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Individuals as authors of human rights: not only addressees

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Abstract I propose human rights as self-authored through a personality structure of "assertive selfhood." To that end I identify three features of self-authorship: emergent through collective political action; as a critical stance; and borne by non-idiosyncratic norms. So conceived, human rights require a field of recognition as a social structure supportive of claims to assertive selfhood. I show that the capacity to self-grant depends critically on the participant's personality structure as well as on the structure of some of the social institutions he or she inhabits. But like any political vision, the project for self-granted human rights has distinct limits, above all with respect to the many inequalities among potential self-authors.

Keywords Human rights · Personality structure · Social structure · Recognition · Cultural interpretation · Local norms

We have no evidence that human rights exist independently of human imagination and social constructions, which is to say: no evidence that humans are endowed with pre-political, universally valid rights a priori. Why anyone might hope for such evidence is obvious: it might endow the human-rights idea with moral objectivity and universal validity. At the same time it would relieve humans of the burden of moral invention (and what might weigh more heavily than providing for the moral welfare of all others?). Most efforts to provide such evidence claim a theological or metaphysical origin. They have never worked. This is still an issue because those efforts are again and again renewed instead of abandoned. But if, as I propose,

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human rights are regarded as cultural artifacts—socially constructed, contingently valid—they then appear as preferences of distinct human cultures at particular times in history.[1] To view them this way accords with viewing humans themselves as "cultural products"—insofar as they bear rights. To be "human," says Hannah Arendt, is to be "political" in the sense of consciously having responsibilities to one's community. Hence a person outside that community (the refugee or stateless person, for example) is not "political" but merely a "human being in general," subsisting in the existentially diminished condition of no political status or legal rights. The "loss of human rights … coincides with the instant when a person becomes a human being in general—without a profession, without a citizenship, without an opinion, without a deed by which to identify and specify himself" (Arendt 1958, p. 302). Men without political community are "only men" in the sense that Agamben (1998) describes as "bare life" and Rancière (2004:298) as the "rights of those who are only human beings, who have no more property left than the property of being human." But once in possession of those particular cultural constructs that are rights, the individual can be so much more than his or her merely biological self.

Arendt is right to regard political community as the main venue for human rights: if available at all, then they are available *only in political community* (or rather: in certain types of political community). Only there can cultural constructs protect the individual's *physical* well-being, including a right to the satisfaction of basic needs with respect to food, shelter, and basic medical care, and a right not to be killed or to be subjected to gratuitous pain. Only in political community can cultural constructs protect the individual's *psychological* well-being through personal liberties of speech, association, and conscience.[2] But Arendt is mistaken in rendering human rights as (a) as derivable solely from the state and (b) as separate from non-public or private life.

(a) On the one hand, human rights may be profoundly related to the state and its legislative and legal systems, which can introduce human rights into a community's daily life and there enforce them. The state can mobilize relevant

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[1] A social constructionist approach challenges a number of contemporary authors. For example, an other-worldly notion of "sacredness" forms the core of Perry's (2007) recent contribution to a long-standing debate about whether human rights require a specifically theological foundation (a debate robust already in the work of John Locke (1632–1704) and John Finnis (born 1940)). Human rights for Perry follow from an inherent and inalienable "sacredness of human beings." It grounds the moral capacity of all human beings, their moral equality with each other and their moral obligation to one another, including the obligation of human rights. Similar arguments have been advanced by other contemporary authors. Murphy (1988, p. 239) claims that the "liberal theory of rights requires a doctrine of human dignity … that cannot be … detached from a belief in God or at least from a world view that would be properly called religious in some metaphysically profound sense." Only by resort to the supernatural can Gaita (1991) ground claims that human individuals are ends in themselves, worthy of unconditional respect, with inalienable dignity and rights. According to Hampton (1998, p. 120), the "fundamental wrong done, when the inherent dignity of any human being is not respected—when any human being is violated—is not that our local ('Eurocentric') sentiments are offended" (Hampton 1998, p. 120). She articulates human-rights supernaturalism in Perry's sense: the "fundamental wrong" of human-rights violations is that the "very order of the world—the normative order of the world—is transgressed" (Hampton 1998, p. 120).

[2] Beyond such basic rights might be a right to education, to free choice of employment, and to equal pay for equal work, among other possibilities.

resources and allocate support to a network of human-rights bearers. And human rights are best defended within a system of states and in the interstices of such systems, often at the temporary intersection of particular social movements and a response not only local but sometimes international.

On the other hand, consider Burke (1999) who, at the end of the eighteenth century, rejects revolutionary France's *Déclaration des droits de l'homme et du citoyen* (1789), asking rhetorically: "Do we ground such respect for universal human rights in nature, in history, or in human rationality?" None of these, he answers, for the abstract "rights of man" are no rights at all: only *citizens* have rights and they have them only by virtue of membership in a particular political community. In our own time Arendt reformulates Burke's claim: abstract "human rights" are as nothing vis-à-vis the concrete situation of European refugees following the first and second World Wars.

But if, like Arendt, we presuppose that only the state in particular can author rights—that the only real rights are those given to (at least some) members of the political community, by virtue of their belonging to it—then we render human rights completely a gift of the state. And we ignore social movements quite beyond the state that have sometimes been able to move this or that state to recognize certain rights (as I will show). Further, in many cases, laws alone cannot bring about change, for example at the level of family life: "Ethnographic evidence generally from around Africa shows that the key predictor of the custom of female cutting is ethnicity or cultural group affiliation" (Quataert 2009, p. 174). Here ethnicity or group-affiliation may not be accessible to legal norms that would change unwanted behaviors; legal norms may either leave entire areas of human interaction unexamined, or not provide members protections from unwanted behaviors.

