an existing order, it involuntarily tends to transform the positive cause it has espoused into something negative and destructive” (Horkheimer and Adorno 2001[1944], xv). A critical anthropology of human rights, then, is one that seeks to uncover the latent progressive potential underlying their core principles, which have become repressed as human rights discourse has become reified so that all that remains is an impenetrable granite surface that blocks from view all of the “mediated conceptual moments” that actually constitute human rights.

A critical anthropology of human rights is necessarily pro-

man rights as a legal strategy with teeth would not have been possible had the discourse of human rights not already been firmly established.

gressive in that it assumes that (1) there is a set of potentially emancipatory principles underlying human rights discourse that (2) have become co-opted by institutional structures of power so that human rights, ironically, tend toward what a recent volume describes as “moral imperialism” (Hernández-Truyol 2002) and that (3) formal reflection on this process of co-optation and regression in some form is required before the potentials embedded in human rights theory and practice can be “realized in existing society.” And a critical anthropology of human rights is progressive in another sense: its purpose is to point to the possibility of a middle space between the reified normativity of a regressive human rights and the chaos of contemporary human rights praxis, where, as with the essence of the Enlightenment itself, according to Horkheimer and Adorno, there is now a false “choice between alternatives, and the inescapability of this choice is that of power” (2001[1944], 25).²² In other words, a critical anthropology of human rights can explain in context why the current international and transnational human rights regimes have failed to fulfill their promise and, if anything, have been pushed into the spiral of regression described above.

Anthropologists of human rights working in this mode will therefore use the various techniques available to them to bracket human rights—to convert into the first object of critique the processes by which the origins, development, and transnationalization of human rights discourse are eclipsed during the discourse’s passage into hypernormativity. What I propose here is not the use of anthropological methodologies to facilitate the introduction (or consolidation) of human rights discourse as it now exists (as Messer [1999], Nagengast [1997], Turner [1997], Sponsel [1995], and others argue); rather, a critical anthropology of human rights assumes that reified, hypernormative human rights—human rights in their current hegemonic, transnational forms—cannot serve as the basis for realizing their aim, the creation of just communities committed to the full realization of both individuals and collectivities. To a certain extent, this application of a critical anthropology to human rights parallels the “diatopical hermeneutics” of Raimon Panikkar (1996[1982]) and Boaventura de Sousa Santos (1995). As Panikkar argues, “critique does not invalidate the Declaration of Human Rights, but offers new perspectives for an internal criticism that sets limits of validity for human rights, offering . . . possibilities for enlarging [their] realm” (1996[1982], 92).²³

22. The alternatives in this case for both nation-states and smaller collectivities being either the embrace and incorporation of international human rights norms as such or a refusal.

23. According to Panikkar, “Diatopical hermeneutics stands for the thematic consideration of understanding the other without assuming that the other has the same basic self-understanding as I have. The ultimate human horizon, and not only differing contexts, is at stake here” (1974, 4). This provides a way of envisioning how understanding could be framed across or between different normativities, for example, between human rights and other types of normative systems that might incorporate or otherwise adapt provisions of international human rights. Christoph Eberhard is another scholar whose work on intercultural legal

But the real contribution of a critical anthropology for human rights theory and practice is that it proposes an alternative to the false choices described above. The pursuit of this middle space means that the alternative paradigm for human rights I am suggesting can never be *merely* either normative or descriptive but is based on what anthropologists can say comparatively: that social actors across the range of history and place seek to create meaning in their relations with others, with greater or lesser degrees of success (depending on an array of contingencies), by striving toward a *normative humanism*.²⁴ “Normative humanism,” a central finding of legal anthropological research in particular, constitutes a central analytical framework for a critical anthropology of human rights. Normative humanism is a way of describing a basic cross-cultural fact of collective ordering: that, given the right circumstances, people will organize themselves so as to establish conditions for meaningful interactions that are both patterned and prescriptive but that recognize and formally incorporate a basic set of human-centered values, values that balance the whole breadth of local cultural and social possibilities with common cognitive, physical, and emotional imperatives. A reconstituted human rights, to be effective and legitimate, would be dependent on the *capacity*—freedom from constraint—of collectivities to organize themselves on these terms.

By “capacity of collectivities to organize themselves on these terms” I mean something quite different from what is meant by those who have developed the “capabilities” alternative (or, perhaps, supplement) to international human rights, most notably Amartya Sen and Martha Nussbaum. Nussbaum is not prepared to reject the idea or practice of human rights because she articulates a theory of capabilities that leaves human rights where they are: as a set of international standards that at worst do no harm and at best play “an instrumental role in preventing material disaster (in particular famine)” (Nussbaum 2000, 96, referring in part to Sen 1981). She also argues that there is still a place for the *language* of rights—apart from their ontological dimensions—because it (1) imbues human capabilities with normativity, (2) underscores the importance of human capabilities, (3) emphasizes that people can choose to realize their capabilities or not, and, less plausibly, (4) “preserves a sense of the terrain of agreement, while we continue to deliberate about the proper type of analysis at the more specific level” (Nussbaum 2000, 100–101).

While the central human capabilities that Nussbaum lists (2000, 78–80) may very well overlap with some of the basic

human-centered values that form part of the patterned and prescriptive orderings I describe, I think it is premature to enumerate them in the way Nussbaum does. Indeed, values differ from capabilities in that they represent a second-order cultural reflection on cognitive, physical, and emotional imperatives that are actually closer to what Nussbaum means by “capabilities” even though her list contains capabilities that go beyond them (e.g., “affiliation,” “other species,” and “control over one’s environment”). Nevertheless, the approach I develop here assumes that what is most important is not basic human functioning—important though this is—but the fact that, in the absence of constraints, collectivities will create normative systems that are based on the recognition of a basic set of human-centered values.

There are several important dimensions to normative humanism that need underscoring. First, normative humanism does not anticipate particular results (i.e., specific types of legal, moral, or other normative orderings) except within a broad range informed by collective anthropological and other analytical experience and a general sense of the limits imposed by common cognitive, physical, and emotional imperatives. In other words, normative humanism assumes that specific “rights” or “obligations” or “duties” or “laws” cannot be predicted in advance; indeed, it can say relatively little about even the likelihood or desirability of the adoption of certain categories—rights versus duties or some combination of these or others altogether—at particular places and points in time. It is clear from this that the fact of normative humanism means a rejection of immanent or metaphysical versions of universal human rights, but this does not mean that international human rights might not be adopted as a normative system at certain places and times. In other words, human rights *can* legitimately function as a local normative framework, but their legitimacy will be derived not from their universality—as is assumed by all of the major foundational instruments of international human rights—but from the conditions through which they emerge or are incorporated.

Second, normative humanism does not imply a radical pluralism or relativism, because the range of possible rights or duties, for example, is constrained by cognitive, physical, and emotional requirements. This is the reason normative systems—again, those able to develop without consequential constraints—are roughly patterned. Third, normative humanism does not say anything about the scale at which collectivities will organize themselves in this way or the likelihood that normative orderings will endure; in other words, it is not a theory of culture *per se* but relies on the fact that social groupings will organize themselves so as to establish conditions for meaningful interactions. Fourth, normative humanism is based on the assumption that human interests and desires, articulated individually but necessarily within collectivities of equally construed individuals, can be fully realized only when the socially constituted orderings that place limits on individuals are inherently dynamic, historically rich, and capable of change. Again, to this extent universal human

theory reinforces my arguments here (see, e.g., Eberhard 2001a, 2001b, 2003).

24. After I had finished this article, I discovered that the German-American psychoanalyst Erich Fromm had used the phrase “normative humanism” first in a 1954 *Dissent* article and then in his 1955 book *The Sane Society*. As used by Fromm, however, the phrase means something much different from my development of it here. Fromm used it to refer to a set of universal criteria for measuring whether individuals were “sane” in terms of the degree to which they met their own basic needs.

rights in their current hegemonic forms, as both idea and practice, cannot serve as a framework in which social actors will thrive irrespective of the actions of nation-states or institutions.²⁵

Fifth, normative humanism, although primarily a description of actual social practices, is also necessarily progressive in that it assumes that collectivities will, in fact, create patterned humanistic orderings unless constrained from doing so. And although history, reevaluated in these terms, reads like one long catalogue of insidious constraints—military, ideological, political—on the capacity of individuals in collectivities to realize themselves through the production of ideal normative systems, when the capacity is present the necessary—though not sufficient—conditions exist for human emancipation and some approximation of social justice; indeed, the emergence of normative humanism in practice can be seen as emancipation. This way of describing collective ordering is admittedly optimistic in that it assumes that unconstrained normative systems will reflect a balance between the individual and the collective,²⁶ a balance that nevertheless can have meaning only in light of local historical and cultural imperatives.²⁷ “Power” is thus reconceptualized to mean—in relation to normativity—the presence of constraints which prevent the striking of this balance. The ever-presence of power in these terms is evidence that normative humanism, as an ideal process of collective social ordering, is not dominant or universally inevitable and must struggle against other normative possibilities which lack legitimacy as I have defined it here.

Finally, despite the fact that it also functions as an alter-

25. Indeed, as I have argued elsewhere, human rights discourse in its current international and transnational forms tends toward a kind of moral imperialism that results when the disciplinary power of human rights discourse is employed in the service of transnational capitalist relations of production (see Goodale 2005 and below).

26. In saying this, I should emphasize that I conceive of the relationship between the individual and the collective differently from, for example, Michael Ignatieff, whose theorizing on this point reinforces the position of the individual within human rights practice (see Ignatieff 2001). “Normative humanism” expresses my understanding of the relationship between the individual and the collective under unconstrained circumstances in that it describes the importance of the collective in articulating normative meanings *but* assumes that these meanings will reflect a basic human-centeredness. It goes without saying that by describing the relationship between the individual and the collective in these terms I do not intend to link normative humanism with a particular moment in Western intellectual history; its use here is, in a sense, literal and intentionally ahistorical. Simply put, “humanism” is the best way to describe human-centeredness as a basic cross-cultural value.

