I What does it matter what human rights mean?

The cultural politics of human rights disrupts taken-for-granted norms of national political life. Human rights activists imagine practical deconstruction of the distinction between citizens and non-citizens through which national states have been constituted. They envisage a world order of cosmopolitan states in which the rights of all would be fully respected. How likely is it that such a form of society might be realised through their activities? Is collective responsibility for human rights currently being shaped in cultural politics? If so, how, and with what consequences? If not, how is it that the vision of human rights activists is failing to take effect given the explosion of discourse on human rights in recent years?

A focus on what human rights mean to social and political actors, and on how these meanings impact on their institutional-isation, has been missing from the study of human rights.[1] And yet it is only through cultural politics that the ideals of universal human rights may be realised in practice. What I mean by 'cultural politics' is more or less organised struggles over symbols that frame what issues, events or processes mean to social actors who are emotionally and intellectually invested in shared understandings of the world. But cultural politics is not only the contestation of symbols. Cultural politics concerns public contests over how society is imagined; how social relations are, could and should be organised. It is only through

---

[1] Fuyuki Kurasawa's study of what he calls the 'ethico-political labour' of human rights is an impressive theoretical advance in terms of establishing the importance of struggles over meaning to the practices of human rights (Kurasawa 2007). Ultimately, however, it is disappointing that Kurasawa does not link this labour to changes in institutions of governance and states, but confines his analysis to movements in civil society.

practices that are meaningful to people that social life is possible at all: the social institutions that constrain our lives are nothing but routinised shared understandings of what is real and what is worthwhile. Although social actors rarely, if ever, imagine a fully formulated blueprint of a new society, even during revolutionary periods, in using or contesting symbols that are meaningful to them they are nevertheless engaged, more or less consciously, either in trying to bring one about, or, just as likely, in defending what already exists.

Human rights are the object of cultural politics concerning global justice. Globalisation raises difficult questions concerning how justice must now be rethought beyond the national frame which successfully routinised shared understandings of justice as relevant only to fellow citizens. Human rights are themselves globalising as they are deployed in strategies to end human rights violations or to condemn states which resist international pressure to comply with human rights norms. In images of suffering in the global media which are framed as issues of human rights, and in responses to violations which seek to extend capacities for global governance, human rights are themselves an aspect of globalisation. However, at the same time, human rights also seem to stand above globalisation, to represent a framework through which globalisation itself might be regulated and global governance organised. The comprehensive schedule of human rights developed by the UN and in regional systems of human rights seem to offer a framework for justice beyond states, a global constitution to guide the political development of the planet. This book is concerned with whether and how globalising human rights may become established as norms of global justice through cultural politics.

Although it is now common to think of human rights as essential to just global governance, it is important to note that it is only through states that human rights can be realised. States do not just represent dangers and obstacles to the realisation of human rights, as sometimes appears to be the case in the literature on human rights violations; they are absolutely necessary for the realisation of

human rights in practice. In this respect, it is particularly important to consider how human rights are contested and defined *within* states. It is only with the collusion of state agents that human rights are violated, and only states can secure and enforce human rights within their own territories.[2] Even at the international level, human rights systems exist only by state agreement; it is states that act together in international organisations to create conditions for the realisation of human rights. States raise taxes to pay for international organisations, authorise personnel to act in them on their behalf, and maintain the military and police force that can, in principle at least, be used to enforce human rights.

States, like all other social institutions, are constituted as routinised social practices which establish that members of society 'know how to go on' in any particular situation. Language, symbolic communication organised into settled patterns of shared understandings as discourse, is the most important structuring dimension of institutions. This is equally the case in formal, bureaucratic organisations, such as those of the law and government, where face-to-face interactions are generally regulated by the tasks at hand, and by written materials that guide what is to be done, as it is in more loosely networked and informal spaces, such as those of social movements. At certain times conflicts arise about 'how to go on' in social institutions, over whether settled interpretations are fair, or accurate, or valuable. These conflicts often begin as a result of the activities of social movements, which challenge taken-for-granted understandings of routinised social life and militate for change in policy and legal documents which share in and reinforce those understandings. During periods of cultural political activity, common

