

## RESPONSE TO TRACK 19 AND 20

Well here we are: the last reply by me to the comments from you all that have done so much to enliven and enrich *the Rights Future*. Your responses to tracks 19 and 20 (about my human rights assumptions and my model of the right rights' future) have been as stimulating, indeed as challenging, as ever.

I'll have one 'wrap-up' comment introducing the video of the final event, and then that will be it (more or less: see my comments right at the end here).

### COMMON THREADS

Let's start with ideas that have been strongly shared between many of you and which indeed serve to sum up what a lot of this project has been about.

To Craig Valters right at the end, human rights is 'the language of the good'. For Kate Donald, 'empathy is ... the real key to human rights'. Favio Farinella speaks for many of you I know when he describes human rights as 'common feelings that are to be transmitted among cultures.' His generous account of the project ends with his insight that 'human rights are basically what people claim ... when they are denied to live their life.' They are embodied in 'the perpetual will to change injustice.' That last remark could be a distillation of our five months work.

**Justice** and **the will to act** have been constant themes.

Adam Brown is clear we must fight for our version of human rights. Paul Bernal 'wanted to do something that has a real impact.' What matters to Craig is that 'human rights make a real, achievable and genuinely positive difference'

Of course the phrase has been misused as Adam says and others of you undoubtedly believe, but equally that is no reason to give up on the term. As Anthony J Langlois says, 'the only way to counteract this is by being the sort of people that [I describe], active, empathetic and desirous of making an impact for the betterment of people like us – willing to jump into the fray and hold our society and its institutions to account.'

There has also been a strong pragmatic dimension to what many of you have been saying, a sense of the energy and dynamic qualities not just to the people around rights but to the rights themselves.

Holly Bontoft puts it like this: 'As the world moves on, so must our rights.' To Alice we need to be 'be endlessly pragmatic, always negotiating the tension between the need to go with the cultural grain and the need to speak universally in a world of pluralism.' Federico Burlon intervenes 'to underscore the importance keeping human rights pragmatic.... human rights as a political project of empowerment and freedom must remain practical and accessible.' Lily Megaw argues that human rights 'need to be allowed to develop over time, to be able to respond to contemporary demands so that individuals can make use of their emancipatory power.'

But how far does this pragmatism extend?

This is Lily again 'We need struggle and solidarity, but we also a deeper meaning – a truth (T3).'

Of course I agree with Lily here. The trick is to keep pragmatic politics and essential truths in the frame, never losing the one in needless obeisance before the other. I suppose this is another way of summing up the project.

And the cultural relativism point (made by Adam and followed up on by Alice) can be managed, I think, in the way I approach it in the post – universal values and principled and universal rights which

are then concretized by laws reflective of the right human rights *attitude*. The uprisings in the Arab world are about dignity – this is what gives meaning to their assertion of their rights – and it is a dignity that all of us (wherever we are in the world) can instantly recognize. (Kate: ‘A much-needed reminder of the radical and revolutionary potential of human rights, their power and intrinsic universal appeal.’)

Values and principles are universal as are rights *albeit their manifestation can vary from place to place* - this is fine as long as these rights are good faith efforts at particularizing the values and principles that really, truly matter.

Apart from this **justice** and **energy** we have been discussing, there is also the **self**.

Anthony has throughout the project been the great advocate of the self and he has worked hard to ensure that we never forget the person that is and must be at the core of human rights. For Anthony, the two key things about the subject are ‘justice and ... the inviolability of the person (the sacredness of the person, in older language).’ Intuitions about each of these are universal at the core and each draws us to the language of human rights as our way of articulating what they feel like to us and therefore mean.

I have wrestled with the place of the self and have learnt a lot through doing this project. I am now clear I am entirely with Anthony on the vital role of the ‘self’ albeit of course it has been the located self that has been at the centre of our attention. As Anthony says, ‘Individual embodied selves are us, as it were, and I think that one of the prime reasons that human rights works as a political, ethical, social, emancipatory force is because it recognizes this front and centre.’

## EMBEDDING RIGHTS

If **energetic campaigning** for **justice** in support of a **rich understanding of the self** is what human rights are about, how do we go about achieving this? Anthony again: ‘For human rights to endure they need to be translated from the passion of individuals and groups of people into the very structures of society itself.’ Malcolm Ramsay puts it in the form of a question: “How do you drive forward large-scale change to achieve a better human rights future for all?”

I was thinking when reading Colin Harvey’s contribution to [track nineteen](#) of his question to me at the LSE event on Thursday last week – you will see it, I hope, when the event is put on the site. It was about the challenge of securing foundations for rights within a system that is at the same time properly and adequately democratic. In other words we are back to the tension between politics and truth that I alluded to a moment ago.