Finally, the state does not enjoy a moral monopoly of speaking authoritatively on behalf of its citizens (likely it never has). Thus the administration of George W. Bush hardly spoke for all or most American citizens in its defense of using torture to extract information from suspected terrorists, even as the torturers operated under the government's full protection.

(b) In rigid fashion, Arendt also separates the political from the social; she separates the life of public discourse and public action from private, personal "life entrapped in its 'idiocy'" (Rancière 2004, p. 299). Human rights then appear not as Burke views them—as naïve, unworldly utopianism—but rather as peculiarly a-political. Thus the plight of refugees is "not that they are not equal before the law, but that no law exists for them; not that they are oppressed, but that nobody wants to oppress them" (Arendt 1958, pp. 295–296). To invoke a term made famous by Carl Schmitt, what Arendt describes is a "state of exception," what Rancière (2004, p. 299) sees as "beyond any account in terms of conflict and repression, or law and violence." In this way, Arendt de-politicizes one of the most striking phenomena of politics, particularly in the long twentieth century: large numbers of political refugees. To be in a condition "beyond oppression" is, in Arendt's view, to be in a condition *beyond* politics in some sense. Yet refugees—among so many other groups who are a product of politics and a problem for politics—hardly find themselves beyond politics in every sense.

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Arendt comes to her notion of an a-political space by separating the political sphere from the wholly personal sphere, what she calls the "dark background of mere givenness" (Arendt 1958, p. 301). Her public-private dualism contrasts *zoe*, or human life solely in a biological sense, and *bios*, human life as social construction or cultural creation—including *bios politicos,* the culture of political speech and political deeds. By claiming that modern democracy contaminates the integrity of *bios* with *zoe* and thus de-politicizes the political sphere, Arendt walls it off conceptually from refugees and the circumstances that generate them.[3] Yet refugees certainly experience political power and political repression even as Arendt would de-politicize them by displacing them to an extra-mundane, quasi-sacred sphere that she imagines as politics in some ideal sense.

But to displace human rights beyond politics is to evacuate their protest-potential. That is, to conceive of politics as noble words and patrician actions is to undermine critical, oppositional, emancipatory politics, for it is to reduce the rights of the rightless to the rights of the members of legal community. It is to reduce the rights of man to the rights of the citizen. If human rights are possible only as political behavior, culture, or claims, then the rightless gain nothing from human rights conceived as somehow beyond politics.

One can, of course, agree that human rights are meaningful only within political community yet reject Burke's and Arendt's reduction of human rights to civil rights. One can retain Arendt's insight without succumbing to the de-politicizing consequence of her approach. And one can do this by re-thinking human rights in two respects.

The first respect is the proposition I began with: rights possible only in political community can only be socially constructed and their normative foundation can only be contingent. But what exactly does it mean to say that human-rights-claims are embedded in this or that particular culture and political community? It means that, if they are not to be co-opted or defanged by that community, they must be political in a sense that is agonistic, critical, and oppositional. This is one sense of politics as active not passive (I describe a further sense below): human rights as nothing but their practical, effective consequences for individual men and women. For I focus on causal efficacy not epistemic validity, on human rights as a belief-system in which belief is not so much truth-guided as behavior-guiding.[4] I view them not only as political but as peculiarly pragmatist. The pragmatist point is this: if non-empirical rationales for human rights are unpersuasive or ineffective (as metaphysical and theological approaches are), then we should consider empirical rationales. To that

[3] Compare Rancière (2004, pp. 299–300).

[4] A pragmatic notion of human rights is merely one more species of belief with its own foundation, of course. The notion of belief as primarily action-guiding derives from Sanders Peirce (1986, p. 21). He asserts for example that "Conviction determines us to act in a particular way." From Dewey (1981, p. 128) comes the search for valid propositions as an attempt at practical problem-solving: "this is the meaning of truth: processes of change so directed that they achieve an intended consummation." Equally pragmatic is the spirit of Marx's (1976, p. 372) eleventh thesis on Feuerbach, the claim that philosophers have always only interpreted the world in various ways but that what matters is to improve it. The pragmatist understanding is distinct from Marx's in that it dispenses with the self that Marx elsewhere construes metaphysically. Resonant with pragmatism is Marx's emphasis on human agency.

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end, I propose assertive selfhood as a practical origin of rights falling in with empirical rationales, through local political practice.[5]

I re-conceive human rights in a second sense as well: to be political *within community,* human rights can be "self-authored" or "self-granted." In this sense, too, they can be active not passive: human rights as authored by their own addressees. I propose human rights (1) as self-authored through a personality structure of "assertive selfhood," and (2) identify three features of self-authorship: emergent through collective political action; as a critical stance; borne by non-idiosyncratic norms. So conceived, human rights (3) require a field of recognition as a social structure supportive of claims to assertive selfhood. I show that the capacity to self-grant depends critically on the participant's personality structure as well as on the structure of some of the social institutions he or she inhabits. Whereas personality structure concerns the *internal* or psychological disposition of the individual insofar as it motivates his or her political behavior, social structure concerns the *external or formal and material arrangements* of political community. But like any political vision, (4) the project for self-granted human rights has distinct limits, above all with respect to the many inequalities among potential self-authors.

