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978-1-107-10764-9 - Revisiting the origins of Human Rights

Edited by Pamela Slotte and Miia Halme-Tuomisaari

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## 1

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Revisiting the origins of human rights:  
introduction

MIIA HALME-TUOMISAARI AND PAMELA SLOTTE

In the scholarship on human rights few things have been as surprising as the zeal that has over the past years been directed at history. What a mere decade ago emerged as a ‘completed’ field of inquiry with a distinct ‘textbook narrative of origins’ located at its centre has since become the site of heated inquiry and contestation. Now the very foundations of what we have collectively treated as ‘facts’ are being challenged with continually new publications putting forward both novel questions and alternative perspectives.

Where does the history of human rights begin: centuries, even millennia earlier, or a mere few decades ago? What constitutes this history and what can we really learn from ‘the textbook narrative’ – the unilinear, forward-looking tale of progress and inevitable triumph of human rights authored primarily by Western philosophers, politicians and activists, and reproduced also in books of international law? Does such a distinguishable entity as ‘the history of human rights’ even exist, or are efforts to read evidence in past events of the later ‘evolution’ of human rights mere ideology?

This book explores these questions through a collective experiment by historians, legal scholars, theologians and an anthropologist. It pays homage to the long-term predominance of the textbook narrative by investigating what kind of novel insights a fresh take informed by this recent ‘zeal’ offers on its main contours. Importantly, rather than entities with an absolute, predefined ‘essence’, this book conceptualizes human rights as open-ended and ambiguous – qualities responsible, furthermore, for their global appeal – formed around an ideal of the universal human being as free and equal in particular. This book addresses the study of the dynamics, tensions and struggles accompanying the making of these claims, eventually leading to the emergence of the contemporary human rights phenomenon.

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This book is structured around three parts which form commentaries on the textbook narrative's distinct variations. Parts I and II address 'the Tale of Imagined Antiquity', departing from the Roman era and moving on to discuss the Medieval and Revolutionary periods. They conclude at the end of the nineteenth century to explore through key themes highlighted by this variation whether, and how, they contributed to the later emergence of the contemporary idea of human rights as well as the phenomenon that was to form around it in the post-Universal Declaration of Human Rights (UDHR) era. Part III addresses the 'Big Bang Theory', a variation which commonly highlights a 'vacuum' of rights initiatives in the inter-war period and, by contrast, emphasizes the collective abhorrence of Second World War events and the adoption of the UDHR as the decisive moment of birth for the contemporary human rights phenomenon.

This book's authors are leading experts in their fields who hold differing familiarity with the textbook narrative as well as invest it with diverse levels of persuasiveness – yet they share a sense of importance in this joint endeavour. Importantly, rather than a predetermined attempt to debunk or rectify specific positions – namely that x, y and z either *were* or *were not* influential elements in the history of human rights – this book is the result of genuine shared engagement and debate: although at the time of invitations distinct viewpoints embodied by its chapters were likely evident to some authors, to us, the editors, they were unknown. Thus this finalized book forms a testament to the book's collective working process; both the series of answers discovered through its making and the range of novel questions generated concomitantly. Faithful to the narrative's primary organizing logic, this volume is arranged chronologically. However, in a style often combining experimentation, few of the chapters actually uphold this temporality. By contrast, most move both backwards and forwards in time, frequently glancing at the present day. Thus, this book poses the question: to what extent are all historical explorations simply 'stories' existing both as concrete events of foregone days and as today's perceptions over their meaning?

### Introducing the 'textbook narrative'

This book was originally motivated by our – the editors' – early encounters with the dominant historiography of (human) rights. As we studied

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this scholarship we found ourselves growing confused. If our engagement with critical legal scholars had taught us anything, it was about the complexity of indeterminate (legal) rights claims, the various dark sides accompanying human rights action, and the very concept of human rights.<sup>1</sup> Consequently, whether we approached human rights as open-ended and free-floating signifiers in everyday use, or as contested meanings in philosophical, ethical and religious debates, we lacked certainty over what human rights ultimately meant.<sup>2</sup>

In regards to historiography, our problem was the reverse. As we discovered the influential body of law books, which, commonly in their first pages, recounted the history of human rights, we were struck by a sense of internal coherence, logical continuity and seeming comprehensiveness instead of the contradictions, conceptual fuzziness and competition of perspectives characterizing most scholarly work.<sup>3</sup> Where we expected