Colin reminds us in his comments here about the hostility to the ‘non-belonger’ that is evident in even otherwise excellent national and/or regional systems. How do we fight this, or stop it? Can truth control politics from the outside?

My answer is no.

In the end I do think that (in this world anyway) there is nothing outside politics, not even human rights, but that what we must do is grow a commitment to human rights that can then act as a check within our culture (Colin called it an ‘impediment’ in his question at LSE) – we could also call it a vital constraint on bad behavior (or commitment gadget as I called it on [track four](#), quoting Pascal Boyer).

To help us to do this we often embrace ideas on behalf of which we claim to be a timeless certainty – and sometimes our religious faiths helps us to a true (and not just a tactical) belief in these ‘truths’.

But politics cannot without contradiction deliver the truth external to itself that its whole system of self-government must deny.

Maybe as Craig says 'we don't need the white lies.' I would prefer if we didn't – if we could cope with the contingency as well as the ethical power of the language of rights. But many of us see the latter and reject the former, seeking a truth that we think the importance of human rights demands.

The truth I have come up with is an observation about nature, not a transcending moral theory. It helps I think with 'building a compassionate culture' as Craig puts it. It is an odd kind of morality I agree, rooted as it is in nurturing the better parts of what we are (with 'better' here based on a theory of justice rooted in the self that our minds tell us is what 'better' is). But for those without faith in something or some person larger than what we are it is all we have.

## LAW'S EMPIRE?

Now on to the law.

As Anthony says 'The law is both a key device but also a great danger.' Paul, Holly and others of you share Anthony's anxieties about law. As Duygu Akdag neatly puts it, 'legal enforceability as the sole criterion of realising justice is too narrow a concept.'

Holly picks up a loose end in my treatment of the topic in the [final essay](#). When I describe human rights law as 'the final product of a manufacturing process,' I meant only final in the sense of the completion of a particular journey for a human rights idea from inception to realization in law. The same journey could begin all over again the next day leading to a quite different destination. The finality applies only to this particular process, and is not intended to imply a guaranteed durability for the product at the end of it. This would contradict all I had been saying about the dynamism and positive volatility of human rights. I entirely agree with Holly that 'As the world changes, we must change with it, and work to improve our understanding of it and each other.'

It seems to me that Holly is right when she says that 'the role of law should depend on context.'

What context?

In a democracy with a strong democratic culture then it is right that law should be a mere messenger.

But in unjust or authoritarian societies, it can be heroic – a few South African judges took on apartheid (not many, I know) and the judges have been among the heroes of the people in Pakistan.

But human rights activists should see their dependence on courts as tactical and transitional. Each should strive for democratic improvement, for a situation of the sort well described by Richard Buck: 'The political culture must be one where democratic abuse of minorities is not tolerated and dissent is acceptable.' And this human rights based democracy should entail having 'multiple power centers in a society, so that one element cannot rule absolutely' (Richard again) but – as he rightly observes – these must include big society and not just big business: 'Among the possible multiple centers of power are labour unions, religious organizations and universities.'

Can we do more to produce the universal true democratic cultures which make human rights more real and us less dependent on courts?

I would agree with Richard that 'The West has got to be a little quicker in endorsing democracy, and military aid should only go to robust democracies.'

Paul raises the issue of the international enforcement of human rights in his response to [track twenty](#). Yes perhaps I ought to have developed this point as it does warrant fuller treatment – would some kind of International Court of Human Rights be a valuable addition to the universal embedding of

human rights, able (and Paul gives us this example) to advise on Iran or (we might add) Egypt and Bahrain? Perhaps yes – so long as it was properly representative of the worlds' peoples (not necessarily their governments) and also had the power to advise not command (more Human Rights Act than US constitution). But it really does feel like another essay – and I have finally run out of space!

Richard Buck talks about a different kind of enforcement, of a military and economic nature. He lays out a highly coherent and intelligible framework for sure, but how realistic is it? Can we sensibly say 'the just war doctrine must be rigorously applied to the decision-making' and expect it to happen like this in reality? That is the Iraq trap into which some of us fell a few years ago, I feel.

And Federico is indirectly in point here: 'if we aim to put forward a version of human rights as an inclusive, empowering, liberating project based on giving everyone equal esteem, we will have to show why human rights and not violence and looting are a better alternative for these people to have a voice.'