Assertive selfhood

I propose self-assignment as an act of moral autonomy in a sense analogous to King's (1967, p. 43) when he wrote that the African-American "will only be truly free when he reaches down to the inner depths of his own being and signs with the pen and ink of assertive selfhood his own emancipation proclamation." To be sure, the capacity for assertive selfhood will not "reside" in the individual independently of his social environment. That is, the term "truly free" cannot realistically mean (to invoke King's context) "free within a society still deeply racist." Still, the capacity for assertive selfhood might contribute to overcoming some aspects of institutionalized racism. To do so, it requires a society that, in at least some of its parts (such as culture and institutions), rejects racism and offers rejecters some degree of support. In the case of human rights, self-assertion requires a social environment to some extent supportive of self-authored human rights, perhaps in aspects of tradition, practices, and institutions otherwise unsupportive. Dorothy Roberts offers an American example: while a "sober assessment of racism's intransigence counsels against a naïve faith in the moral power of the Constitution alone to bring about racial equality" in America, "it need not defeat Blacks' instrumental fidelity to the Constitution as part of a social movement for equal citizenship. Blacks' constitutional fidelity is not the faith that the constitution will end racism. The constitutional allegiance of Black leaders such as Douglass, Du Bois, and King was grounded in their participation in the social struggle for citizenship rights. They could hold fast to a vision of an

[5] If a foundationalism universally valid a priori adds nothing to the project for human rights, why not discard it? Support for discarding comes from Hannah Arendt even as she explicitly rejects the pragmatism I promote in her name (as I argue in later pages): "I am rather certain that I am neither a liberal nor a positivist nor a pragmatist" (Arendt 1953, p. 80). Here I draw insights from Arendt that I consider pragmatist rather than postmodern; elsewhere I distinguish pragmatism from postmodernism.

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ideal Constitution despite their awareness of constitutional evil because of their commitment to a liberation movement" (Roberts 1998, p. 232). In a different context, Rosa Parks in 1955 affirmed the rights she did not have as an inhabitant of a state (Alabama) that banned black passengers from riding in the front of public buses. She did so by taking a seat in the front of the bus and remaining there in the face of hostile urgings to move.

From a pragmatist standpoint, human rights that are socially constructed and contingently valid "exist" only if enforced. Enforcement over time is a matter of *local* recognition and embrace implying some degree of institutional support. But the need for enforcement does not mean that the main guarantors of human rights can only be great powers possessed of significant economic and military might, or international organizations backed by coalitions of such powers. That conclusion would only reinforce the strikingly unequal distribution of power among states, among regions, and among economies in the world today.[6] From the status-quo standpoint, human rights for the powerless can only be gratuitous grants from the powerful. Such grants render the powerful all the more powerful, and individuals, merely passive recipients of rights. Human rights gained through "philanthropy" deprive their recipients of autonomy and equality. This misguided approach even allows for paternalistic intervention in John Stuart Mill's imperialist sense: "nations which are still barbarous have not got beyond the period during which it is likely to be for their benefit that they should be conquered and held in subjection by foreigners" (Mill 1984, p. 118). Rights that depend on others for their existence and exercise are rights of persons morally, legally, and politically dependent. In fact, outside intervention on any grounds—whether authoritarian or liberal-democratic—might *protect* rights temporarily but could hardly fully institutionalize or otherwise adequately *establish* them. Human rights that become effective through unilateral military intervention cannot be sustained on that basis; a fundamental presupposition of self-granted human rights is that "no one can be liberated or emancipated by others, from 'above'" (Balibar 1994, p. 213). Self-granted human rights are a form of self-help. They constitute self-help only if their addressees do not passively benefit from others' doings—whether by courts, states, the United Nations, NGOs, or other humanitarian organizations.

Given a supportive social structure, what kind of personality structure might be capable of self-assigning human rights? I propose socializing individuals in the belief that they, together with other members of their group or social movement, belong within a certain category. By virtue of self-granting, they belong within a category of human-rights-bearers from which they are currently excluded because of the social, political, or cultural environment as currently configured.

From the perspective of that social and political environment, the individual who accords himself human rights appears to be "in excess" of that environment insofar as it does not recognize this self-grant. Yet the participant need not succumb to that

[6] It might only reinforce powerful, liberal democratic states and their organs as the main enforcer and guarantor of rights, which is problematic for so much of the non-liberal, but human-rights-capable world.

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perspective. He or she need not regard him- or herself as some kind of "supernumerary."[7] He or she might self-regard as someone denied recognition of the human rights he or she grants him- or herself. Correspondingly, "democracy" cannot be reduced to the institutional environment but might be composed of persons with no special qualification for political selfhood "except the [paradoxical] fact of having no qualification" (Rancière 2004, p. 305). Otherwise "democracy" is marked by that Arendtian depoliticization that renders individuals the supplicants of the state's rights-bestowing magnanimity. By contrast, democracy in the sense of democratized access to human rights is not something to be determined by tiny elite-cultures of experts. Nor is it merely the outcome of bargaining among unequal interest-groups. It is rather the repeated action of generating an individual's recognition as a member of a public sphere, a member *not* in the sense of an outsider being "brought in" but rather as someone who authors him- or herself into membership. Here membership refers to a human-rights community; "democratic politics" refers to the act of granting human rights to oneself and recognizing others who do the same.

Only if they can meaningfully enact their own qualification as rights-bestowers can individuals oppressed by their state (or community or culture or religion or family) plausibly refer to human rights as the normative foundation of their criticism. These rights become theirs only when they oppose the denial of such rights.

Features of self-authorship

A capacity for self-authorship would have three features. First, the self-granting individual would view him- or herself not as a pre-defined carrier of rights but rather as a subject who emerges through collective political action, such as a social movement. The individual would author the very human rights addressed to him or her, and grant him- or herself a right to be acknowledged as bearing human rights regardless of contingent factors that might be used to distinguish between "insiders" and "outsiders," "rights-bearers" and "non-bearers." Such factors might be legal status, immigrant status, economic status, or the community's needs for social security. As a form of "framing," socialization would foster a certain way of looking at the world. The individual would frame himself as an author of his own human rights. To be sure, perception and framing are always embedded biographically, politically, and historically. The way we perceive ourselves and our environment is influenced to various extents by that environment, even in ways of thinking and perceiving. Thus persons discriminated against might react by regarding themselves as inferior; persons accorded respect might respond with a healthy self-regard.