<sup>1</sup> See among others David Kennedy, *The Dark Sides of Virtue: Reassessing International Humanitarianism* (Princeton University Press, 2004); Martti Koskenniemi, 'Human Rights, Politics and Love', *Mennesker Rettigheter*, 1 (2001), 33–45; Duncan Kennedy, 'The Critique of Rights', in Wendy Brown and Janet Halley (eds.), *Left Legalism/Left Critique* (Durham, NC/London: Duke University Press, 2002), pp. 178–228; Makau Mutua, *Human Rights: A Political and Cultural Critique* (Philadelphia, PA: University of Pennsylvania Press, 2002); Tom Campbell, K. D. Ewing and Adam Tomkins, *Sceptical Essays on Human Rights* (Oxford University Press, 2001); Conor Gearty, *Can Human Rights Survive?*, The Hamlin Lectures (Cambridge University Press, 2006); Marie-Bénédicte Dembour, *Who Believes in Human Rights? Reflections on the European Convention* (Cambridge University Press, 2006); Costas Douzinas, *The End of Human Rights: Critical Legal Thought at the Turn of the Century* (Oxford: Hart Publishing, 2000); Susan Marks, 'Human Rights and Root Causes', *Modern Law Review*, 74 (2011), 57–78.

<sup>2</sup> These sentiments led to our two doctoral theses, both of which address these issues from different angles. Miia Halme-Tuomisaari's thesis addresses them through a combination of anthropology and critical legal studies, while Pamela Slotte's does so through a combination of theology, ethics and human rights law. Miia Halme-Tuomisaari, *Human Rights in Action: Learning Expert Knowledge* (Leiden: Brill Academic Publishers, 2010); Pamela Slotte, *Mänskliga rättigheter, moral och religion: Om mänskliga rättigheter som moraliskt och juridiskt begrepp i en pluralistisk värld* [Human rights, morality and religion: on human rights as a moral and legal concept in a pluralistic world] (Turku: Åbo Akademis förlag, 2005).

<sup>3</sup> See for example Henry J. Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, Morals*, 2nd edn (Oxford University Press, 2000), pp. 59–68; Robin C. A. White and Clare Ovey, *Jacobs, White and Ovey: the European Convention on Human Rights*, 5th edn (Oxford University Press, 2010), pp. 1–17; Gudmundur Alfredsson and Asbjørn Eide, 'Introduction', in Gudmundur Alfredsson and Asbjørn Eide (eds.), *The Universal Declaration of Human Rights: a Common Standard of Achievement* (The Hague: Kluwer Law International, 1999), pp. 8–10; Louis Henkin, *The Rights of Man Today* (Boulder, CO: Westview Press, 1981), pp. 3–6; Louis Henkin, 'International Human Rights and Rights in the United States', in Theodor Meron (ed.), *Human Rights in International Law: Legal and*

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to encounter passionate disagreement, we found fluent prose freed of references – evidently, we were dealing with a tale holding the status of uncontested common knowledge that, in conformity with established customs of academic writing, needed no backing from footnotes.<sup>4</sup>

Our exploration awakened a sneaking suspicion that we were – with only slight variation of highlighted social theorists or events – effectively reading the same ‘textbook narrative’ over and over again, as if it had been simply copied and pasted from one book to the next. This sentiment soon transpired into certainty: whereas, for example, Louis Henkin revised other parts of his 1978 textbook on human rights for inclusion in his leading casebook in 1990, he left the section discussing the history of human rights intact.<sup>5</sup> We discovered that, in fact, the textbook narrative had a much longer pedigree still, appearing in practically identical form in one of the very first authoritative accounts on human rights published almost seven decades ago, namely in Hersch Lauterpacht’s *International Law and Human Rights* from 1950.<sup>6</sup>

We were amazed at how this narrative in its consistency contrasted not only with general conventions of academic writing but with the content of other law textbooks. Given incessant legislative modifications, treaty

*Policy Issues* (Oxford: Clarendon Press, 1984), pp. 28–34; Christian Tomuschat, *Human Rights: Between Idealism and Realism* (Oxford University Press, 2003), pp. 6–23; Heiner Bielefeldt, ‘Philosophical and Historical Foundations of Human Rights’, in Catarina Krause and Martin Scheinin (eds.), *International Protection of Human Rights: a Textbook* (Jyväskylä: Gummerus Printing, 2009), pp. 3–18. For more comprehensive accounts, see Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen*, 2nd edn (Philadelphia, PA: University of Pennsylvania Press, 2003); Ove Bring, *De mänskliga rättigheternas väg – genom historien och litteraturen* (Stockholm: Atlantis, 2012).