27. I think it is obvious, however, that the assumptions underlying normative humanism are much less “optimistic” than those underlying the Universal Declaration of Human Rights, which assumes (1) that everyone is essentially the same by virtue of a common nature, (2) that this human nature can be *objectively* described in detail, (3) that this common human nature entails quite specific normative consequences (i.e., rights), and (4) that a global framework erected through law is the best mechanism for ensuring that these enumerated rights will be recognized and protected in practice.

native analytical framework to, for example, human rights, normative humanism is above all a theory of social praxis. Moreover, it very explicitly collapses the etic into the emic, not vice versa. In other words, it assumes that ordinary social actors will themselves, given the capacity to do so, construct the normative frameworks that establish the conditions for meaningful interactions, with the result that anthropological knowledge about these local processes consists partly in simply rendering these preexisting frameworks. By describing normative humanism in these terms I necessarily locate it within a much broader and older social theoretical tradition that similarly explored empirical frameworks within which moral or ethical systems could be studied and understood. The most obvious example of this earlier foundational work is Durkheim’s *Ethics and the Sociology of Morals* (1993), in which he sought a break from the twin intellectual constraints of Kantian and utilitarian approaches to ethics. As does Durkheim’s discussion of comparative ethics, my description of normative humanism assumes that the search for or assertion of a single dominant ethical principle is counterproductive and, even more, unnecessary for a particular normativity—for example, human rights—to achieve its purposes (freedom, emancipation, justice, etc.). Moreover, along with recent neo-Durkheimian attempts to break out of stifling and ultimately counterproductive dichotomies (e.g., Douglas and Ney 1998), normative humanism represents a way of describing certain important facts of ethical practice that avoids the two most common theoretical errors in contemporary human rights: rational individualism, on the one side, and a narrow culturalism, on the other.²⁸

Although this is not the place for a full discussion of this, it can be said preliminarily that a reconceptualization of human rights in these terms has certain implications for political and social practice. First, human rights are preserved as a potential framework for facilitating meaningful interactions only if their legitimacy does not depend, as it does now, on their formal transcendence (i.e., their immanent universalism)²⁹ and their Roman ahistoricity. Rather, nation-states or

28. Nevertheless, there are important differences between normative humanism and Durkheim’s approach to ethical issues. Despite the fact that he deemphasized this in later writings, Durkheim’s sociology of morals was conceived as a way to generate empirical data that could be used for “improvement.” The study of social facts was therefore always instrumental. As I have argued, a theory of normative humanism is, rather, both a way of describing the conditions for potential emancipation through collective ordering and an explanation of how “human rights” can be reconceptualized as a legitimate normative possibility. Emancipation and legitimacy are not universally applicable “goals” in the strict sense but rather the effects of a contested, relatively uncommon but actual type of ethical practice.

29. By “immanent universalism” I mean a theory of normativity which makes the individual, rather than culture, society, or institutions, the ultimate source of rights, obligations, duties, and so on, and these rights, obligations, etc., are immanent in all individuals, everywhere, irrevocably. International human rights doctrine is, in substantial part, on this definition, an immanent universalist normative theory. Describing human rights as an immanent universalist normativity does not mean that, from

institutions interested in intervening in or, at a larger scale, directing the process by which collectivities create humanistic orderings should characterize any resulting set of entitlements or duties or normative *suggestions* as ultimately provisional even if certain basic values (such as the value of life), as interpreted in “local”³⁰ cultural and historical terms, will almost always merit a central position among them. Second, this alternative framework for normative systems such as human rights inverts the direction from which legitimacy flows. Normative humanism’s rejection of the possibility of immanent universalism entails a rejection of doctrines of political practice that repose the ultimate authority for legitimately restraining individuals or otherwise imposing restraints in an overarching sovereign. In other words, even though ideal collective orderings, given the right conditions, will achieve some measure of local predictability (social objectivity), a normative system’s legitimacy is never detached from the ongoing set of cultural and historical processes that constitute it. The implication is that a sovereign, of whatever kind, can act only as a kind of facilitator by taking steps to create the conditions for the emergence of normative humanism in social practice.

Finally, the establishment of conditions for meaningful interactions, the ways in which resulting orderings change and are reconfigured, and what can be understood as “local jurisprudence”—the contextualized rationales for the emergence of certain patterned and prescriptive frameworks—all require formal understanding, and this means the study of social practice. Anthropologists can play a fundamental role in the production of knowledge about these processes, although a thoroughly intersubjective anthropology will require them to collaborate with activists, local intellectuals, and the whole range of social actors who strive to enact normative humanism. To this extent, it is more accurate to say that the kind of study of social practices that I am referring to should be *anthropological* without having to make claims about disciplinary authority (on this point, see Ferguson 1999). Besides the broader epistemological dimensions of a critical anthropology of human rights that I have already developed at some length, there are three more that must be examined in greater detail: cultural critique, ethnography (and other hybrid methodologies), and intersubjectivity.

another angle, one could not also say that human rights “transcend” culture, history, society, and so on. But since what makes human rights “transcendent” is precisely their immanence, it is confusing to describe human rights as anchored in a theory of transcendence, partly because of the old debate in philosophy and religious studies over immanence and transcendence but also because such a theory rests on false ontological premises.

30. I mean to signal that I am not making an argument at this point about social scale—about the size or type of collectivity to which the idea of normative humanism applies. Scale in this sense is certainly salient, but its importance relates to matters of institutional and bureaucratic organization.

Cultural Critique

Like most productive anthropology over the past 20 years, a critical anthropology of human rights is also anthropology as cultural critique in the traditional sense (Marcus and Fischer 1986), but there are two other more specific ways in which cultural critique is essential for those studying human rights and other normative orders. First, there is a need for a critical anthropology of human rights to participate in a cultural critique of human rights as both an international regime of legal and quasi-legal doctrine and institutional practice and a hegemonic transnational discourse, the latter being what I have described elsewhere (Goodale 2005) as an expression of the only global superliberalism. In other words, to the extent that “human rights” does not characterize the result of the localized processes I describe above but rather refers to the presence of a hegemonic normative system based on a theory of immanent universalism, a cultural critique becomes instrumental in the sense that it seeks to contrast the disciplinary tendencies that animate international human rights with the social praxis I have described as normative humanism.

But there is a second way in which cultural critique is relevant, and we can call this human rights *as* cultural critique. When collectivities organize themselves so as to create the conditions for meaningful interactions in such a way that “human rights” characterizes the prescriptions that are anchored in a basic set of human-centered values, human rights in this sense both resist attempts to constrain the capacity to alter these conditions and serve as a ongoing critique of alternatives, especially those in the service of the various transnational imperialisms. When human rights becomes cultural critique in this way, anthropologists participate as cultural interpreters along with local actors to draw the contrasts—through both resistance and critical reflection—so that human rights become actually emancipatory to the extent that individuals in collectivities are able to engage in meaningful interactions³¹ free from constraint.

Ethnography (and Other Hybrid Methodologies)

In order to be effective as cultural interpreters,³² anthropologists, alone among the disciplines that study human rights as idea and social practice, can employ an ever-shifting repertoire of methods that includes focused observation, long-

31. At the risk of being unduly repetitive for the sake of clarity, when I speak of “meaningful interactions” I refer only to those that are “patterned and prescriptive” and recognize the importance of a basic set of human-centered values mediated by common cognitive, physical, and emotional imperatives.

32. In describing the work of critical anthropologists of human rights as cultural interpretation, I locate the study of the social practice of normativity along the spectrum of the interpretative tradition within anthropology and, more specifically, point to anthropologists’ indispensable role in articulating the orderings of collectivities so that their “lessons” can be employed in wider dialogues of economic and political consequence.

term interviewing, archival research (both historical and ethnohistorical), oral history, discourse analysis, film and multimedia, network analysis, cyberresearch, institutional ethnography, mobile ethnography,³³ and contextualized combinations of these, as well as other techniques and strategies for collaborating in the production of cultural knowledge and knowledge about culture. Despite the fact that the anthropological study of human rights is still embryonic and focused almost entirely on the description of the social practice of human rights, one can point to examples of the kind of technical eclecticism I am referring to.³⁴

But apart from the ability to employ and adapt a wide range of methods, critical anthropologists of human rights benefit from something even more fundamental: a reliance on hybrid methodologies. If methodologies are the systems of explanation that justify the use of certain research methods and not others, then hybrid methodologies are those that consciously blur the boundaries between otherwise discrete systems on the assumption that the practice of everyday life—if not its ideational representations—cannot realistically be objectified in the ways that rigid theories of method require. Methodological hybridity in this sense is especially important for the kind of anthropology of human rights I envision because it mirrors the social practices I have described as normative humanism in that local culture and history are mediated by a set of common imperatives.

33. By “mobile” I mean something different from “multisited,” which, I would argue, is often used redundantly when joined with “ethnography.” This distinguishes my usage from that in Marcus (1995), in which “mobile” and “multi-sited” are used interchangeably. Doing focused observation and interviews in several sites for relatively long periods of time can simply be described as “ethnography” and captures what most cultural and social anthropologists have always done. (Wasn’t the study of the kula ring “multisited ethnography”?) Mobile ethnography responds to the fact of space-time compression and the attendant rapidity with which ideas and practices, not to mention people themselves, enter and reenter transnational currents. A mobile ethnography is in this sense an ethnography of the chase, tracking ideas and practices where they lead until some clarity is achieved. An ethnography of this kind is particularly useful for research on transnational discourses like human rights.