Second, critical ways of perceiving oneself and one's environment might encourage self-granting behavior. "Critical" means someone or some group without rights intervening in the status quo, challenging the community that excludes them from rights. Critical ways might be facilitated by a "broad" socialization more likely to promote characteristics of independence, individualism, and self-expression—

[7] That is, a person "in excess" of the usual, proper, or prescribed membership or qualification for membership in political community and communal rights.

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more likely, that is, than narrow socialization with its traits of obedience and conformity to current cultural standards (Arnett 1995, pp. 617–618). A broad socialization might facilitate a capacity to unsettle some authorities by linking political legitimacy not to norms prior to politics (as in norms grounded theologically or metaphysically) but to what I develop below as "democratized access" to the interpretation of guiding elements of local culture. I refer to a culturally authentic socialization into a personal conviction of a self-granted right to interpret one's local culture. Interpretation can be core to challenging the status quo where the status quo opposes or hinders the recognition and defense of human rights, however construed locally. Merry (2006) provides one example of the complexity of local understandings by victims in cases of battered women in Hong Kong, where victims (wives battered by their husbands) mediated their understanding of injustice with beliefs in traditional kinship obligations (the subordination of women to men, and wives to husbands, in Confucianism).[8]

The point is that local groups offering mutual aid and self-help to women with problems personal, familial, or communal might effectively re-interpret traditional understandings of kinship obligations in ways that might further human rights.

A personality structure capable of undertaking critical re-interpretations of local culture, and in this way facilitating the self-authoring of human rights, would likely include a psychological capacity to challenge authority. Granting oneself human rights will surely challenge the political and cultural environment to some extent in all cases, and more in some than others, in non-liberal communities (as I will show) but also in liberal ones (as in the American examples above).

But simply challenging that environment is not the ultimate goal; recognition of the asserted rights is. To be effective, any self-authored right depends on *recognition within its social environment*. That environment includes institutional enforcement of rights locally regarded as socially binding *because, among other things, they are locally recognized.* The task of the project for self-authored human rights is to achieve recognition even in local environments hostile to them, and to do so *from within* the local culture.

"Indigenous" interpretation of "indigenous" culture means human-rights-authorship *locally* plausible, plausible in terms of elements of the surrounding culture. Perhaps all cultures, if not all political communities, harbor some indigenous potential for broader forms of socialization supportive of authorial or interpretive empowerment that—if deployed accordingly—might advance the idea of individuals assigning themselves human rights. In Islam, for example, precedence exists for a democratized right to interpretation: "Modern reformers in the twentieth century began to reinterpret key traditional Islamic concepts and institutions—rulers' consultation (*shura*) with those ruled, consensus (*ijma*) of the community, reinterpretation (*ijtihad*), and legal principles such as the public welfare (*maslaha*)—to develop Islamic forms of parliamentary governance, representative elections, and religious reform" (Esposito

[8] Here "human rights movements do not require the adoption of a human rights consciousness by individuals at the grass roots" and "commitment to rights" need not be "deep or long lasting" and may include "quite different levels of commitment to rights" (Merry 2006, p. 215). Movements here need to frame human rights in "images, symbols, narratives, and religious or secular language that resonate with the local community. When a group of batterers is taught not to hit in Hong Kong, this is presented as part of Confucian ideas of marriage" (Merry 2006, p. 220).

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2004, p.96). Note that the author refers to Muslims in predominantly Muslim societies; by contrast to Muslims assimilated into predominantly non-Muslim societies, they are indigenous. Here we observe an intermeshing personality and social structure that could support indigenous cultural interpretation toward self-authored human rights.

One means to local recognition is cultural interpretation. Assertive selfhood is possible only where a *democratized right to interpret the major cultural sources of one's community.* And it is possible only when that right allows interpretations unwelcome to the authorities, or repugnant to vested interests, or in opposition to dominant understandings. Human rights via assertive selfhood are possible "beyond any particular formulation which has been given of them" (Lefort 1986, p. 258). They are possible as a vehicle not "for what we know justice to be" but rather "for criticizing the pretenses of justice as it is" (Kennedy 2004, p. 353).

I do not underestimate the practical difficulties of realizing this approach: confronting cultural or political differences within any community will generate significant tensions. Cultural and religious traditions often are invoked precisely to exempt specific customs and practices from criticism, local and foreign. But family codes, cultural practices, religious traditions, and domestic laws that govern and restrict many aspects of individuals' lives would not be off limits to challenge by self-granted human rights.

To be sure, some aspects of all cultures, all social systems, all polities, discourage the indigenous critical cultural interpretation I advocate as necessary for self-authored human rights. A human-rights-based critique of, say, the status, roles, and experiences of women can easily and quickly generate very deep resentment on the part of the addresses—if they regard such status, role, and experience as based in and expressive of communal, religious, cultural, or ethnic identity. The critique—and with it, human rights—then appear to threaten the community's very integrity.

But democratization of participation in the interpretation of one's own culture need not require a liberal-democratic polity. And human rights advocacy (advocacy that eschews unilateral imposition from without) should not expect or demand that all communities become liberal democratic before pursuing local human rights. Jack Donnelly is representative of this unpromising approach where he argues that the "International Bill of Human Rights rests on an implicit model of a liberal democratic (or social democratic) welfare state. The legitimate state, as envisioned by internationally recognized human rights norms, is democratic. Political authority arises from the sovereignty of the people. It is liberal. The state is seen as an institution to establish the conditions for the effective realization of the rights of its citizens. It is a welfare state: recognized economic and social rights extend well beyond the libertarian right to property. And all three elements are rooted in the overriding and irreducible moral equality of all members of society and the political equality and autonomy of all citizens" (Donnelly 1999, p. 68). The idea of human-rights is otiose if it makes sense only where it is already most plausible locally, for then it would not even offer an instructive contrast with other polities: within the liberal democratic polity. Donnelly's approach offers nothing to the possibility of human rights in communities where they are most needed because least plausible locally. If "democratic politics is the only secure foundation for rights" (Ingram 2008, p. 414), then the outlook for human rights can only be bleak, given the