<sup>4</sup> This characterization borrows from Bruno Latour’s analysis on the processes accompanying the making of scientific discoveries: whereas a scientific claim the verification of which is still under investigation remains a ‘hot’ topic which inspires intense passionate engagement, a claim that has acquired the status of an uncontested truth becomes ‘cold’; a ‘closed black box’. Bruno Latour, *Science in Action: How to Follow Scientists and Engineers through Society* (Cambridge, MA: Harvard University Press, 1987). See also Bruno Latour, ‘Scientific Objects and Legal Objectivity’, in Alain Pottage and Martha Mundy (eds.), *Law, Anthropology, and the Constitution of the Social: Making Persons and Things* (Cambridge University Press, 2004), pp. 73–114; and Bruno Latour, *Reassembling the Social: an Introduction to Actor-Network-Theory* (Oxford University Press, 2005).

<sup>5</sup> Henkin, *The Rights of Man Today*; Louis Henkin, *The Age of Rights* (New York: Columbia University Press, 1990). Of details of the narratives, many authors will recognize, for example, the criticism of rights by Jeremy Bentham or Karl Marx but with little impact on the hagiographic tenor of the narrative. For introduction into the central claims of this criticism, see Jeremy Waldron (ed.), ‘Nonsense upon Stilts’: *Bentham, Burke and Marx on the Rights of Man* (Oxford University Press, 1987).

<sup>6</sup> Hersch Lauterpacht, *International Law and Human Rights* (London: Stevens, 1950).

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interpretations and court decisions, such legal texts face constant updating, resulting in some of the shortest scholarly ‘expiration dates’ in higher education. Consequently organizing a course on, say, competition law or general international law would be unthinkable with a textbook containing sections several decades old. Not so with human rights, we discovered, leading us to conclude that up until this moment, generations of aspiring human rights lawyers had been trained into thinking that the history of human rights forms a completed, ‘cold’ field of inquiry with ‘nothing left to study’.<sup>7</sup>

*Imagined Antiquity and the ‘Big Bang Theory’*

Soon we noticed that the textbook narrative entailed two distinct variations, which, despite seeming incompatible, ultimately convey the same message. The first variation – one that we call ‘the Tale of Imagined Antiquity’ – directs its explanatory focus on historical events, departing commonly with the Stoics of ancient Greece and the policy makers of the Roman Empire. As this variation moves through time, it connects dispersed historical events and eras into a neat chronology, highlighting the occasional benevolent policy initiated by isolated rulers in medieval times – even if this era is commonly considered as the ‘dark ages’ of rights – and connects human rights thinking to natural rights as articulated, among others, by Francisco de Vitoria, Hugo Grotius, Emer de Vattel and John Locke, sometimes Jean-Jacques Rousseau or Immanuel Kant.

This variation views the Enlightenment as the most significant ‘moment of birth’ for human rights, emphasizing the importance of the French and American Revolutions and the two Declarations that they inspired, namely the US Declaration of Independence of 1776 and the Bill of Rights of 1791, and their French counterpart, the Declaration of the Rights of Man and of the Citizen (*Déclaration des droits de l’homme et du citoyen*) of 1789. Aided further by the rise of capitalism, modern technology and modernity, so this variation continues, human rights notions continued their spread through different social movements, and finally received their logical culmination in the adoption of the UDHR in 1948.<sup>8</sup>

By contrast the second version – what we call ‘the Big Bang Theory’ – effectively downplays the importance of developments from past

<sup>7</sup> This characterization borrows, once more, from Latour’s analysis on the processes accompanying the making of scientific discoveries. Latour, *Science in Action*.

<sup>8</sup> See examples of this variation above in n. 3.

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centuries, celebrating instead the adoption of the UDHR as the foundational moment for the contemporary human rights phenomenon. This variation emphasizes a vacuum of rights initiatives in the inter-war period, and highlights global abhorrence awakened by the Holocaust as the decisive factor behind the newly sprung universal consciousness of mankind. This in turn resulted in worldwide mobilization to ensure that similar atrocities would never occur again, thus laying the foundations for the rapid geographic spread and empirical growth of the post-UDHR contemporary human rights phenomenon, eventually elevating human rights into the ‘idea of our time’.<sup>9</sup>

Despite their differences, ultimately both of these versions convey the same message: they tell a hagiographic tale, a ‘Whig narrative’ of the past as unilinear progress and global improvement in which humanity is on a steady march away from superstition, cultural fanaticism and irrationality towards secularization, rationality and modernity. Despite the occasional hiccups, the outcome is the ultimate triumph of ‘good’ over ‘evil’, and the eventual dawn of the ‘age of rights’.