---

[2] Although, in recent times powerful states have used a rhetoric of human rights to justify military intervention into other states, the legality of such measures is highly contentious, military intervention is never undertaken solely to secure human rights, but always primarily for reasons of security or economic advantage, and – as we have seen in Iraq and Afghanistan – it is also, unsurprisingly, ineffective (Chandler 2006; see also Cushman 2005).

interpretations are disrupted and become open to re-interpretation. Such conflicts may, where authoritative decision-makers allow it, or where they find themselves obliged to respond to contentious re-interpretations, result directly in changes in the law, or in government policy.[3]

'How to go on' in the face of contention over what are clearly stated in international law as universal human rights but which are in practice selectively applied and enforced within national states is currently highly contested. In this book I analyse precisely how cultural politics are constructing human rights in particular forms. I do so through a series of in-depth case studies comparing the US and UK. Both states have been and are currently prominent in extending human rights internationally; in both, within the national arena, the cultural politics of human rights practices is complex and hard-fought. Officials in these liberal-democratic states of long-standing clearly find it difficult, imprudent or unnecessary to adopt universal norms of human rights in practice, despite the fact that leaders of these states have been responsible for developing and promoting them in the international arena. In-depth study of the role of cultural politics is crucial to understanding their reluctance to realise human rights in practice and what it means for their future possibilities.

HUMAN RIGHTS CULTURE AND CULTURAL POLITICS
With the exception of anthropological studies, which are now moving beyond the debate over universalism and relativism in interesting

---

[3] I developed this understanding of cultural politics in *Contemporary Political Sociology*, where I drew on the work of post-structuralists, especially Laclau and Mouffe, and of sociologists, especially the work of Giddens on structuration theory (Nash 2000). This approach also has a good deal in common with that of American cultural sociologists, though I remain of the view that specifically in order to study social institutions we must understand culture as constitutive (rather than causal): whilst the cultural and the social may be separated analytically, symbolic meaning and social institutions are, in reality, so interrelated as to be indistinguishable. If culture is *constitutive*, it is not possible to identify an independent causal direction to its *influence* (see Alexander and Smith 2003).

ways, the importance of culture to the study of human rights has
not been so much neglected as it has been routinely referred to as
essential in literature on policy and politics without, however, being
given rigorous attention in its own right.[4] It is above all in references
to 'human rights culture' that the importance of linking inter-
subjective and institutional dimensions of human rights is noted.
'Human rights culture' marks out a fairly well-established under-
standing that culture is crucial to fostering the realisation of human
rights in practice. However, it is invariably used to provide the
answer to the problem of how human rights might be realised. In this
study, in contrast, the concept of 'human rights culture' is the occa-
sion for *questions* concerning the kind of research that is necessary to
establish how the cultural politics of human rights is actually engaged.
Rather than accepting that human rights culture is the ethical answer
to the question 'how can human rights ideals be realised in practice?',
it is important to think about how we might study the cultural politics
of human rights and their effects on social institutions.

There has been no systematic study of human rights culture.
However, the term has been widely used in a diverse set of inter-
ventions in policy debates at the international and national level
(Lasso 1997; UN 2004; see also www.breakthrough.tv). It has also been
discussed by theorists of human rights from different disciplinary
backgrounds (Rorty 1993; Klug 2000; Parekh 2000; Mertus 2004,
2005). 'Human rights culture' finds political and theoretical support
because it marks the importance of inter-subjective understandings
of human rights to their realisation, which are otherwise overlooked
in policy debates and in academic studies of human rights. The
common theme of the diverse uses of 'human rights culture' is that
in order to be successful human rights must win hearts and minds.
Mertus puts it well (drawing on the anthropologist Renato Rosaldo's

---

[4] Anthropological work on the meanings of human rights has been an inspiration for
this project, especially for the way in which anthropologists treat human rights *as*
culture (Wilson 1999; Cowan *et al.* 2001; Merry 2006).

definition of culture): human rights will only be established once human rights are one of the 'forms through which people live their lives' (2005: 212). Helena Kennedy, in the foreword to Klug's *Values for a Godless Age*, describes human rights culture as involving, 'not just aspirational principles, but a practical code for existence' which should not be left to lawyers, 'a new erudite priesthood, taking the life out of the debates' (Kennedy 2000: xiii).