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enduringly undemocratic landscape of so much of the world. But the observance of human rights itself neither requires nor presupposes the liberal democratic state. Within some non-liberal Islamic societies, for example, the "debate about the virtues of democracy is not simply a debate between Islam and Western liberalisms, but a debate within Islam itself" (Esposito 2004, p. 76). In that spirit, my alternative urges that potentially anyone can acquire such value-commitments—even in cultural, social and political environments that in many ways do not resonate with such commitments. This potential might sometimes be realized by "democratized access" to local interpretation, and thus to human-rights-friendly re-interpretations ultimately secured through understandings and practices of at least some communal members. Provocative interpretations need to become ultimately a permanent feature of any community in which human rights are to establish a foothold.

Socialization toward a capacity for self-granted human rights is possible in at least some non-liberal political communities (and likely in all liberal ones). Democratized access to local cultural interpretation is possible even within a polity not itself democratic. Consider two examples. John Rawls speaks of a "decent hierarchical society." Such a society has no "aggressive aims" and recognizes that "it must gain its legitimate ends through diplomacy and trade and other ways of peace" (Rawls 1999, p. 64). Further, it secures human rights (p. 65), has a legal system that imposes on its members "*bona fide* moral duties and obligations (distinct from human rights)" (pp. 65–66) and is served by judges reasonably persuaded that the "law is indeed guided by a common good idea of justice" (p. 66). It also has a "decent consultation hierarchy" that mediates between the government and various corporate groups. Finally, it allows for dissent from governmental policy. Malaysia[9] and Singapore[10] might be examples of states that could plausibly become decent hierarchical societies. To this taxonomy David Miller adds neo-patrimonial regimes with patron-client relations between politicians and supporters. Here, "political leaders are representative insofar as they meet their obligations to their clients, as understood within the culture of the country in question. In receiving the benefits—jobs, money, public works, etc.—client groups give their tacit consent to the regime" (Miller 2007, p. 246). Various African countries provide examples of rule by elites with popular acquiescence where the populace has little or no control.[11]

A social structure supportive of self-granted human rights falls easily within the parameters of liberal-democratic regimes. One example is the American Civil Rights movement, which I referenced in regard to King's notion of assertive selfhood. That movement is some ways looks back to earlier anti-slavery movements and, in other

[9] Malaysia practices arbitrary and preventive detention, and abuses migrants, refugees, and asylum seekers.

[10] Singapore's legal framework perpetuates an authoritarian state tightly controlled by the ruling People's Action Party, which has won all elections since 1959 and is often represented by as many of 82 of the 84 parliamentarians with full voting rights. Singapore law authorizes censorship of content and distribution of print material and films, severe limits on public processions and assemblies, and prolonged detention of suspects without trial. Its penal code mandates caning along with imprisonment for some 30 offenses, including drug and security offenses. Singapore is believed to have one of the world's highest per capita execution rates, although statistics are not made public. Most sentences involve some 20 drug-related offenses for which execution is mandatory.

[11] See Chabal (2002).

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ways, contains lessons for contemporary movements for equal rights for gays and lesbians.

Third, self-authorship is possible and meaningful only in political community, that is, as something intersubjective rather than subjective and idiosyncratic. Self-authorship then refers to individuals within groups that claim and assert human rights for their own. Self-authored human rights are conceivable as products of social movements rather than of individuals by themselves, with the individual human-rights author in reciprocal relation with others. Reciprocity is key here: to grant oneself human rights is always also to recognize others in their self-granting activity inasmuch as self-regarding rights necessarily implicate other-regarding duties. I use "reciprocity" in Mead (1934) sense of the conformity facilitating "generalized other," by which he means the attitude of the whole community but that I would reconfigure as the attitude of possibly only part of the community, of subsets of the community such as critical social movements: the "individual experiences himself … from the particular standpoints of other individual members of the same social group, or from the generalized standpoint of the social group as a whole to which he belongs" (p. 138). For "it is in this form that the social process or community enters as a determining factor into the individual's thinking" (p. 155), to some extent giving him "his principles, the acknowledged attitudes of all members of the community"—or, I would argue, members of even marginalized sub-groups—"toward what are the values of that community" (p. 162) or group and to some extent toward dependable mutual expectations of behavior within groups or communities.[12]

Socialization is also key here. Communal members may reasonably expect fellow members often enough to observe many norms into which they were socialized even as the meanings and applications of some norms are contested within the group or community. For a core goal of any socialization is to *reproduce social standards,* thereby generating group expectations of individual compliance and, consequently, a dependable degree of reciprocity within community. Socialization into a capacity for self-authorship would be socialization into more than the free advocacy of some of the norms to which one has been exposed. While such advocacy need not be uncritical, it remains that most people are more likely to embrace, than reject, many of the norms into which they have been socialized. This may hold even for sub-groups, including oppositional sub-groups, of the larger community. Further, such reciprocity may be only partial; it may hold for some persons more than others: it may sometimes fail and is never unconditionally guaranteed. Even then it remains the single most effective means of encouraging certain beliefs and behaviors (which could be friendly toward human rights) and discouraging others (which might be hostile to human rights). The following section develops this point.

Field of recognition

The effectiveness of an individual group-member's self-granting depends on other persons recognizing those self-authored human rights. Recognition of this sort has

[12] This conception need not assume complete consistency or comprehensiveness.

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three requirements: (a) it must extend from the public to the private spheres of life, (b) cannot be idiosyncratic, and (c) must be local.