### *Essentialized Eurocentrism*

Particularly the ‘Tale of Imagined Antiquity’ ends up portraying human rights as ultimately Euro-American ‘inventions’. For, although the language and ideology of human rights are undeniably universalistic, the conceptual and social history highlighted by this tale is thoroughly located in Europe and North America, and its later phases more specifically almost exclusively in Great Britain, France, Germany and the United States.<sup>10</sup> Thus the textbook narrative becomes simultaneously the story of the

<sup>9</sup> For a discussion and summary of this scholarship, see G. Daniel Cohen, ‘The Holocaust and the “Human Rights Revolution”’, in Akira Iriye, Petra Goedde and William I. Hitchcock (eds.), *The Human Rights Revolution: an International History* (New York: Oxford University Press, 2012), pp. 53–72; see also Mark Mazower, ‘The Strange Triumph of Human Rights, 1933–1950’, *The Historical Journal*, 47 (2004), 379–98. Many human rights books entertain both of these variations: they first introduce the developments of human rights until the dawn of the twentieth century by echoing the ‘Tale of Imagined Antiquity’, then dismiss of the first decades of the twentieth century and particularly the inter-war periods as eras where human rights concerns were pushed to the backburner of a world preoccupied by the world wars, the dawning end of the Imperialist era as well as economic crisis. They identify a ‘rebirth’ of human rights notions in the global reactions on Nazi atrocities, thus resulting in their ‘maturation’ in the UDHR; see for example Michael Freeman, *Human Rights (Key Concepts)*, 2nd edn (Cambridge: Polity Press, 2011).

<sup>10</sup> See as an example the anthology by Patrick Hayden, *The Philosophy of Human Rights: Readings in Context* (St. Paul, MN: Paragon House, 2001).

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inevitable ideological triumph of the Western, liberal world. This outcome is problematic for the contemporary human rights movement as it remains engaged in efforts to justify its universality.<sup>11</sup> If human rights are indeed conceptualized as the direct descendent – the ‘fruits’ – of events and thoughts that occurred – had their ‘roots’ – in the West, does this not mean that human rights *themselves* are Western too? And further, would this not equate the global human rights regime with systematic ideological imposition, even cultural imperialism?

Such proposals pose dire challenges to the legitimacy of the global human rights regime, and thus they have understandably inspired scholars to search for alternative explanations. We see such efforts reflected in recent accounts that embrace this Western legacy but contest its relevance. One example connects human rights to a specific development in the history of mankind, namely the rise of the modern nation state. This development, in turn, is seen as introducing the need for a rights-based approach to address social issues and to safeguard the individual within the state. This process becomes likewise cast as a universal one, and consequently that it occurred first in Europe and the Western hemisphere should be treated as primarily coincidental, not a factor challenging the universality of human rights.<sup>12</sup>

<sup>11</sup> This problematic characterized already the drafting of the UDHR in the late 1940s of which the most memorable embodiment has become the Statement on Human Rights by the American Anthropological Association in 1947 – a document that is still regularly acknowledged despite of the very same Association effectively ‘annulling’ it in 1999. See American Anthropological Association, ‘Statement on Human Rights’, *American Anthropologist*, 49 (1947), 539–43; Declaration on Anthropology and Human Rights. Available at [www.aaanet.org/stmts](http://www.aaanet.org/stmts) (last accessed 13 October, 2014). For discussion, see Julian H. Steward, ‘Comments on the Statement on Human Rights,’ *American Anthropologist*, 50 (1948), 351–2; Karen Engle, ‘From Skepticism to Embrace: Human Rights and the American Anthropological Association from 1947–1999’, *Human Rights Quarterly*, 23 (2001), 536–59. That the ‘universalism-particularism/relativism’ debate continues to trouble scholars is evidenced, for example, by the influential and widely cited book on the drafting of the UDHR by Johannes Morsink which opens, perhaps unexpectedly, with a two-page discussion of the criticism, and responses to the critics, on the universality of human rights, before moving onto the detailed analysis of the drafting process in 1946–7. Johannes Morsink, *Inherent Human Rights: Philosophical Roots of the Universal Declaration*, Pennsylvania Studies in Human Rights (Philadelphia, PA: University of Pennsylvania Press, 2009).