34. Prominent among them would be Merry’s ambitious work, in which she has been tracking the production of human rights discourse—and, in the process, the production of culture—across a wide spatial and intellectual range (see Merry 2005 but also 2001, 2003). A good example that combines what I have called mobile ethnography with network and institutional analysis is Annelise Riles’s 2000 book based on her study of the “artifacts” that constitute and then reconstitute transitional human rights discourse. Richard Wilson makes use of several innovative methods in his recent study of the intersections between human rights discourse, the politics of memory, and the shifting meanings of “truth” and “reconciliation” in postapartheid South Africa (Wilson 2001). Other examples can be found among the essays on “practicing ethnography in law” in Starr and Goodale (2002), for example, those of Goodale on intellectual biography, Griffiths on life histories, Hirsch on feminist participatory research, and Merry on ethnography in the archives. For a history of the emergence of eclectic methods, especially among anthropologists of law, see Nader (2002) and, in particular, her discussion of the need to draw from a range of techniques in researching “hegemonic processes in law” (2002, 166–67).

To complete this discussion of the different dimensions of a critical anthropology of human rights, it is necessary to pursue the question of methodology somewhat further and reflect on the problem of knowledge as it relates to the study of human rights, because the relationship between anthropology and its purposes is also a question of epistemology.

Intersubjectivity

In my brief history of the relationship between American anthropology and human rights I indicated that the first stirrings of what would eventually become a profound shift in this relationship could be seen in the early to mid-1980s.³⁵ This movement accelerated with the establishment of a distinct section concerned with human rights in the AAA and was reflected in Messer’s 1993 programmatic review article. The reconstitution of anthropology’s formal orientation toward human rights was most clearly (perhaps symbolically) marked by the adoption by the AAA of the 1999 Declaration

35. My history of the relationship between anthropology and human rights differs from the brief one given in the introduction to Wilson and Mitchell’s recent edited volume (2003, 1–3). Their basic point is that what they call the “cultural turn”—the moment of disciplinary critical reflection that began in earnest in the 1980s, although it was presaged by stirrings of dissent associated with postcolonial struggles and the U.S. war in Vietnam in the 1960s and early 1970s, at least for U.S. anthropologists—was the peak of relativist, antiuniversalist, and, by extension, anti-human-rights writing and activity among anthropologists. This began to change, according to Wilson and Mitchell, only during the mid- to late 1990s because of the greater efficacy—and thus legitimacy—of what they call a “new humanitarianism,” as reflected in various war-crimes tribunals with teeth and the incorporation of human rights norms into the constitutions of a number of new nation-states. They are exactly right on the topic of international human rights and the emergence of a powerful new global justice discourse, but to the extent that they relate these developments to the history of anthropology’s engagement with human rights their analysis is difficult to reconcile with the history I have already discussed above. To take only one example, in 1995, just after the point when, according to Wilson and Mitchell, cultural relativism was most effective in leading anthropologists to treat with “critical disdain many basic conceptions of the human rights framework” (2003, 1), the AAA converted the former Commission for Human Rights into a permanent standing committee, an action which, as I have said, was the culmination of a process of transformation that had begun in the mid-1980s. I can think of two possible explanations for our different histories. First, I have argued that critical reflection in anthropology led not to a heightening of cultural relativism (which, at least as a topic for theoretical inquiry, had diminished since the 1950s) but to the pursuit of new epistemologies that had the effect of integrating anthropological research with social activism, including movements based on human rights. Second, perhaps this history looks different when viewed from the perspective of British social anthropology (I am referring to the influence of anthropology’s different geo-intellectual traditions, not the nationality of individual scholars). I have relied, justifiably I would argue, on the activities of the largest association of professional anthropologists in the world, the AAA—which includes many British scholars—as a marker for the relationship between the discipline and human rights, but of course British anthropology has followed its own trajectory, particularly in theoretical areas, and scholars based in Britain (such as Wilson himself, though he is now at the University of Connecticut) have been pioneers in the ethnographic study of human rights practices.

on Anthropology and Human Rights. There is an important dimension to this shift that I have not examined until now but that bears directly on this recent history and on a future critical anthropology of human rights. At the same time that anthropology as a discipline was reorienting itself in relation to human rights, anthropologists were beginning to conduct research and theorize in ways that reflected new positions on the potential for anthropological knowledge. During this period (i.e., from the 1980s on) anthropologists explored the epistemological possibilities of intersubjectivity, which, though it carried somewhat different meanings in linguistics and discourse analysis, was taken to mean that the anthropologist-as-subject no longer carried out research *on* objects of knowledge—as the traditional scientific method assumed—but rather participated in a collaborative process in which anthropologists served as (perhaps, at times, more skilled) co-subjects *with* the social actors with whom they interacted.³⁶ As is well known, the emergence of intersubjectivity as a replacement paradigm of anthropological knowledge led to parallel movements that, among other things, critiqued the subject-object conventions of traditional ethnographic writing (e.g., the absence of the anthropologist from the narrative, the abuse of the ethnographic present, and so on) and, more important for my purposes here, decentered the anthropologist from a position of intellectual and scientific privilege.³⁷

A recognition of intersubjectivity carries several implications for a critical anthropology of human rights. First, it avoids the problem of agnosticism first raised in the 1947 statement: that because no techniques existed for scientifically evaluating the content or meaning of normative systems like human rights, no anthropological knowledge about them was

36. The emergence of intersubjectivity as an alternative way of understanding the production of anthropological knowledge can be seen throughout the late 1980s and early 1990s, though fewer anthropologists over the past five years have made this idea explicit in their monographs or articles (perhaps because it has become canonical?) (see, e.g., Csordas 1990; Dumont 1986; Hastrup 1990; Shore 1991). And just as the realignment of anthropology to human rights was presaged by Geertz's article, during the late 1970s and very early 1980s anthropologists discovered (or rediscovered) the more general epistemological implications for anthropology of developments in linguistics and laid the foundations for the seismic rumblings of the mid-1980s (see, e.g., Crapanzano 1980; Dwyer 1982; Tedlock 1983).

37. I realize that, as a problem in metaphysics, most discussions of subject versus object are approached as a question of ontology, but I am interested in the disappearance of the anthropological object and the proliferation of subjects to the extent that a formal recognition of the reality of current anthropological *practice* has changed the terms with which knowledge is defined and legitimated. Likewise, in highlighting the importance of intersubjectivity for a critical anthropology of human rights I do not mean to enter into a full-blown consideration of what are otherwise very important debates over, for example, the relationship between a "philosophy of the subject" and reason. Thus I can only signal here that in the longer work that is in process I am considering how what Jürgen Habermas (1987) calls an "alternative way out of the philosophy of the subject" (i.e., a theory of communicative action) sheds light on the way anthropologists and their co-subjects collaboratively produce knowledge about local normative orderings.

possible. The result, as we have seen, was first a long period of anthropological absence, then a period of reengagement marked by political and social activism by individual anthropologists and eventually its largest professional association,³⁸ and, finally, during the past five to ten years, a reconceptualization of human rights as a cultural *process* and the beginning of research on this basis.³⁹ Yet intersubjectivity introduces a qualitatively different set of possibilities. Because it represents a theory of knowledge that imparts truth value to the social process of knowledge production itself (which includes the anthropologist) rather than to what results—what is understood as an "object" in a different framework—anthropologists are able to study the constitution of normativity holistically without needing to distinguish artificially between "structure" and "agency" or the "culture of human rights" and human rights themselves. This means, among other things, that the *idea* of human rights is now a central topic for anthropological inquiry (see Goodale 2006b).

Second, intersubjectivity, as I understand it here, has the potential to mediate between political action and knowledge (both self- and social). This explains in part the mechanism that transforms human rights into cultural critique when human rights emerge in the absence of constraints. Anthropologists have a role to play here, again, as perhaps more skilled co-subjects or at least as professionally interested collaborators. When human rights form the basis for resistance to attempts to alter the conditions necessary for meaningful interactions, then knowledge overlaps with political action, and when human rights in practice serve as the basis for critical reflection on social conditions, then political (or legal) action actually *constitutes* knowledge.

Finally, the position on knowledge I develop here is important for a critical anthropology of human rights because it lays a theoretical foundation—for those who feel one is needed—for anthropology's formal engagement on behalf of or in collaboration with individuals and collectivities who are unable to resist. In other words, new possibilities for activism are created when anthropology moves away from a high scientific epistemology, a reliance on which framed the discipline's orientation to the practice of human rights until recently. In this sense, it is possible to view the ambivalence

38. An activism that was, in most cases, distinguished from actual anthropological research even if it was necessarily associated with or motivated by it. In other words, until recently anthropologists did not have epistemological grounds for engaging in human rights activism as a legitimate sphere of anthropological inquiry.

39. Some good examples of research on "human rights as culture and the culture of human rights" would be, again, Merry's work (2001, 2003, 2005) and the essays in three recent edited volumes led by Richard Wilson (Wilson 1997; Cowan, Dembour, and Wilson 2001; Wilson and Mitchell 2003), who has recently been named director of an interdisciplinary human rights institute at the University of Connecticut—a development which also marks the shift in anthropology's relationship to human rights and, perhaps more important, a nascent openness on the part of non-anthropologists in the human rights community to anthropological perspectives.

that all but a small group of anthropologists felt toward human rights activism not as a question of motivation (or a lack thereof) but as a problem of epistemological validity. To this extent, my appeal to intersubjectivity parallels some of the developments in action or engaged anthropology (or what Roy Rappaport [1993] calls “the anthropology of trouble” and Nancy Scheper-Hughes [1995] styles, with Guevaran relish, “militant anthropology”), though it rests on different, and, I would argue, more sustainable grounds.⁴⁰

Loomings

There is a final dimension to human rights that I wish to examine, one that anthropology is also well placed to address. This combines a focus on what can be understood as the political economy of human rights discourse with its instrumental disciplinarity. Although the recent anthropological engagement with human rights has been limited to topics or questions considered more properly “anthropological”—the implications for culture of human rights and vice versa, human rights as a framework for cultural survival, the ethnography of human rights as social practice, the ethnography of human rights as political strategy—I would argue that, as with the type of inquiry into the practical philosophy of human rights I have outlined above, a critical anthropology of human rights should be broadened to include topics and questions that encompass the instrumental and ideological aspects that make human rights one of the most consequential of transnational regimes.