(a) The nationalist elites and religious authorities in post-colonial regimes pursued nation-building while opposing women's movements critical of the patriarchal family and its protection in laws of personal status. Decades later a globalized social movement pushed for recognizing "gender-specific vulnerabilities of women and … of violence directed at women in many different cultural and political contexts" (Quataert 2009, p. 140).[13] The movement sought to incorporate these often non-public phenomena into the human-rights discourse, analogizing domestic violence (not heretofore regarded as a human-rights violation) and torture (already regarded as such). Copelon (1994, pp. 121–123) argues that domestic abuse displays criteria of terror as defined by the United Nations Torture Convention: whether as a matter of battering, vengeance, or enforcing family honor, it is an act of coercion that intentionally inflicts "severe physical and mental pain and suffering." Kenneth Roth (1994, pp. 327–329) suggests that domestic violence—and one might add other "private sphere" phenomena, including child marriage, rape, the defiling of children, or polygamy especially in the context of AIDS,) may qualify as a matter for human rights even if it displays no political motive. Or one might argue that domestic violence is properly understood as political in the sense of social control that aims at the systematic subjugation of women *because* they are women.

(b) To function as a right quite beyond a mere assertion of power, human-rights self-assignment cannot be purely subjective. There is no effective "right" to the self-granting of rights without recognition by at least some group, and single or isolated acts of self-assertion—if they remain single or isolated—cannot ground rights. Many authors regard the state as the main or even sole venue for such recognition. According to Michaelman (1996, p. 203), for example, whether one has rights "depends on receipt of a special sort of social recognition and acceptance—that is, of one's juridical status within some particular concrete political community. [Arendt's] notion of a right to have rights arises out of modern-statist conditions and is equivalent to the moral claim of a refugee or other stateless person to citizenship, or at least juridical personhood, within the social confines of some law-dispensing state." Q2

But one's juridical status within the law-dispensing state is hardly the only possible route to recognition of self-granted human rights. If it were, self-authored human-rights would be meaningless in most states today. In many cases recognition is more likely to be granted by fellow activists within a social movement, indeed as an element of belonging to that movement. (American slaves who rejected that status had more in common with abolitionists than with the general population.) Group recognition of someone's self-authored human rights renders them non-idiosyncratic. Non-idiosyncrasy is a desideratum internal to the idea of human rights. For some such rights will conflict with others inasmuch as different rights may well derive from different normative systems, for example (in the case of female genital cutting) an individual's right to bodily integrity in distinction to his or her community's right to the preservation of its cultural integrity. A right to cultural integrity might, in some cases, promote female genital cutting while a right to bodily integrity disallows it.

[13] See Thompson (2000, p. 260).

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Conflict between some human rights would only be exacerbated if they were based wholly on individual self-assertion.

The desideratum is no less acute for social movements championing their claims to this or that human right. To be sure, human-rights-oriented social movements are each of them unique. Each takes place in unique contexts, under unique conditions; they cannot be explained all in the same terms. (Moreover, the precepts of different moral systems yield few points of convergence. But the practical success of, say, Amnesty International in defending political prisoners across the world, depends on constellations of small groups (based in religious or educational institutions or in neighborhood organizations) spreading out, web-like, with each systematically "adopting" one prisoner from each of three contexts: the communist bloc, the anti-colonial movements, and such Western countries as, in the 1960s, repressive dictatorships in Spain, Greece, and Portugal.

As an example of non-idiosyncratic approaches by social movements claiming human rights, consider the engagement in behalf of East-European dissidents following the Helsinki Accords of 1975. Information about dissidents began to circulate, despite the government's monopoly on media, as of 1968 with the clandestine *Chronicle of Current Events.* The authors defended their challenge by appeal to Article 19 of the Universal Declaration, which guarantees "freedom of opinion and expression." The group granted itself the right "to receive and impart information and ideas through any media and regardless of frontiers" (Quataert 2009, p. 85). It demanded that the authorities follow the Helsinki Accords to which the USSR was a signatory, and they claimed rights specified in the Soviet constitution yet never actually provided. In these ways, among others, social groups argued against the traditional claim that state sovereignty gave jurisdiction entirely to the state. And with various forms of pressure, from resolutions to investigations, they actively intervened.

(c) I earlier argued that self-assigned human rights need to find *local* recognition if the assignation is to be more than merely idiosyncratic or private and hence ineffective because powerless in its utter isolation from any field of possible recognition. Local recognition of the individual's self-assigned human rights requires a space shared by recognizers and recognized alike. It requires some kind of field of public, communal recognition of self-authored human rights. I develop that argument now with the following points.

First, recognition would occur *not before* self-assignment but rather *as a condition* of the individual's being able to self-assign (simultaneous with self-assignment or immediately following). Second, it would require some degree of correspondence between social structures and personality structure, where "correspondence" means "mutually reinforcing." Such correspondence might be facilitated by kinds of socialization that generated shared and expressed values that found support in particular institutions. For example, members of a political community might agree on the merits of some social institutions—the media, legal system, and civil service, say—because they agree on norms embodied in such institutions. Thus behind the norm of a public's putative right to know is the institution of a free press; behind the norm of proceduralism stands the institution of an independent judiciary; behind the norm of citizens as discrete but equal subjects of bureaucratic administration resides the institution of an apolitical civil service. In each case, personality and social structure correspond to

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some meaningful extent. One value (inculcated by socialization) that might stand behind a communal institution of self-granted human rights would be what I've proposed as "assertive selfhood."