Though 'human rights culture' is used in many different ways, across all its uses there is a kernel of agreement. What is needed to establish human rights is a shift in public sentiments: every single person must simply be respected and treated as an individual human being with entitlements, regardless of their gender, racial, ethnic or religious background. It should become unthinkable and intolerable that anyone should ever act against human rights, whether at home or abroad. Ignoring human rights must become ethically and emotionally repellent if human rights ideals are to become reality. Only then is there any real possibility of establishing and maintaining institutions that uphold human rights norms.

The concept of 'human rights culture' raises two main problems for investigation in this study. Firstly, supplying an *answer* to the problem of how human rights are to be realised, it tends to suggest an essentialist understanding of culture as a 'way of life' (even where there is the explicit attempt to break with this conception of culture (see Mertus 2004: 212)). Advocates of human rights culture must emphasise the stability and coherence of shared values, understanding and emotional commitments to human rights – even if this is more a future aspiration than a present reality. It is the stability and coherence implied by 'culture' that is precisely the value of human rights culture when it provides an answer to the question, 'can human rights be realised?'. However, there is general agreement amongst cultural theorists that culture is not stable, coherent or enduring in the way that advocates of human rights culture must assume (Cowan *et al.* 2001; Ortener 2006).

Secondly, the concept of 'human rights culture' does not enable the investigation of precisely *how* culture effects change. In particular, it has not been developed to engage with the question of precisely how it is that state officials, who are ultimately responsible for institutionalising and enforcing human rights, might be motivated to put human rights into practice. The answer that 'human rights culture' provides to the question of how human rights are realised seems to assume either that judges and politicians who make effective decisions concerning the realisation of human rights act as a result of cultural norms that are shared by the whole society; or that they act because of public pressure, itself shaped by shared cultural norms that are developed in civil society, the realm of sentiment and ethical values, which may then influence cold-hearted or anxiety-driven judgements of state officials.

In order to investigate the importance of culture to realising human rights ideals, I propose to replace the idea of 'human rights culture' with that of the 'cultural politics of human rights'. It is vital to preserve the insight of advocates of human rights culture that culture *does* make a difference to human rights. My approach is intended to expand and extend that understanding whilst avoiding reliance on a discredited essentialist definition of culture. 'Politics' could be used to sum up the principal theoretical difference between essentialist understandings of culture as a settled way of life and contemporary understandings of culture as inherently ambiguous, contested and structured by power. Cultural theorists have shown how power, and therefore politics, is inherent in all practices of symbolisation through which meaning is communicated. Culture structures institutional positions of authority which validate particular perspectives, creating hierarchies of subordination and obscuring or excluding recognition of differences and inequalities. It is not that there is no consensual stability to culture. To a large extent culture involves the reproduction of traditions, habits, perceptions and understandings. But culture is also inherently fluid and

dynamic, a continually moving and 'changing same' (Gilroy 1993: 101). Constructed in relations of power, culture is always open to political challenge and contestation, whilst at the same time, caught in the inertia of repetition, it is resistant to intentional invention.

From the perspective of contemporary cultural theory, human rights are not just *supported* by culture: human rights *are* cultural. There is nothing meaningful in social life that is outside culture: human rights are cultural insofar as they are meaningful. Furthermore, there is also, then, no absolute distinction between practices of state and civil society: culture is not a distinct arena of society; it does not just involve the media, for example, or education, or religion. Culture, as Jeffrey Alexander puts it, 'is not a thing but a dimension, not an object to be studied as a dependent variable but a thread that runs through, one that can be teased out of, every conceivable social form' (Alexander 2003: 7). In so far as representations of human rights formed in civil society are influential on state practices, this is possible because human rights are meaningful on both sides of the analytic and socially sustained distinction between civil society and the state. What links officially sanctioned state practices and public pressure from civil society is cultural politics.