## DEMOCRATIC REFORM STARTS AT HOME

To be concerned about improving human rights and democracy abroad often gives an impression of complacency at home. Thankfully we have avoided this in the course of this project, or at least I hope we have.

As Kate puts it, 'human rights must engage more with economic power and inequality, its role in the political process, and the implications this has for equality more generally, especially in terms of political power and speech'

To Malcolm our 'playing field is hugely tilted' – I agree. That is why we also need a fair democratic system that can produce effective human rights law. (I am not talking now about this or that electoral system but rather about the pernicious impact of money and how to reduce it.)

We can go further too, or at least Malcolm argues very strongly that we can: 'there are a few relatively small changes, in crucial areas, which have the power to fundamentally transform the social landscape – not overnight, but hugely over the course of one generation, and completely over the course of two or three.' I think his idea of 'concentrating on fixing ...specific flaws' is a strong one.

- Target specific reforms to the political process that would reduce the power of money and then push hard for them;
- Develop Malcolm's imaginative ideas about property and the need to restrict accumulation. (I wonder by the way why anyone is allowed inherit real estate at all – given property is not infinite, is this not a crass violation of the value of equality?)

Should we go further?

Malcolm again - 'we can establish a voluntary society whose members covenant with each other to live by higher standards than the common law requires, with sanctions – enforceable in the courts through contract law – for those of us who fall short.'

The hankering after a new society, a [New Lanark](#) of the future, is something that has long been out and about in the world of radical reform. But Malcolm's suggestion, that 'we must build a new society – on new foundations – and swallow the old one from within' strikes me as perhaps asking too much of us if we take it quite as intently as I think he might want us to. To me, politics is about slow work to

bring everybody with us more by argument and immediate example than by creating new models of living which will lack reality for those whom we are seeking to (and must) win round.

## DOES COHERENCE MATTER?

Zoe Fiander (with Anthony agreeing on this one) says that my eighth assumption in [track nineteen](#) is wrong, that the subject of human rights is coherent – or maybe she has misunderstood me, she adds kindly!

I didn't express myself clearly, I think that is it.

I am all for its ethical coherence and its intellectual coherence – but the latter not at any price. This is why I talk about 'relative intellectual coherence' – its fine unless you submit it to the scholastic microscope but I am saying you shouldn't bother to or worry if such scrutiny shows up a few tiny imperfections. Rather we should celebrate this kind of incoherence as a price well worth paying for making strong ethical sense.

Zoe says 'Perhaps I am biased as I would like all 10 points to hang together in a "deep and consistent" way...!' I think they do, and deeply enough for our purposes. But if you dive too deep you can drown – and you will certainly get separated from the swimmers you went out with. There is such a thing as 'deep enough', a time when you tell your brain to stop, and to settle for the unity we have and which makes sense to our hearts than the deeper unity that the brain demands but which risks destroying everything else.

## SOME GAPS

Christina mentions women's rights and Paul agrees that in general they are 'paid far too little attention'. I agree, the gendered perspective adds a deep dimension to human rights – I think I should have made more of an effort to discuss women's rights directly. Having said that, it was of course up to my respondents to make the points on behalf of women – Christina herself is a good example of this, and Duygu's post in response to track 20 is an excellent example of the kind of fresh input that this perspective can bring. But there was not much I could do by way of expanding the contributors – I could hardly coerce people into participating in a voluntary human rights project!

This last observation must also stand as my reply to Jose-Manuel Barretto, when he comments that the project was 'too Eurocentric' with 'not enough people from different backgrounds', when we needed a 'much more open dialogue'. True the project was limited to those with access to the internet but I don't understand this limitation to be the basis of Jose-Manuel's criticism. People from over a hundred countries dipped into the project from time to time. Maybe we should have done more to make people want not only to read but to write as well: more people like Jose-Manuel in fact, willing and able to wrest the initiative from me and to drive forward a forceful but different version of human rights.

This was a possibility.

But as I said by way of response to Christina our dialogue is not rooted in compulsion – we respect (to use a deeply Anglo-Saxon legal metaphor) the right to silence – whatever trouble it gets me into with those of you (like Jose-Manuel?) who confuse my openness to silence with a desire to impose my point of view.

## AND THAT'S IT?

Well sort of, but I hope not entirely. I will be putting up the video of the event on 17 February, with (I hope) some final thoughts. And I'll be in touch as well about a further chance for those of us who have contributed regularly to meet and to think through what we should do with the whole project now this phase is over.

I have found it one of the most energising and exciting projects of my academic life. It has been full of life and zest from the start. And that is down to all of you, those of my readers who have read and those who have contributed, especially.

Thank you to you all.