Developing local recognition of self-authored human rights would be one of the greatest tasks of the human-rights project as I reconceive it. Consider an example of failure along this dimension: movements for social-economic rights, especially for a "right to development" in the context of anti-colonial movements.[14] Precisely a lack of local recognition was one factor in the strange path of at least one strand of human-rights discourse for some colonized peoples. This was a path from initial irrelevance, then (at its height) to emancipatory potential against foreign colonial powers, and finally to a reversal: it offered a subversive challenge—now indigenous—to post-colonial regimes. Having failed to develop local recognition of locally claimed human rights, this elite strand of human-rights discourse never led to effective social movements of protest or reform.

The emancipatory hopes of many colonized peoples after WWI were focused largely on self-determination. The Atlantic Charter of 1941 held out the promise not of human rights but of self-determination, racial equality, and development.[15] Here human-rights talk was a by-product of what would become a post-war international security-regime; it possessed what was at best merely rhetorical value (taken very seriously by colonized peoples but not at all by Prime Minister Churchill and only strategically by President Roosevelt). The real concern on all sides was the idea of self-determination, which at the time meant opposition to the West; many de-colonized states, supported by communist states, championed it. In short, the anti-colonial movement was never a human-rights movement.[16] Not surprisingly, the United Nations Universal Declaration of Human Rights did not include a right to self-determination. In the mid-1950s African and Asian countries attempted to strengthen demands for self-determination and racial equality by re-defining each as a human right. In subsequent years, however, these newly independent countries emphasized principles of non-intervention, territorial integrity, and economic development—but not human rights for their own populations.[17] The UN began in 1946 with 51 member states, 12 from colonized areas of the world (four from Africa, three from Asia, five from the Middle East). Between 1955 and 1960 about 50 newly independent African and Asian countries joined the UN, gaining a majority of votes and allowing them to define subjugation of peoples to foreign domination as a human-rights violation; by proposing self-determination as a human right; and by attacking racial discrimination as a human-rights abuse.

And yet human-rights discourse, deployed by indigenous actors locally, now threatened to undermine the newly won power of some African and Asian leaders, who responded by denying ethnic or other groups the very right to self-determination that they had employed in their respective anti-colonial struggles.[18]

[14] No NGO-movement has ever championed this right, at least no movement comparable to movements advocating other rights.

[15] Ibhawoh (2007, pp. 141–172); Esedebe (1994, pp. 112–125).

[16] Simpson (2001, p. 300).

[17] Murray (2004, pp. 271–279).

[18] See, e.g., Parkinson (2007, pp. 103–132).

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They also rejected, as illegitimate Western influence, the very international labor norms that they themselves had championed before independence.[19] At the same time, these states used human-rights rhetoric as a political strategy to unmask the injustices of the post-colonial world-order and to champion a "right to development" and its codification within the UN.[20] In the early 1970s this rhetoric framed the industrialized countries as morally responsible for Third-World underdevelopment and as morally obligated to offer restitution for the colonial past.[21] It attempted to deflect Western charges of Third-World human-rights violations, ones perpetrated not only by the state but also from cultural practices, particularly those affecting the treatment of women and children.

Parts of the Third World either rejected this particular version of human rights or constructed their own, local tradition of human rights, then to argue for that tradition's legitimate place in international politics. As it became clear that such rhetoric remained without effect, African and Asian countries tried to apply the human-rights idea to legitimate their economic agenda—yet without specifying any human right to aid or to advantages.[22] The effort to catch the West with its own moral language had failed; in many ways, locally constructed human-rights language failed as well because it never became locally established.

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Limits of the project for self-granted human rights

The project for self-authored human rights is inherently unlikely and, for the foreseeable future, will remain difficult to realize. But it is not impossible, no more than the end of slavery, equal rights for women, or the widespread prohibition of child labor became possible in the recent past despite what, for most of history, must have appeared to be their utter unlikelihood.

The project confronts a number of serious problems. For example, the notion of self-granting implies the equality of persons' capability to self-grant. But all persons will never be equal in this respect, for two reasons (among others): (a) not all persons are able to acquire the capacity for self-assertion and, (b) non-egalitarian starting conditions often result in non-egalitarian lives.

(a) Not all persons can be socialized into a capacity for self-granting. For example, children (at least temporarily) and the mentally deficient will have little or no prospect of becoming the moral agents that self-authoring human-rights addressees become.[23] Hence the mere humanity of all persons, or simply their species-membership, hardly suffices as equal ground for all persons to become self-granters. For whether someone is dependent or autonomous (in the sense of being able to grant him- or herself human rights) is not a matter of his or her status or nature as a human being (his or her "humanity"). It's a matter of human *behavior* and the *culture* and other social constructions that inform and influence that

[19] Maul (2007).
[20] Eckel (2009, p. 479).
[21] M'Baye (1972/73, p. 534).
[22] Eckel (2009, p. 481).
[23] Nor would the unborn.

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behavior. So the appeal, so common in theories of human rights, to notions of the individual's "humanity" or "human dignity," is unpromising.

My alternative, adumbrated above, is socialization into assertive selfhood. The problem for my approach is how to secure assertive selfhood to those persons lacking it.[24] Such persons are no less vulnerable than morally capable persons to the depredations that human rights would protect against. Their lack of the individual endowment of assertive selfhood should not be allowed to downgrade human-rights-goals for them. Along the lines of what might be called the "logic of reciprocity" inherent to the notion of self-assigned human rights (discussed above), insofar as we cannot bring all persons with disabilities or otherwise incapable of assertive selfhood up to the same threshold of a capacity for self-granting, we realize that potential only partially.

(b) Through socialization, some persons may come to regard, as egalitarian, a "right" to interpret their own culture. This idea resonates with Arendt's view of equality as something socially constructed: "We are not born equal, we become equal as members of a group on the strength of our decisions to guarantee ourselves mutually equal rights" (Arendt 1958, p. 301). The claim that "we" decide to give ourselves rights, and that we do so mutually, is a claim to self-authoring or self-assigning.