<sup>12</sup> This line of argumentation is found e.g. by Georg Ulrich, who in turn builds on Jürgen Habermas, among others. Georg Ulrich, ‘Universal Human Rights: an Unfinished Project’, in Kirsten Hastrup (ed.), *Human Rights on Common Grounds: a Quest for Universality* (The Hague/London/New York: Kluwer Law International, 2001), pp. 214–15, 219–20; Jürgen Habermas, *Diskurs, rätt och demokrati: Politisk-filosofiska texter i urval av Erik Oddvar Eriksen och Anders Molander*, translated by Thomas Linden, Anders Molander and



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These explanations, however, cannot escape awakening connotations of scholarly and political traditions that in their ethos are ill-suited to accompany the ideology of human rights. Arguments of pioneering European progress resonate with early evolutionist theory in which temporality held likewise centrality as ‘primitive’ and ‘modern’ societies were seen as being located on the opposite poles of a joint timeline mapping out the universal progress of man.<sup>13</sup> These approaches echo further with the *noblesse oblige* of international law, another politically dubious tradition of which many human rights scholars may understandably be wary.<sup>14</sup>

Whereas we find occasional embrace of ‘civilizing’ rhetoric in some human rights scholarship, in regards to the textbook narrative we have identified a differing approach exemplified by an influential body of works.<sup>15</sup> In defence of the global applicability of human rights, this ‘universalizing variation’ casts its net wider by aspiring to prove how notions similar to contemporary human rights – ideas about human dignity, equal treatment, freedom and protection – have been embodied by civilizations, both ancient and more recent, throughout the globe, be they Islam, Hindu or ancient China. Often these references remain superficial and vacuum

Anders Ramsay (Göteborg: Daidalos, 1995), pp. 51, 166–7; Slotte, *Mänskliga rättigheter, moral och religion*, pp. 103–4. See further Slotte, *Mänskliga rättigheter, moral och religion*, pp. 105–8, for a critical discussion of this line of argument. Another approach emphasizes the relationship of human rights to political struggles which themselves, so the argument goes, are universal. This argument has been forwarded, for example, by Heiner Bielefeldt. Bielefeldt ‘Philosophical and Historical Foundations of Human Rights’, pp. 3–18.

<sup>13</sup> Consequently primitive societies could be studied as illustrations of the past of ‘modern’ societies, and by contrast modern societies formed the model on what primitive societies would become in the future upon having sufficiently evolved. Here classic works are Henry Maine, *Ancient Law* (1861), and Edward Taylor, *Primitive Culture* (1871).

<sup>14</sup> See for example Martti Koskenniemi, *The Gentle Civilizer of Nations: the Rise and Fall of International Law, 1870–1960* (Cambridge University Press, 2002); Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press, 2005).

<sup>15</sup> We identify this approach as occurring primarily in talk emphasizing ‘global learning’ as is exemplified for example by Bielefeldt who further argues that the history of human rights should be understood as an ‘ongoing intercultural learning process’. Bielefeldt, ‘Philosophical and Historical Foundations of Human Rights’, pp. 3–18. A similar line of argument is found in Jack Donnelly, ‘Human Rights and Human Dignity: an Analytic Critique of Non-Western Human Rights Conceptions’, *American Political Science Review*, 76 (1982), 313–14. We have in our research identified how such learning processes are accompanied by rigid and predetermined positions allotted for ‘experts’ and ‘students’, and how these positions end up reproducing familiar and problematic social structures of privileged and underprivileged that continually echo the borders of ‘West and the rest’; see Halme-Tuomisaari, *Human Rights in Action*.



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pack centuries of civilizations into a neat couple of pages.<sup>16</sup> At other times they become extensive queries that fill entire volumes as is exemplified by Paul Lauren's influential, eloquently written and extensively researched book *The Evolution of International Human Rights: Visions Seen*.<sup>17</sup>

Importantly Lauren's book, like other works embodying a similar approach, intends not to question, but to affirm the basic tenets of the hagiographic narrative. This goal alters the role assigned to historical events and research: instead of forming the foundations for factual or objective description – arguably still central scholarly motivations even if impossible to realize – historical data is transformed into an instrument that is utilized to defend a predetermined position, namely, to prove with the help of cross-cultural historical data that human rights *are* universal notions.<sup>18</sup>

