

## The Cultural Politics of Human Rights

How does culture make a difference to the realisation of human rights in Western states? It is only through cultural politics that human rights may become more than abstract moral ideals, protecting human beings from state violence and advancing protection from starvation and the social destruction of poverty. Using an innovative methodology, this book maps the emergent ‘intermestic’ human rights field within the US and UK in order to investigate detailed case studies of the cultural politics of human rights. Kate Nash researches how the authority to define human rights is being created within states as a result of international human rights commitments. Through comparative case studies, she explores how cultural politics is affecting state transformation today.

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# The Cultural Politics of Human Rights

## Comparing the US and UK

KATE NASH



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## Preface

On paper there is, I think, not much to find wrong with the principles of human rights as they are listed in the Universal Declaration of Human Rights: every human being should be equally respected by every other, every human being should be free in their embodied integrity from state repression, and every human being should live in socio-economic, cultural and political conditions in which they might flourish. Nevertheless, human rights have many enemies, from across the political spectrum. Far from effecting the transformation of political questions into legal technicalities, human rights are one of main points at which passionate politics are engaged around topics of belonging and exclusion, equality and difference, freedom and constraint.

Human rights inspire antagonistic political perspectives because – as we shall see in this book – they are inherently paradoxical. In this study I try to be agnostic about the value of human rights, to refuse the blackmail of considering them either as a force for good, as intuitive moral principles which should be above politics, or as a force for evil, as fatally compromised by their association with adventures which actually turn them into their opposite. I try to untangle some of the paradoxes they create to consider what difference human rights are actually making in practice. The argument I offer in this book is a kind of thought experiment based on empirical research: *if* human rights are to be realised in practice, *then* what kinds of conditions do they require, and how close are human rights activists to achieving those conditions? In order to address these questions I assess what human rights mean to different actors in the human rights field in selected, critical cases and whether and how human rights are contributing to the conditions necessary

## viii PREFACE

for their own realisation, especially to the transformation of the state from 'national' to 'cosmopolitan'.

In making this argument I have had the benefit of the help of a number of people – many of whom have been especially generous in reading and commenting on this work as they have suspended their own views on the politics of human rights. A big thank you to Kirsten Campbell for advice on the legal aspects of the cases I studied as well as for many interesting discussions along the way – any mistakes are, of course, my responsibility. Also to Roberta Sassatelli for helping me think about how to structure the book to make it interesting to Sociologists studying issues of culture and cosmopolitanism, not just those already interested in human rights. If I have failed in that task, it is not for lack of good suggestions. To George Lawson for reading a number of chapters, and also the whole draft of the book, for inspiring ways of thinking outside my own discipline, and for helping out with some of the details of the resulting inter-disciplinarity. To Anne-Marie Fortier for helping me to think through some of the paradoxes of human rights in relation to nationalism, drawing on her work in the area and her detailed comments on earlier draft chapters of the analysis. To David Hansen-Miller, Cindy Weber, Anna Marie Smith, Nick Stevenson and Dora Kostakopoulou for wonderfully close readings of particular chapters – David, especially, as he heroically read more than one. Conversations with Marie Dembour, Basak Cali and Paul Stenner have also helped refine my ideas about human rights. Thank you to Alan Scott and Fran Tonkiss for making me think again about the Pinochet case in different ways. And to many people, but especially Clare Hemmings, Monica Greco, Suki Ali, Zee Nash, Chris Alhadeff, Anne Phillips and Amanda Welch just for making me think, about human rights and other things too. I organised symposiums at Goldsmiths with Nancy Fraser and Jeffrey Alexander to discuss their work during the course of writing this book and the talk on those occasions has undoubtedly made its way into the project, not only where their writings are referenced in the text. I also, with John Street, organised a workshop on Cultural Politics

with the European Consortium for Political Research in Granada, which proved very useful to thinking through some of the concepts discussed in these pages. Thank you to those who participated in the discussions that took place over that week. Thank you to Sarah Caro, John Haslam and Carrie Cheek for helpful and sensitive editing. And last but far from least, thank you to Neil Washbourne, wonderfully encouraging, enthusiastic and supportive throughout the long process of researching, thinking, writing and re-writing.

Material from Chapter 3 has previously been published in 'The Pinochet Case: Cosmopolitanism and Intermestic Human Rights', *The British Journal of Sociology* 58/2, 2007; and from Chapter 5 in 'Global Citizenship as Showbusiness: the Cultural Politics of Make Poverty History', *Media, Culture and Society* 30/2, 2008. Thank you to both publications for permitting me to reprint portions of these articles.



## List of acronyms used in the book

### *International governmental organisations*

- EU European Union  
NATO North Atlantic Treaty Organisation  
UN United Nations

### *International human rights agreements*

- ECHR European Convention on Human Rights  
ICCPR International Convention on Civil and Political Rights  
ICESCR International Convention on Economic, Social and Cultural Rights  
UDHR Universal Declaration of Human Rights

### *Non-governmental organisations (NGOs)*

- ACLU American Civil Liberties Union  
CAIR Council for American-Islamic Relations  
CCR Center for Constitutional Rights  
MPAC Muslim Public Affairs Committee

### *International non-governmental organisations (INGOs)*

- AI Amnesty International  
EI Earthrights International  
GCAAP Global Call to Action Against Poverty  
HRF Human Rights First  
HRW Human Rights Watch

### *US laws*

- ATCA Alien Tort Claims Act

*UK laws*

ATCSA	Anti-Terrorism, Crime and Security Act 2001
HRA	UK Human Rights Act 1998
PTA	Prevention of Terrorism Act 2005

## Table of cases

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- Filartiga v. Pena-Irala, 630 F.2d 876 (2nd Cir. 1980).
- Hamdan v. Rumsfeld (126 S.Ct. 2749 2006).
- In re Guantanamo Detainee Cases, 355 F. Supp. 2d 443 (D.D.C. 2005).
- Rasul et al. v. Bush et al; al Odah et al. v. United States et al. (542 S.Ct 466 2004).
- Sosa v. Alvarez-Machain (124 S.Ct. 2739 2004).
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### 'FRIEND OF THE COURT' BRIEFS

- Brief for the United States of America as Amicus Curiae in Doe v. Unocal, 2003 US App LEXIS 2716 (9th Cir. 2003).
- Plaintiffs-Appellants Supplemental Brief in Opposition to Amicus Curiae Brief Filed by the United States in Doe v. Unocal, 2003 US App LEXIS 2716 (9th Cir. 2003).
- Brief for the United States as Respondent Supporting Petitioner in Sosa v. Alvarez-Machain (124 S.Ct. 2739 2004).

Brief of Amici Curiae International Human Rights Organizations and Religious Organizations in Support of Respondent in *Sosa v. Alvarez-Machain* (124 S.Ct. 2739 2004).

Brief of Amici Curiae Lawyers Committee for Human Rights and the Rutherford Institute in Support of the Respondent in *Sosa v. Alvarez-Machain* (124 S.Ct. 2739 2004).

Brief of 175 Members of both Houses of the Parliament of the United Kingdom of Great Britain and N. Ireland as Amici Curaie in Support of Petitioners in *Rasul v. Bush* (542 S.Ct 466 2004).

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LEGAL REFERENCES: EUROPEAN COURT OF HUMAN RIGHTS

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