A political economy of human rights discourse is one that studies the ways in which human rights ideas and practices—which are rendered discursively inseparable in specific social contexts—have become preeminently constitutive, so that collective identity, social meanings, and personhood cannot be understood in other terms even when—perhaps *especially* when—moves are made to suggest alternatives. In their book on “writing science,” Halliday and Martin (1993) employ a political economy of discourse to reveal the constitutive processes behind contemporary science education. Employing their framework, it would be possible to show how the assumptions embedded in human rights discourse are “chained together into sequences of . . . relations and consequences” and to recognize that “the work of [human rights] is necessarily grammatical: naming, constructing and positioning the [normative], and doing so in a way which builds social

relationships of power and knowledge” (Halliday and Martin 1993, xii). In order to critically frame the processes through which human rights discourse “builds social relationships of knowledge and power”—rather than, as international human rights doctrine presupposes, *discovers* them within the natural order of things—anthropologists must consider which interests (political, economic, military) are served through the apotheosis of human rights and how a supposedly universal set of rights (and perhaps corresponding duties) derived from our supposedly universal humanness is transformed into what Laura Nader would call a “controlling process” (1997).

Understood in this way, a political economy of human rights discourse must be distinguished from several related frameworks. When Noam Chomsky and Edward S. Herman adopted a “political economy of human rights” (1979*a*, 1979*b*) as a general approach to their critique of the “Washington Connection and Third World fascism” and the print media’s culpability in the mischaracterization of postwar Indochina, they meant that “justice” was an ideological mask behind which the United States exercised its often brutal policies designed to expand and protect foreign markets for private corporate interests. A political economy of human rights discourse is also not the same as an analysis of the “politics of human rights” (e.g., Evans 2001; Obrad 2002). Evans, for example, is an advocate for a strong international human rights regime and argues that the politics of globalization are a barrier to the enforceability of human rights laws because states place the highest value on open markets and international trade, even if individual rights are violated as a result.⁴¹ Finally, there is Ignatieff’s (2001) extended essay exploring the problem of human rights *as* politics, by which he means something close to Chomsky and Herman’s “political economy of human rights” but much less conspiratorial. He refers to a set of failures by the United States to pursue a human rights agenda consistently, failures which result more from the vicissitudes of realpolitik than from any conscious effort to use human rights as an excuse for economic expansion or to facilitate what Chomsky and Herman call the “reconstruction of imperial ideology” (1979*b*).

Yet each of these important analytical approaches begins and ends at the level of structure or focuses on the broadest frame within which human rights ideas and practices are merely *impacted*—to greater or lesser degrees of both consequence and intentionality—by political-economic forces. The kind of political economy of human rights *discourse* that

40. In other words, there is an important difference between an alternative epistemology that is based on strongly nonrational grounds and one that continues to rely on the possibilities enabled by rationality, even if (as with intersubjectivity) the conditions under which rationality emerges in social practice—indeed, the nature of rationality itself (cf. Habermas’s communicative rationality)—are critically reconceptualized. The “emancipatory cultural politics” approach to human rights that I have already described is clearly indebted to the epistemological innovations of Rappaport, Scheper-Hughes, and others whose writings call into question the nature of rationality itself.

41. In much the same way, the Dutch scholars Berma Klein Goldewijk and Bas de Gaay Fortman (who is Professor of the Political Economy of Human Rights at the University of Utrecht) study the political, economic, and social contexts within which “traditional human rights strategies are of limited effectiveness in responding to violations of economic, social, and cultural rights” (Goldewijk and Forman 1999, vii). Their main argument is that a political economy of human rights demonstrates that articulating underlying human needs in human rights language invests these needs with social importance, which is the first step toward meeting them.

I have in mind is one that requires anthropologists to trace the connections between political-economic structures and the disciplinary processes that both constitute liberal citizens (and the notion of citizenship itself) and reinforce those structures. This strategy for research and analysis assumes that the rights-bearing liberal citizen is a social and historical category rather than primarily a type of social actor associated with certain political and economic developments, and this category is marked by the extent to which it is self-constituting. In other words, if the emergence of the liberal citizen is a necessary precondition for the rise, expansion, and eventual consolidation of a transnational capitalist mode of production, then a pressing area for anthropological inquiry is the way in which human (and other) rights discourses produce the thing they assume—a citizen endowed with irrevocable rights that are entailed by a universal humanness. A critical anthropology of human rights engages, therefore, in the wider debates over the relationship between human rights and the imperatives of hegemonic political-economic structures but adds a dimension that has been missing: the specific ways in which human rights discourse attracts social actors and compels them to employ their capabilities in the service of transnational capitalist networks outside of the classic “institutional architectures” that typically frame the sites that have received most of our recent attention—the prison, the hospital, the university, and so on.

Finally, what makes a political economy of human rights discourse so urgent is the same thing that lends immediacy to a critical anthropology of human rights more generally. As my recent research in Romania and Bolivia demonstrates, international human rights have become the vanguard in the global consolidation and naturalization of (neo-)liberalism, a process that most now agree has quickened because of the demise of credible alternatives. There is, therefore, a current need for an anthropological critique in the sense I have developed above. But there is also a need to pursue the possibility of a reconstituted human rights, one that does not serve as an ideological barrier to emancipation in practice but rather resists the tendency toward moral imperialism associated with immanent universalist normative theories, is able to “center” (actually “recenter”) “personhood in international narrative” (Hernández-Truyol 2002), and, perhaps most important, creates a permanent framework for the realization of human capabilities.

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engagement during these events. My wider thinking about anthropology and human rights has benefited from numerous conversations over the years with friends and colleagues, although I alone am responsible for any inferences or proposals. Finally, I would like to thank Benjamin Orlove and five anonymous reviewers, whose suggestions and comments allowed me to strengthen the article considerably.

Comments

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Goodale addresses two distinct but related tasks. Besides offering a stunning critique and reconstruction of the “ambivalent” engagements constituting the AAA’s public-policy regime shifts with regard to human rights, Goodale also reimagines the tasks of “a critical anthropology of human rights.” Given rigorous space constraints, I here briefly engage the second theme, recast by Goodale as “normative humanism.”

The “progressive” agenda of a critical anthropology of human rights contests the appropriation of human rights via co-optation and repression and aims at the recovery of “a set of potentially emancipatory principles underlying human rights discourse.” This entails a wider understanding of human rights as “coterie of concepts, practices, and experiences” at “different levels,” constituting always-contingent reminders of ethnographic locations. Goodale gently resists traveling with me as far as to maintain that the field refers to “protean forms of social action assembled, by convention, under a portal named as ‘human rights.’” Even so, it is not clear how this larger landscape of meaning may address diverse human rights languages in their intertextuality and paratextualities. The performative truths of these languages enact the “core” meanings differently as ethical imperatives and national and global governance, trafficking in the symbols of shared sovereignty, juridical production, and cultures (Baxi 2002, 2005).

A critical anthropology of human rights privileges anthropology as a unique discipline identifying “a middle space between the reified normativity of a regressive human rights and the chaos of contemporary human rights praxis.” But how may it persist in these binary contrasts in the face of non-reductive understandings both of anthropology and of human rights? In terms of a hermeneutics of human rights, it certainly benefits by going beyond the staid invocation of Pannikar’s “diatopical hermeneutics” to a more nuanced recourse exemplified in corpus of Gadamer, Betti, Rorty, Dallmayr, and Ricoeur. Equally, a critical reading of the violence

of the writing of the “political economy of human rights” holds more promise when it moves beyond the ritual polemical recourse to the “Washington Connection and Third World fascism” to various pluralist *habitus* that contest the “apothecosis of human rights” via narratives tracing the dialectical relation between the politics of dominant and insurrectionist human rights desire that I have called the politics *of* and *for* human rights.

Might not the critical anthropology of human rights more fruitfully address human suffering (see, e.g., Herzfeld 2001 and literature there cited), named differently by Arendt in terms of the recurrent production of human *rightlessness* and by Agamben in terms of the zone of indistinction between “violence and right”? How might its offering cognize the divergent anthropology genres constituted by, for example, philosophical anthropology (Rorty), theological/literary constructions of human suffering (Scarry), medical anthropology (Kleinman and Das), and anthropology of religion (Asad)? These too coequally address and interrogate the “legitimacy” of the vaunted, fractured, or fake universality of contemporary human rights paradigms and the tasks of construction of a “normative humanism.”

How is one to read a project constructing spontaneous “collectivities” that “will, in fact, create patterned humanistic orderings unless constrained from doing so,” especially within the logic of celebration of benign conceptions of sovereignty which recast the state as “a facilitator” for the “emergence of normative humanism in social practice”? How might this speak to anthropology “at the margins of state” (Das and Poole 2004)? Without gainsaying the tasks of “a theory of social praxis” that ought to avoid the twin errors of “rational individualism, on the one side, and a narrow culturalism, on the other,” it is not clear how histories of contingent universality embedded in local histories might promise better futures for human rights than those celebrated by universality claims. How might this new project celebrating collectivities of “equally construed individuals” and socially constituted orderings that “place limits on individuals” and still pursue future worlds that are “inherently dynamic, historically rich, and capable of change” escape remystification, despite the charismatic plenitude of its Rousseau-like appeal? I here perforce cryptically suggest the inherence of the dystopic within that utopic.

At stake in this envisaged theory and practice of “normative humanism” remain the tasks of resituating ethnographies of “terror” and the craft of human-rights-oriented justifications of the “terror” of the law and the law *as* “terror.” How may we pursue, outside the contexts of terror or the global politics of mass cruelty (Baxi 2005 and the literature therein cited), a “reconstituted human rights” paradigm in terms of “freedom from constraints” for self-determining collectivities? Goodale makes a singular contribution in inviting us to contemplate a utopic critical anthropology of human rights that even more fully revisits the violent *nomos/anomie*

of contemporary human rights theory, movements, and markets.