Yet such accounts struggle to persuade for reasons applying to the textbook narrative more generally. They forward wishful conclusions of how isolated and esoteric historical events impacted the evolution of the contemporary human rights understanding and phenomenon. In doing so, they disregard material reality and context by selecting any activity that has been formulated with *rights* vocabulary, although not *human* rights language, or which otherwise emerges as emancipatory with preferably trans- or international tendencies as predecessors for the post-UDHR human rights phenomenon without elaborating the connection of the

<sup>16</sup> Freeman, *Human Rights*. For a more comprehensive account of 'Early Ethical Contributions to Human Rights', see Micheline R. Ishay, *The History of Human Rights: from Ancient Times to the Globalization Era* (Berkeley, CA: University of California Press, 2008), pp. 15–61. Similar approaches accompany on occasion accounts of the drafting of the UDHR, a process that many scholars have convincingly described as a Western-dominated process; see for example William Korey, *NGOs and the Universal Declaration of Human Rights: 'A Curious Grapevine'* (New York: Palgrave Macmillan, 2001). For example Alfredsson and Eide argue, attempting to deny the Western bias of the drafting process as well as the UDHR as a whole: 'There is some truth to this but it is frequently exaggerated. As seen from the names above, participants came from all parts of the world. Admittedly, there was only one participant from the African continent (Egypt). Indigenous peoples and minorities had no representation during the drafting and adoption stages. While this may be true, today the broad wording of the Declaration and its general principles together with subsequent standard-setting and implementation activities reduce the value of this statement to history.' Alfredsson and Eide, 'Introduction', p. 11.

<sup>17</sup> Lauren, *The Evolution of International Human Rights*.

<sup>18</sup> For an example of such approaches, see e.g. Abdullahi Ahmed An-Na'im (ed.), *Human Rights in Cross-Cultural Perspectives: a Quest for Consensus* (Philadelphia, PA: University of Pennsylvania Press, 1995). For an analysis and critical discussion of intercultural and interreligious attempts to affirm the universality of human rights, see Slotte, *Mänskliga rättigheter, moral och religion*.

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two. Simultaneously their participants are described as ‘human rights activists’ and their political projects as ‘human rights movements’, independent of concrete embellishment, ideological motivations or practical outcomes.<sup>19</sup>

### Textbook narrative as legitimating myth

From a methodological perspective, our description of the textbook narrative raises several observations. First, the collective oversight of *what* it addresses – the history of a movement, a discourse, an ideology – as well as the broad-sweeping tendency to embrace isolated historical events exemplify implicit anachronism; the temptation to approach history writing from the context of contemporary concerns. However, this ignores what these scholars take as historical ‘facts’ or as expressions of human rights thinking in eras before ‘rights talk’. Thus, whereas its details may be elaborate and extensively researched, the narrative neither problematizes the practice of history writing as such, nor situates its writers – the ‘authorial “I”’ – in the text by exploring her purposes, methodological assumptions or prejudices.<sup>20</sup>

Scholarship advancing the textbook narrative also overlooks its own positivistic character, its allegiance to the idea that history writing equals engagement with (natural) facts. The textbook narrative ignores discussions of how reality is always mediated through language, thus resonating with ‘hermeneutic naïveté, the belief in immaculate perception’.<sup>21</sup> Consequently a reader is left wanting a thorough exploration of how one can talk of ‘knowing’ and ‘knowledge’, including historical knowledge, as well as how something like human rights can be argued to ‘exist’ in eras where the very concept of human rights had yet not appeared.

<sup>19</sup> Pamela Slotte, ‘Utopi och apologetik: Om mänskliga rättigheter och historieskrivning’ [Utopia and apologetics: on human rights and history writing], *Teologinen Aikakauskirja*, 117 (2012), 275. For a number of examples of this tendency, see Ishay, *The History of Human Rights*; for discussion and criticism, see Samuel Moyn, ‘Substance, Scale, and Salience: the Recent Historiography of Human Rights’, *Annual Review of Law and Social Science*, 8 (2012), 123–40. See also Reza Afshari, ‘On Historiography of Human Rights: Reflections on Paul Gordon Lauren’s *The Evolution of International Human Rights: Visions Seen*’, *Human Rights Quarterly*, 29 (2007), 1–67.

<sup>20</sup> Philip Gardner, *Hermeneutics, History and Memory* (London/New York: Routledge, 2010), p. 30.

<sup>21</sup> Quote from Gardner, *Hermeneutics, History and Memory*, p. 20, who in turn is citing Allan Megill, ‘Recounting the Past: “Description”, Explanation and Narrative in Historiography’, *American Historical Review*, 94 (1989), 632.