It is, of course, important to maintain an understanding of the specificity of different institutional practices, including those that are legal or governmental: different spheres of social life are created and sustained by different reflexive practices, including ceremonial rituals, formal and informal codes maintaining the distinctiveness of institutional settings, bodies of regulation that are specific to particular activities and so on. I develop the theoretical importance of these distinctions for the study of human rights in Chapter 2. Moreover, it is not that there is no value in distinguishing between state and civil society. Indeed, I will make use of just such a distinction in this book. But it is important to understand that human rights are not simply adminstered through state procedures, as if they always already existed as clear and distinct aims. As they are enumerated in international human rights agreements, the Universal

Declaration of Human Rights (UDHR), the International Convention on Civil and Political Rights (ICCPR) and the International Convention on Economic, Social and Cultural Rights (ICESCR), and so on, the meanings of human rights are relatively clear, even if their abstract formulations in these agreements allows a good deal of latitude for interpretation. These meanings are not, however, fixed; human rights are defined and redefined as policies are created and administered, legal claims dealt with and so on – both inside and outside state procedures.

FROM THE NATIONAL TO THE COSMOPOLITAN STATE?

Human rights can only be enforced by states. The case studies in this book focus on cultural politics of human rights *within* states as the most important spur to the formal realisation of human rights, at least in the advanced capitalist liberal-democracies with which I am concerned. But human rights are not, of course, solely, or even mainly the business of national states; in fact, it has been much more common to think of human rights as international. Human rights were initially developed in the international arena through diplomatic negotiations which led to the signing of treaties and conventions between states – most notably the UDHR and subsequent conventions derived from it (which we will explore more fully in the following chapter). In recent times, moreover, the networks of intergovernmental and non-governmental actors engaged in trying to bring about human rights in practice has become so significant within and across states that it has become common to refer to human rights as globalising (Brysk 2002; Coicaud *et al.* 2003; Mahoney 2007).

What does it mean to think of human rights as globalising? In one sense, of course, human rights are necessarily global insofar as, universal in form, they involve principles of justice for all human beings. It is with respect to their potential for institutional effectiveness, however, that human rights are increasingly considered to be globalising: the vast majority of states have committed themselves to

precise and detailed international human rights agreements; and, as a result of human rights activism, interpretations of international law may deepen that commitment and at the same time extend it to include even those states that have not formally bound themselves to such agreements. In this respect, we might say that, because human rights are becoming increasingly institutionalised across the world, they now have the potential, historically unprecedented, to become effectively (as opposed to, or as well as, formally) global. For the first time in history human rights may become genuinely effective norms of global justice.

The potential of human rights to become effective norms of global justice can only be realised through state transformation. Although human rights are globalising, the national context is especially significant to the realisation of human rights. In fact it could be that it is *because* human rights are increasingly global that they have become so much more significant within states historically constituted as national. Compared to the international arena, predominantly a sphere of activity for elites, the national arena is much more populist: issues are addressed to 'the people' as democratically entitled citizens as well as to elites. What is important in the cultural politics of human rights – as we shall see very clearly in the chapters of analysis in this book – is how the global and national are entangled in human rights practices. There is (almost) a global human rights regime and state elites are under pressure from above and below to bring policies and practices into conformity with the principles of that regime. What human rights actually mean in practice, however, depends to a large extent on the cultural politics of human rights in the national context.

In order to clarify how the cultural politics of human rights may be contributing to the realisation of global human rights through state transformation, it is useful to make a working distinction between ideal-types of 'national' and 'cosmopolitan' states. Theorists of state transformation now generally take the view that states are not dissolving and nor are they becoming irrelevant in the face of