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I share with Goodale a “critical” stance towards human rights in the first of the two senses he has helpfully distinguished: insisting on a “distance” between rights and the anthropological analysis of them. I am also attracted by the second sense of criticality he invites, drawn from Horkheimer and Adorno, which involves tracing what has conspired to transform human rights into a reified norm in the service of global neoliberalism in order to recover their original critical impulse. I applaud the bold attempt to retheorize human rights in light of our anthropological knowledge—the accumulated experience of our comparative endeavors, as well as our methodological and epistemological reflections.

I remain intrigued, however, rather than (yet) convinced, by “normative humanism” as an “alternative paradigm for human rights.” I find the term infelicitous. Although not against redefining terms as such—the struggle over terminology characterizes the work of theorizing as much as of everyday politics—I think that “humanism” carries too much connotational baggage. This includes its European pedigree in the Renaissance shift from a God-centred to a human-centred universe, a shift that “humanism” both describes and advocates. Goodale retains this orientation, along with the Enlightenment ideal of the just community “committed to the full realization of both individuals and collectivities,” while seeking to loosen such notions from their European moorings. To be sure, its human-centredness is likely to render this reformulation unpersuasive for societies and groups for whom the source of moral authority lies outside or beyond “the human.” Still, as adherents of various fundamentalisms systematically insinuate themselves into power (not least in the United States), we should be wary of abandoning this human-centredness. At the same time, I find increasingly compelling those “deep green” arguments that definitions of the “good” and the “just” must take into account the whole of planetary life and its future and that human-centredness (at least a particular version of it) is to blame for our present ecological malaise. Reconceptualizing human rights could be an opportunity to rethink how humans are and should be situated vis-à-vis nature in rapidly transforming contemporary conditions and how that relation impinges on human “rights.”

What is implied when Goodale formulates *a way of describing, an analytical framework for, and a theory of* social action as an “ism”—a suffix associated with ideological movements and grand explanatory models? The adjective “normative” reinforces the hunch that the phrase refers more to a project or program than to description/analysis/theory. In the end, it seems to be both: its ambiguity is symptomatic of

an intervention that oscillates between theorization and mission. On the one hand, Goodale starts from a set of anthropologically informed claims about human societies: that “given the right circumstances” people will organize themselves, that they will seek to create “meaningful interactions that are both patterned and prescriptive,” and that their practices “will recognize and formally incorporate a basic set of human-centered values.” The formulation has the merit of acknowledging a wide array of forms of *normatively ordered human sociality*. It also explicitly recognizes the socially negotiated, historically dynamic, and open-ended nature of societal forms and values. On the other hand, Goodale’s description/analysis/theory is not philosophically agnostic. It expresses a faith that collectively created orderings will be, under the right conditions, “humanistic” and “progressive” and, indeed, that only those which are so deserve the designation. In this second sense, normative humanism stands as “an ideal process of social ordering” (my emphasis) in tension with other normative possibilities.

I would query two elements of Goodale’s formulation. First, assuming that values will tend to be human-centred begs important questions. Goodale never defines “human-centred” but treats it as roughly equivalent to “humanistic”—hardly a more self-evident term—as well as implicitly good. We might take the value that anthropologists gloss as “honor,” still pervasive in many societies, and ask in what ways it is human-centred and for which humans. Values and norms are better conceptualized as *socially* centred; rather than necessarily enhancing human capacities, they may as easily underpin societal ordering processes which differentiate humans, categorically and individually, in terms of their position, status, and putative worth. Goodale’s attempt to explain disruptions to normative systems that impede human self-realization as products of “constraint,” implicitly external, similarly underestimates endogenous dynamics. Even though we must acknowledge the distortions imposed by externally directed processes, it is hardly adequate to reconceptualize power as—in effect, to reduce power to—“the presence of constraints.”

I appreciate Goodale’s project of reinvestigating the history of anthropological engagement with human rights—both his empirically grounded archival scholarship and his creative reinterpretations—and I endorse his effort to reconceptualize human rights in terms of myriad forms of human sociality rather than a singular, immanent humanness. But I am not ready to cede my more tragic and ambiguous reading of human sociality to Goodale’s Enlightenment optimism.

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Goodale’s attempt to bring anthropology back to the global human rights scene is ambitious, but his is certainly not an easy task. His examination of the relations between anthro-

poloogy and the human rights scene since Herskovits, on behalf of the AAA, formulated the now (in)famous relativistic critique of the universal rights in 1947 is interesting and relevant, although it underestimates the human rights interest of American anthropologists during this period. The AAA was silent, but not all anthropologists were silent. We may also recall that human rights did not become an object of extensive public debate, at least in Europe, until the 1980s. Therefore, one might argue that anthropologists did not arrive as late on the scene as Goodale argues. However, the practical involvement of anthropologists in human rights has not had the same theoretical ramifications as that of political scientists, lawyers, and philosophers. Given today’s integration of theory and practice, I agree with Goodale that anthropologists may certainly make a contribution to the question why the concept of human rights still does not seem to work according to its premises in a world that is more democratic than ever.

The historiography serves as the background for introducing the concept of “normative humanism,” which Goodale argues will bring anthropology back to the human rights scene. Although the effort is well intended, I doubt that it will succeed. Normative humanism is, according to Goodale, a “central analytical framework” and both a way of describing social reality and a ground for normative conditions. It contains human-centered values that people will establish if we let them. It is a bottom-up approach to human rights, reconstituting the discourse to make it both effective and legitimate in the eyes of people living their local lives. This is nothing less than a fundamental critique of the global liberal elitism constituting the UN human rights regime. For Goodale human rights are just another Western imperial project, the West against the rest. This critique seems to be just another version of the relativism put forward by Herskovits. Realizing where his argument is leading, Goodale argues that his new concept is not relativism but a better tool for analyzing and discussing human rights, a theory of social praxis. He argues, however, that “normative humanism rejects immanent universalism.” Is not the advantage of universalism the possibility of comparing, measuring, and criticizing local and national violations? Is he not implying that we cannot really criticize a local practice from the horizon of another practice, and, if this is so, do we not have to accept female genital mutilation because it is a local tradition built on local values?

There is no such thing as a particularly anthropological orientation to human rights, and launching a new concept that no one but a few anthropologists will understand is not the right path. Discussing human rights, whether we like it or not, requires concepts that other disciplines and practitioners in the UN, governments, and NGOs are using. There is nothing outside the current human rights text, and the text is already written. I agree with what Goodale implies—that human rights are too important to be left to law and politics—but there is no way between universalism and relativism that anthropologists can carve out for themselves, and even if there were one, what would we be gaining if we could still only

talk to anthropologists? Since the problem is that we are not discussing human rights with other disciplines, we have to take part in the discussion with our experiences, our praxis-grounded theories, and what-not if we want to be taken seriously.

When Goodale turns, in closing, to the application of political economy to human rights discourse, he makes a point on which we can agree, and it is here that anthropology may make the contribution he hopes for.

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What is missing in Goodale's sensible and useful article about American anthropology and human rights, apart from telling empirical examples, is a full appreciation of the shifting social and cultural contexts of the period he is dealing with and their implications for anthropological thought and practice. The necessity to rethink and eventually abandon anthropology's tendency towards moral relativism was not a result of internal developments in the discipline but a response to changes in the rest of the world. Although many anthropologists were in the 1980s happy to discuss and debunk cultural essentialism—characteristically dodging the riskier and murkier field of human rights—there were also many, as Goodale points out, who accepted and indeed embraced a new set of normative obligations.

This development was forced upon most anthropologists, not chosen by them. When Roger Keesing (1994) wrote, in the late 1980s, about Kwaio appropriations of concepts of culture which echoed the dominant anthropological culture concept, he came close to depicting a society which no longer needed anthropologists to identify it: it was now perfectly capable of doing it itself. Similarly, people we meet as ethnographers in non-Western societies often have radical agendas favouring social change and cultural reform, and many of them would regard the relativist approach of classic anthropology as reactionary pap in defence of the status quo.

What has made normative cultural relativism in the vein of the 1947 AAA statement indefensible is the impact of globalization and transnationalism on societies almost everywhere, not least in the countries where most anthropologists live. Especially in Western Europe but also in North America, the debates about human rights and cultural pluralism with respect to immigrants and their descendants have led some anthropologists to take normative positions while others (presumably a majority) have been forced to "revise and resubmit" their ideas about cultural differences. In Norway, a debate about female circumcision among immigrants from North-East Africa involved the wholesale condemnation of social anthropologists for irresponsible cultural relativism in a leading article in the country's largest newspaper. The main target of the attack, the respected Africanist Aud Talle, responded a year later with a

book (Talle 2003) which exemplifies Goodale's "critical anthropology of human rights" by combining a superb account of the cultural rationale and social forces maintaining the practice with original policy advice. Around the same time, the murder of a Swedish woman of Kurdish origin by her father elicited heated debate in the Swedish media, with important contributions from the cultural anthropologist Mikael Kurkiala. Arguing that a Kurdish cultural script encompassing notions of honour, gender, etc., had to be taken into account in any attempt to understand the murder, Kurkiala was met by angry reactions from Swedish feminists who claimed that he was acting the role of the useful idiot for the anti-immigrant extreme right (see Eriksen 2006 for a full account of both cases). His view, elaborated in a recent book (Kurkiala 2005), was simply that no understanding of the individual and his/her rights is complete without a certain familiarity with the relevant social and cultural contexts, that such contexts vary, and that it would be foolish and dangerous to pretend otherwise.

These examples indicate that anthropological sensitivity to local contexts and respect for cultural systems different from our own have long since ceased to be merely quaint and charming in the public sphere. Moreover, they show that the critical anthropology of human rights advocated by Goodale is being practised already, often in situations where anthropologists engage with a wider public sphere (but also in interdisciplinary settings such as the Human Rights Institute directed by Richard Ashby Wilson at Connecticut).

The challenge posed around the middle of Goodale's article, where he states that "reified, hypernormative human rights . . . cannot serve as the basis for realizing their aim, . . . the creation of just communities," is well taken. It may not be a very original observation, but the subsequent discussion, invoking the cultural critique inherent in the anthropological project as well as dismissing neoliberalism as inadequate on humanist grounds, showcases the emancipatory potential of anthropology and reveals the importance of anthropologists' engagement with a wider public sphere characterized by ignorance and misrepresentations of what contemporary anthropologists are trying to do. Neoliberalist propaganda and the globalization of fast capitalism, which may be consistent with a superficial understanding of human rights, need the counterweight of local knowledge, but this time its normative underpinning is a universalist humanism (in the tradition of Rousseau rather than Voltaire) instead of cultural relativism.

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Goodale's piece combines a history of the uneasy relationship between certain elements of the American Anthropological Association and the international human rights movement with a proposal for a critical anthropology of human rights.

His critical anthropology aims to reconcile some of the long-standing tensions between normative universalism and culturally situational conceptions of human rights. Goodale examines anthropologists' struggle to resolve the epistemological, methodological, and ideological controversies that have shaped twentieth-century academics' attempts to engage with contemporary human rights movements. These are murky, turbulent waters, and he does us a service by attempting to chart them.

He rightly points out the contribution that anthropologists have made to broadening the definition of human rights to include culture and collective rights, and it would have been useful to flesh this point out. Besides the areas Goodale references, anthropologists have played an important role in rearticulating social demands against international financial institutions as human rights claims, work done from both within and outside of institutions such as the World Bank Group. However, their manifold contributions raise questions: What is the significance of understanding the diverse roles that anthropologists play in creating human rights in varied subject areas, geographies, and issue arenas as a coherent, concerted movement? Can something more broadly be said about how anthropologists reconcile epistemological considerations with social action aimed at broadening the docket of human rights?

The discussion of the role of anthropologists in relation to political movements falls mainly within the first half of Goodale's article. The second half aims to address what he sees as an impasse reached by anthropologists and the human rights movement. Goodale identifies a conflict between the immanent universalism of international human rights and an approach which sees human rights as a social and cultural practice. In attempting to resolve this conflict, he presents a "critical anthropology of human rights" that aims to complement the human-rights-as-social-praxis approach while maintaining an engagement with the underlying normative character of human rights that the international human rights movement propounds. Moreover, he seeks to displace the movement's immanent universalism with a comparative empirical approach to human rights norms. Specifically, he proposes a "normative humanism" by which he means that "in the absence of constraints, collectivities will create normative systems that are based in the recognition of a basic set of human values."

One of the article's explicit aims is to speak to a larger audience outside of anthropology. An example of Goodale's theory at work would have helped to clarify the benefits of his approach. It would allow readers outside of anthropology to understand how his proposal fits within previous epistemological and methodological controversies framing anthropology's relationship to human rights and suggest its broader implications for human rights movements. This would provide more continuity between sections and not only illuminate his proposal but also clarify the underlying logic of the article. At times the "critical anthropology of human rights" is am-

biguous (perhaps purposefully so), and examples would make more concrete what he has in mind. If a critique of the international human rights movement is its tendency toward "immanent universalism" and a "Roman ahistoricity," then the proposed solution should be grounded in concrete examples even in its exposition. The article does reference key works in the anthropology of law, which has certainly advanced our understanding of the relationship between human rights movements and critical theory. Limited mainly to a brief discussion of Merry's important work and n. 36, the relationship between this subdiscipline's contribution and Goodale's proposed framework is underdeveloped.

Many of the controversies Goodale discusses are more broadly applicable. When questions of social justice and equality are at stake, the classic struggle between the descriptive and normative, the "is" and the "ought," can divide academic disciplines. Pulled by social movements, academics question the relationship between a description of the world and its use in policy-making arenas shaping the very world they seek to describe. In the twentieth century, this struggle can be seen in many disciplines. Theory once propounded can take on a life of its own. Law, lawyers, and judges can and do draw from these disciplines in an attempt to shape legal doctrine. Thus, Goodale's research furthers our understanding of the reciprocal relationship between disciplinary and policy arenas—a relationship that can have consequences not only for the discipline but also for legal doctrine.

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In 1988–90, as background to my contribution to the Wenner-Gren-sponsored panels on anthropology and public policy ("engaged anthropology"), I explored why anthropologists seemed to have been left out of human rights policy formulations and discussions. As an anthropologist, I proposed that the real challenge to assertions of universality in human rights was not that there did not exist in all cultures some concepts of rights and duties that could be compared to human-rights codes or basic ideas that social membership carried with it certain rights and obligations guaranteeing physical protection and subsistence. Instead, the main challenge was who was classified as fully human and therefore deserving of rights and who was not. This "human classification" framing and formulation of the human rights problematic met resistance both from legal experts such as Philip Alston, who informed me that it destroyed the very concept of human rights and this was why international lawyers struggling to develop human rights formulations and legal covenants from the 1940s had marginalized anthropologists (and also philosophers like Maritain), and from anthropologist critics, who preferred to blast human rights as hegemonic transnational discourse.

Nevertheless, cross-cultural discussions of rights (and duties), their substantive contents and prioritization, and comparative notions of “human being” and “social person” are demonstrably part of the anthropological (Messer 1993, 1996a, 2002), Latin American (Messer 1995, 2001), food (Messer 1990, 1996b, 2004), and more general (Messer 1997, 1998) human rights literature and document from a “human classification” perspective that anthropologists have been actively engaged in debating human-rights-relevant theory and contributing to its formulation and practice, especially in the arenas of economic, social, and cultural rights (nutrition and health) and the rights of collectivities and of women but also in those of basic civil-political rights and genocide. Precedents include Boas’s studies of in-group–out-group dynamics and his effort to conceptualize how to create global citizens of the world, Durkheim’s attempts to define moral education and to understand the constraints of social classification, and later theoretical and ethnographic studies of ethnicity and pluralism (see Stavenhagen 1990, 2004) and of the disparate sources of violence and genocide that are consequences of this human classification process (e.g., Tambiah 1992 versus Kapferer 1998; Kuper 1986), and all contribute to this background (Messer 1996a, 167–69). Yet their perspectives remain marginal to the writings of Goodale and colleagues. Why?

Anthropologists usually publish in anthropology journals, not those refereed by legal and political scholars. Prior to the 1990s, furthermore, many did not publish human classification studies as “human rights.” In the 1990s, as anthropologists encountered human rights claims and counterclaims at all social levels, they engaged human rights more directly in multileveled, pluralistic ethnographies, which also tend to be multisited in space and time. A watershed was the 1995 AAA annual meeting, with its human rights theme and hundreds of papers that addressed human rights in theory and practice. Around this time, as Goodale notes, anthropologists began to contribute critical cultural-political theory (Turner 1997) and more contextualized studies (Wilson 1997) as well as to write on the process of pluralist human rights formulation (Messer 1997) and the political uses (and abuses) of human rights rhetoric (Schirmer 1998; Scheper-Hughes 1997). Anthropologists also became more politically involved in the human-rights/development encounter, becoming “scholars as activists” (Nagengast and Vélez-Ibáñez 2004) or professionals as activists (Farmer 1999) both within the AAA and in the world.

Some of these discussions incorporate demands for “cultural relativism” but in its “soft” form. These recent writings seek not to hide findings of rights in conflict but to understand them, especially where multiple notions of individual and collective rights pose ethical dilemmas for populations, politicians, and anthropologists (e.g., Dean and Levi 2003) and where official human rights approaches do little to relieve and sometimes aggravate state-supported oppression and socioeconomic inequalities (e.g., Schirmer 1998). All suggest that anthropologists have important roles to play in explicating

and facilitating pluralist interpretations of human rights, roles that may or may not correspond to Goodale’s “normative humanism,” “the requirements of a thoroughly intersubjective anthropology,” and the “political economy of human rights discourse.”¹

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In this and related pieces, Goodale has done the discipline a service by raising important questions about the nature of anthropology’s contribution to human rights issues. Although he is not the first to argue that anthropology as a discipline is not sufficiently engaged with human rights concerns, I strongly agree with him that it now stands to make a distinct and imperative contribution. I differ with him only on exactly what that contribution might be. His argument for an approach he terms “normative humanism” proceeds from the premise that what is missing from human rights is a proper *theory* of human capacities and the nature of human emancipation and a proper set of critiques of human rights doctrines and institutions. It would be convenient if this were so, since what anthropologists do most comfortably is produce such theories and critiques, but in my view this assumption suffers from a misunderstanding of the nature of the social production of human rights knowledge.

Although the article never explicitly answers the question why anthropology has been “exiled” from the human rights regime, the implicit claim is that anthropologists’ own lack of interest is to blame. Will anthropologists’ newfound desire for relevance in itself be enough to bring us into the human rights mainstream, then? I think not. It is not that the kinds of critiques and arguments that Goodale proposes are absent in the human rights world. On the contrary, as I and others have shown (Riles 2006; Redfield 2005; Rosga 2005), a skeptical, critical, self-reflexive, and theoretically informed understanding of human rights regimes is almost a hallmark of human rights expertise. In my experience, all sophisticated human rights actors take it as a starting point of their expert competence that while one talks *as if* rights were absolute, one understands that in practice they are always constructed and, unfortunately, compromised by people like themselves. The problem (for human rights actors as much as anthropologists) is that such critiques cannot, in their given form, become part of human rights documents and policy proposals. As I have argued elsewhere (Riles n.d., 2006), human rights administrations are technocratic, instrumentalist forms

1. As a professional, I find that the most productive inter-(multi- or pluri-)disciplinary engagement with human rights is one that explores the promise and practice of human rights as a framework for justice and development from legal, political-economic, and sociocultural perspectives in clear language. Examples of such instructional materials are available under “human rights” resources (syllabi, Messer) at aaanet.org.

of knowledge that work according to a very different logic from humanistic and social theory. Hence, when anthropological theory encounters these regimes, it is generally either ignored or, worse, digested into fodder for further technocratic interventions (ethnographic descriptions get churned into “facts” about abuses that the human rights regime could take on; critical perspectives such as gender get turned into a word to be inserted in human rights documents without any rethinking from a gendered perspective of the larger technologies of human rights intervention). Most disturbing, perhaps, is that anthropologists themselves, when they engage these regimes, often seem to translate themselves in ways that seriously compromise the originality and integrity of their larger commitments (Jean-Klein and Riles 2005).

Our unique contribution lies not in new theories but in the commitments that define our unique method, ethnography. Ethnography is not one of many “hybrid methodologies”; it cannot be, since it entails an ethical commitment to stay engaged in precisely the sort of intersubjective acts of knowledge production that Goodale describes, even if that collaboration takes us far afield theoretically from the debates of mainstream human rights discourse or, for that matter, mainstream anthropological theory. It is precisely this kind of commitment and this kind of humility and empathy that are lacking in the human rights regime.

In this respect, I read the 1947 AAA “Statement on Human Rights” somewhat differently from Goodale, as a historically situated and hence circumscribed effort to make a stand against the arrogance and epistemological imperialism of the human rights regime. Its willingness to name the hegemonic ambitions of legal and technocratic knowledge is refreshing, even moving, and for this reason it has had considerably more currency in human rights circles than anthropologists realize. Indeed, I first encountered it as required reading in a course on international law at the Harvard Law School.

Today as in 1947, human rights discourse needs humility, and the best ethnography represents the fruits of methodological humility—the insights of the ethnographer’s coming to terms with what he or she could not comprehend from the start. From this point of view, what is needed is not another “permanent framework for the realization of human capacities”—that is precisely the kind of project the human rights apparatus takes on and absorbs with gusto—but rather a model for the human rights world of how to listen to and engage with the terms of those outside it. But we will have to practice what we preach, and that requires listening, also, to the practices of human rights administrators. In other words, perhaps before we can debate how best to intervene in human rights issues we need to give further ethnographic attention to the very nature of such interventions.

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Although Goodale raises important issues about the role anthropologists can and should play in addressing human rights discourse, his discussion of the history of the way anthropologists have engaged in this discourse remains incomplete. What he fails to acknowledge is that anthropologists have in many different ways implicitly addressed issues of rights even as they have been reluctant to fit social practices into pre-established categories of international law and philosophy. Arguably, anthropologists have been among the most active of professions in placing the issues of rights and the practices associated with them in context; they simply have not *called* them human rights or taken on the issue explicitly. When a group of us put together a short bibliography in 1987 (Schirmer, Reteln, and Wiseberg 1987, 1988) and a book in 1988 entitled *Human Rights and Anthropology* (Downing and Kushner 1988), it was to encourage anthropologists to enter the world of human rights discourse and practice more directly and explicitly. In that work, many of the questions raised by Goodale were addressed in the articles and in a suggestive yet far from complete 70-page selected bibliography of works related to anthropology and human rights. It was a call to see human rights “within . . . the ancient social language of reciprocity, community, relations, and moral obligations” (Schirmer 1998, 92). This discussion also provided a critique of the liberal humanist call for universal human rights as a product of a particular society and culture.

While it is a disappointing that Goodale ignores these efforts, it is heartening that he has reengaged the issue of human rights in anthropology and called for a critical and ethnographic approach to the constitution of human rights discourse. He makes explicit the nuanced contributions anthropologists can make by broadening the very definition of human rights, plagued by legalistic formulas and philosophic naturalisms. Nonetheless, as in so many discussions of human rights, we are still left with an underlying *essentialism* that Goodale himself attacks in the work of other writers: throughout his own article there is an underlying assumption that there is a knowable set of “human capabilities” and a set of rights that will lead to some abstracted idea of human emancipation. He assumes, rightly, that universalistic human rights discourse often operates in the service of particular structures of power (capitalism, imperialism, etc.) and that anthropology can serve as a corrective cultural critique. Yet his answer to universalistic standards is a claim that this critique along with that of local actors can become emancipatory and allow individuals “to engage in meaningful interactions free from constraint.” Is this not yet another vague universalism that begs the question whether there is a society free of constraint? And if no such society exists, does this not raise the further ques-

tions whose interactions are to be freed from which constraints and how this is to be decided? And does not Goodale's emphasis on individual rights, ironically, reveal a particular liberal humanist political and cultural predilection?

We as anthropologists need to recognize that the debate about whether human rights are culturally specific or universal takes us in the wrong direction; whose rights and which rights will always be up for debate. But as the discussion about human rights makes clear, the ability of various groups and claims to be heard and heeded is not equal, and that should lie at the heart of the question of human rights discourse. Thus it may be that we need a universal standard that helps to underscore and guarantee open dialogue about the issue of rights and cultural specificity. As I argued in 1988, the issue of rights is the issue of power, especially state power, and it is important for us as anthropologists to remind others what that means. As I said then and still believe, we need universal standards but universal standards that support "contextualized diversely informed human rights standards, [for] those struggling with perceptions and ideas . . . about human relations that reflect an ancient social language and are thus incompatible with the dominant legal and cultural logics in which they find themselves living and dying—with little choice or voice" (Schirmer 1998, 102). Without this underlying premise, anthropology becomes just another discipline that hinders human rights from becoming relevant social practice.

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Goodale is to be commended for his lucid history of anthropology's initial repudiation of and then eventual engagement with international human rights and for his clear manifesto for a "critical anthropology" of human rights. His blueprint for the future relies upon a predominantly culturalist theory of human rights inspired by cultural critique and anthropological formulations of intersubjectivity. Here, human rights are apprehended as primarily ideational representations embedded in other systems of ideational representations—"human-centered values" that play a key role in "normative systems," in contrast to structural formulations of rights, which draw attention primarily to the exercise of coercive power by state and intergovernmental institutions.

Goodale encourages us to embark upon a comparative anthropology of human rights, and he finds value in Pannikar's "diatopical hermeneutics," an approach that seeks to identify corollaries to human rights in local cultural and religious contexts. There are echoes here of Geertz's (1983) "law is culture" essay, which examines core concepts within three different legal traditions ("Indo," Islamic, and Malaysian) in order to unlock the grand schema of cultural thought hidden

within them. Here, as in Goodale's view, anthropologists of law and rights emerge as cultural interpreters, and their role is to translate between integrated cultural systems.

It is important, however, to acknowledge the possible limitations of a culturalist approach. In Geertz's essay there was very little examination of how local ideas of law had been embedded within and refashioned by long experiences of colonial rule and subjected to political contestation within the cultures concerned. And Pannikar's essay elides the fact that *dharma* is a central part of a caste system which denies full human and jural status to "untouchables" and has faced significant opposition from an Indian Supreme Court that justifies its affirmative-action rulings on human rights grounds. Cultural translation occurs between Western rights and Indian religion, but only at the expense of actual Indian politics since independence.

By drawing upon this hermeneutic tradition, Goodale defines human rights in a way that may underemphasize the well-established anthropological concern with the nation-state and international institutions. This comes through most clearly in his discussion of "normative humanism," an avowedly optimistic vision that appears to be directly descended from Jean-Jacques Rousseau's in its contention that social collectives are wholly progressive and emancipatory in a state of nature. The concept is also counterhistorical in that it takes insufficient note of inequality, imperial conquest, global economic integration, and the rise of the nation-state over the past 500 years.

Goodale's culturalist vision has much to commend it, but it needs to be augmented by a historical concern with political contestation between individuals, social groups, and state and transnational elites and the role that human rights as social ideas and as legally enforceable claims play in these struggles. To complement Goodale's emphasis on the normative, ethical, and descriptive, we could add more analytical and political questions such as what kinds of nation-states commit genocide. We might also profitably return to Hannah Arendt's central question of the origins of totalitarianism. How and why do political elites mobilize absolutist versions of race, ethnicity, and the nation, and what is the relationship between nationalism and violence? How do nation-states deploy ideas of human rights and the law to depoliticize conflict and neutralize social movements, and how might social groups either resist or acquiesce in their own co-optation?

Charting this political contestation over human rights at the level of the nation-state and the international human rights regime also involves examining what Moore (2001, 111) called the "legal production of political consequences." Goodale rejects the sphere of international law as a legitimate site of anthropological interest, but it is an area where innovative and stimulating research is being done by anthropologists of law including Anders (2005) Clarke (n.d.), Dembour (2004), and Eltringham (2004).

Ultimately a theory of human rights also has to be theory of law as well as a theory of inequality and political violence.

This is especially necessary in that this is precisely what the international human rights regime itself patently lacks. Of course, Goodale is right to reject analyses in which human rights are conceived of in wholly instrumental terms and really matter only insofar as they channel the rational interests of competing groups. Yet that structural constraints are not determinant in all instances does not mean that we can afford to bracket the influence of nation-states, a globalized economy, and a transnational structure of governance. Anthropologists must engage with human rights both as cultural interpreters and as analysts of a new and emerging area of political contestation. It is of course possible to pay attention to the usual concerns of cultural critique as well as to analyze the operation of the coercive power and disciplinary regimes of nation-states and intergovernmental bodies, and the most persuasive and compelling accounts of human rights will integrate all of these elements.

Reply

I must first express my appreciation to all of the commentators for taking the time to grapple with my article. It is one piece of a larger effort on my part to expand the collective conversation about both the relationship between anthropology and human rights and the ways in which anthropological forms of knowledge can be used to make potentially transformative interventions in human rights theory and practice, interventions that will take place largely outside of anthropology itself (see Goodale 2006a, 2006b, n.d.; Goodale and Merry 2006). This effort of mine is, in turn, part of a movement both within anthropology and outside of it in which critiques of different parts of the international and transnational human rights regimes are combined with a search for new ways of envisioning frameworks for achieving many of the goals that motivated the postwar emergence of human rights in the first place: a reduction of human suffering, the protection of human dignity, a more just distribution of wealth and resources, the end of neocolonial relations of production, and so on (see, e.g., Baxi 2002; Rajagopal 2003; Speed 2006). As I have argued more extensively elsewhere (Goodale 2006b), existing anthropological engagements with human rights can be divided into two broad categories. The first, represented by scholar-activists like Terrence Turner and the other founders of what became the American Anthropological Association's Committee for Human Rights, emerged from a longer tradition of anthropological participation in projects for social justice. Here anthropological knowledge is mobilized on behalf of *specific* groups struggling against *specific* forms of marginalization, oppression, and systemic violence. Beginning in the 1980s, anthropologists found that human rights discourse had taken on a new and

increasingly more effective currency within these broader struggles, and they were urged to participate in what Turner called an "emancipatory cultural politics" (1997) by demonstrating the ways in which cultural difference itself could be reframed as a human rights issue.

The second category into which anthropological engagements with human rights can be sorted is characterized by ethnographic studies of human rights practices (see, e.g., Merry 2005, 2006; Slyomovics 2005; Wilson 2001). The ethnographic turn in the anthropology of human rights is marked by a certain ambivalence or even skepticism toward human rights claims and the political and legal processes in which they are made (Cowan 2006). These studies have shown contemporary human rights practices to be riddled with contradictions, contingencies, and conceptual Gordian knots. Nevertheless, these lessons have not been fully taken up by international lawyers, legal philosophers, or policy makers, despite the fact—as Riles notes—that certain pockets of critical academic lawyers (in particular) have been equally vexed by the dilemmas at the heart of contemporary human rights discourse.

Although the emancipatory cultural politics and ethnographic approaches to human rights through anthropology are not irreconcilable, they do reflect different epistemological orientations and, even more important, different understandings of the intersections between anthropology and ethics. A certain distance is inevitably created when human rights practices become an object of ethnographic inquiry; likewise, anthropologists who are deeply engaged in human rights struggles would find the *mere* study of human rights practices irrelevant at best, unethical at worst. In other words, although I have argued that anthropologists should pursue an "ecumenical anthropology of human rights" (2006a), in part for practical reasons, I think it is also important not to ignore what are often profound differences in the ways in which anthropologists study, advocate for, and critique human rights.

A critical anthropology of human rights is, in part, a synthesis of these two approaches. On the one hand, it is meant to be a framework through which anthropologists can employ the analytical and methodological tools at their disposal to intervene in actual social struggles in which human rights are invoked. On the other hand, it is a theory of normative ordering that is derived from the complexities of normative praxis, in which human rights norms emerge as part of a broader process that I have described as "ethical theory as social practice" (2006b). Unlike many ethnographic studies of human rights, however, a critical anthropology of human rights is not simply another approach to documenting the empirical dimensions of human rights practices. Rather, it uses the ethnography of human rights as the basis for articulating the grounds on which human rights *can be* cross-culturally legitimate without having to resort to the kinds of abstracted theories of universality that underpin major human rights instruments and institutions. And unlike the emanci-

patory cultural politics approach, a critical anthropology of human rights remains skeptical of the international and transnational human rights regimes that have emerged since the end of cold war, in part because of the way they have been appropriated by state and corporate actors within the broader trajectory of late-capitalist consolidation but also for more philosophical reasons. This skepticism and the critiques that are derived from it are not, however, the purpose of a critical anthropology of human rights itself, nor is it the expression of the kind of “sophistication” that Riles alludes to in her comment, let alone an example of “self-reflexiv[ity]” (again, Riles) on my part (analytical solipsism is perhaps even less justifiable in the area of human rights than in others because of the stakes involved). Instead, the critique of human rights through anthropology—a critique that must be, crucially, anchored in the ethnography of human rights practices—is a means thorough which the idea of human rights *can be* reconceptualized in a way that is neither “relativist” (pace Dahre) nor “dystopic” (pace Baxi).

This, then, is the basic thrust of my article, which brings together different arguments in a necessarily rather condensed form. For example, Eriksen would like to see more “telling empirical examples” from the literature on anthropology and human rights, and Likosky and Mooberry quite sensibly observe that “example[s] of Goodale’s theory at work would help to clarify [it].” It seemed to me that I would have space in the article either for a relatively full theoretical exposition or for a brief development of one or two main ideas embedded in a discussion of my own ethnographic research and the research of others but not both. Given these options, I chose the first, but for those who would rather see the idea of a critical anthropology of human rights explained through ethnographic examples such examples are on the way in a book that I am currently finishing. There are, however, a number of critiques across the comments that are not so easily dealt with. In the space I have left, I will address what I feel are the most important of these.

Several commentators feel that my discussion of normative humanism—which is, to reiterate, a way of describing certain cross-cultural patterns across quite diverse normative practices—does not take full account of the different forms of power that act to constrain collectivities from creating rules for themselves, rules that can include human rights. Wilson, in particular, argues that this description of normative ordering “takes insufficient note of inequality, imperial conquest, global economic integration, and the rise of the nation-state.” Cowan finds fault from the other direction: she claims that, instead of failing to take account of the range of external factors, my description of normative ordering fails to reflect an understanding of the way “endogenous dynamics” impose constraint from within collectivities. Regarding the external dimensions of power, I quite clearly say in my article that “history . . . reads like one long catalogue of different and insidious constraints—military, ideological, political—on the capacity of individuals in collectivities to realize themselves

through the production of ideal normative systems.” And although I quite agree with Wilson that external historical and political factors will necessarily enter into any political-analytical intervention within the framework I develop, if legal anthropology (in particular) has demonstrated anything it is the enduring richness and persistence of culturally embedded normativities *despite* the presence of the kind of large-scale global processes to which he refers. As for Cowan’s argument that “it is hardly adequate to reconceptualize power as—in effect, to reduce power to—‘the presence of constraints’” (in part because such a reconceptualization simplifies local power dynamics), I can only say that it is not my intention to reduce power *tout court* in the way Cowan implies. Rather, I make it clear that my reconceptualization of “power” is limited to the specific dimensions of normative practice that “reflect a balance between the individual and the collective, a balance that nevertheless can have meaning only in light of local historical and cultural imperatives.”

I had anticipated resistance to my reinterpretation of the history of anthropology’s relationship with human rights, especially since much of the anthropological reengagement with human rights was accompanied by the construction of a particular narrative about this history. But as I show in the article, this narrative becomes problematic in light of the archival reconstruction of the role of the AAA during the writing of the Universal Declaration of Human Rights and the subsequent absence of anthropologists during the emergence of the postwar human rights regime. Nevertheless, I have no interest in offering my reconstruction of this history as a more “truthful” account than the master narrative of anthropology and human rights I describe in some detail. Instead, the counternarrative I propose is used to show that current engagements with human rights are both politically complicated and analytically incomplete. In other words, this historical counternarrative is meant to expand the range of potential anthropological contributions to human rights debates—including philosophical contributions—in part because the meanings to be drawn from this history are much more ambiguous than has been supposed. As for the differences that remain between me and some of the commentators (especially Schirmer) on the question of this history, I leave it to others make their own judgments. But I think the burden of proof for showing real anthropological influence on the development of human rights theory and practice must remain with those who assert it, since the impact of this putative influence is difficult to find in any of the major human rights philosophy, institutional development, and jurisprudence between 1948 and the 1980s. I agree completely with Schirmer that anthropologists “implicitly addressed issues of rights” (though she makes this claim without reference to the specific time frames that are important for my argument), but this kind of earnest underground activism hardly qualifies as influence on the development of human rights theory and practice in the way I mean. Yet I must underscore a point I make in the article: in offering a counternarrative in which anthropology

and anthropologists were absent from the development of human rights during this time period, I certainly do not mean to criticize anthropologists themselves. The intention is actually quite different: I want to show that potential anthropological contributions to human rights are much broader and conceivably more transformative than previously imagined.¹

I do not have space either to address all of the commentators' concerns point by point or to acknowledge the encouraging signs of agreement from different members of the group. Yet I cannot end this reply without addressing several critiques that seem to be based on fundamental misunderstandings of the article. Although I have learned—and continue to learn—much from Annelise Rile's important writings on the "social production of human rights knowledge," the kind of critical anthropology of human rights I envision is not directed toward the "network" of elite international lawyers and transnational human rights activists that she has so thoroughly described and critiqued. Rather, I am concerned with the much more mundane—and, I would argue, more potentially significant—settings in which human rights discourse is taken up by ordinary social actors in the course of the production of ethical theory as a form of social practice. And this focus is not theory-driven in the way Riles suggests but a description of an analytical framework that is itself derived from the ethnography of human rights practices, a framework which, moreover, implies a radically different human rights ontology and grounds for legitimacy. I agree with Riles that more humility is needed but disagree about what "humility" means in this context. I would think an approach to human rights that is based on the assumption that "human rights knowledge" is tightly circumscribed by the logics and technocratic imperatives of a tiny group of transnational elites is rather less humble than one that sees these same elites as much less consequential than the millions of social actors whose rough-and-tumble ethical theorizing remains, in the end, the only means through which the idea of human rights will ever be legitimately and persuasively expressed.

Finally, there is the suggestion by several commentators that a critical anthropology of human rights—informed, as it is, by a historically and discursively deracinated understanding of "humanism" (pace Cowan)—expresses a certain utopianism. If this is true, it is because my own implicit hesitation is the precise opposite of Cowan's: if she is not willing to cede

1. On this point, Messer introduces some new information that goes some way toward answering a question that Riles asks in her comment (and that I avoid trying to answer in my article): *why* were anthropologists largely absent from the development of human rights after 1948 Universal Declaration? Messer argues that the group of international lawyers (she mentions Philip Alston) that dominated this process consciously marginalized anthropologists because it was feared that the cultural analysis they provided would "destroy the very concept of human rights." This raises all sorts of intriguing questions. Who were these anthropologists who were intentionally marginalized? How exactly did this marginalization occur? Were calls not returned, requests to participate in document drafting turned down?

her tragic and ambiguous reading of human sociality, I am equally unwilling to ignore what the ethnographic evidence tells us about the enduring capacity and desire of collectivities to create rules for themselves that express a basic optimism and recognition of the fragility of human dignity.

—Mark Goodale

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