Thomas Jefferson's 1776 Declaration of Independence, or the French revolutionaries' 1789 *Déclaration des droits de l'homme,* or the UN's 1948 Universal Declaration of Human Rights, do not themselves render their addressees equal with respect to critical interpretation of their own culture. The equality they simply declare (thus the Universal Declaration proclaims that "all are equal before the law" (Art. 7) as well as the principle of equal pay for equal work (Art. 23)) is easily confounded by any number of local inequalities, such as those based on a person's sex, race, socio-economic status, level of education, or access to any number of social institutions, including the media, politics, and the economy.

The individual who authors his or her own right to critical cultural interpretation cannot thereby render him- or herself equal in this respect. The claimed human right, if understood as social construction, can be seen to require a kind of political and cultural performance to lend practical force to that claim. But how exactly can an individual's performance entail rights, human rights in particular? If he or she might perform as a member of a social movement, "performance" then refers to the group's range of politicking. Politicking itself might instantiate the demanded rights *at least within the group itself.* But the goal does not end with the movement itself, of course, but with outcomes quite beyond it, throughout the political community, ideally and ultimately including state-recognition.

Are there characteristics of such performance, true across different movements, that might be specified in advance, and thus made available to movements-in-formation? In addition to this general question is a problem quite particular: likely in any given social movement, not every member *can* so perform. Consider someone without the capacity for language, for example, or with other impairments. Might

[24] To be sure, "moral agency is not a single uniform property—different persons exhibit it in different ways" (Meyers 1985, p. 115).

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guardians of some kind grant such persons the human rights they cannot grant to themselves? How so? Indeed, what forms of guardianship might be adequate—if any? And just what "vehicles of expression" might be arranged for them? And what if the person suffered from a type of "mental deprivation … so acute that … the life there is simply not a human life at all, but a different form of life," such as someone in a "persistent vegetative condition, or an anencephalic child" (Nussbaum 2006, p. 187)? Here no guardian could facilitate" such an individual's performance through some vehicle of expression. Here the individual could only be an addressee but never the author. That particular inequality in the "distribution" of the capacity to assertive selfhood would seem to be ineradicable.

Further, even non-deprived human beings may be unequal in the capacity to perform the act of self-granting because, within any given society, the basic "capabilities" for realizing self-ownership are likely maldistributed.[25] Different concentrations of "liberties, rights, incomes, wealth, resources, primary goods, utilities, capabilities" (Sen 1992, p. 88) may lead to substantive inequalities of "incomes, utilities, well-being, and positive freedoms to do this or be that" (Sen 1992, p. 21). Some of these inequalities may derive from the wider socio-economic and geopolitical context. Be that as it may, such inequalities make it difficult, if not impossible, for indigenous groups of self-authoring individuals to form. This problem cannot be solved by declarations of formal equality

And then there's the maldistribution of the will to assertive selfhood. Not all persons in principle capable of granting themselves human rights may actually do so. Some might not do so because they were not socialized into assertive selfhood. That incapacity might result from inequalities in the social environment. It might result from health-related or environment-related factors (thus chronic poor health could inhibit the development of assertive selfhood, as could a perpetually unsafe environment). It might follow from the individual's lack of voice, influence, or power within the community. It might be occasioned by certain social norms and political institutions, for example a lack of political liberty and civil rights might render individuals susceptible to economic insecurity and major disasters in ways that discourage the development of assertive selfhood. In some cases it might even be a matter of choice to forego assertive selfhood.

At the outset I cited Rancière's formulation of human rights as the "rights of those who are only human beings, who have no more property left than the property of being human" (Rancière 2004, p. 298). "Property" refers to a characteristic. But it might well be read as "possessions" if one thinks of human rights as inhering in a person's having legal property in him- or herself. A prominent philosophical tradition, extending from Locke (1690) to contemporary libertarians such as Nozick

[25] By "capabilities" I refer to Amartya Sen's "capability approach" (and to Nussbaum's, which is similar). It offers one conception of the individual overcoming barriers to his or her assertive selfhood. That approach "builds on a general concern with freedoms to achieve (including the capabilities to function)" (Sen 1992, p. 129). Relevant functions may "vary from the most elementary ones, such as being well-nourished, avoiding escapable morbidity and premature mortality, etc., to quite complex and sophisticated achievements, such as having self-respect, being capable of taking part in the life of the community, and so on" (Sen 1992, p. 5).

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(1974), argues as much.[26] If all those who grant themselves human rights are *formally* equal, then their de facto inequality must have other sources, such as "inequalities of incomes, utilities, well-being, and positive freedoms to do this or be that" (Sen 1992, p. 21). Inequality then flows from different concentrations of "liberties, rights, incomes, wealth, resources, primary goods, utilities, capabilities" (Sen 1992, p. 88).

C. B. Macpherson explicates this egalitarian approach as the "possessive-individualism" of a liberal market society in which the individual's "humanity" is his or her proprietorship of his or her person. Such humanity then depends on the individual's "freedom from any but self-interested contractual relations with others" (Macpherson 1962, pp. 271–272). Members see themselves as equal (fundamentally more so than in any respects in which they might be unequal) because equally subordinate to market forces, understood as the best means of ordering human relations, whether market relations in fact or by analogy. But the "centrifugal forces of a possessive market society" can only be offset by some "cohesion of self-interests, among all those who have a voice in choosing the government," sufficient to determine periodically the leadership of political community (Macpherson 1962, p. 273). And yet that cohesion unavoidably evaporates as the franchise is extended beyond the possessing classes to others.

Still, even as I reject it, the notion of possessive individualism usefully displays the problem of inequality for the project of self-granted human rights. Equality hardly follows from human rights as commodity relations, as the "rights of egotistical individuals of bourgeois society" in which the "equality of human rights expresses the 'equality' of the relations of exploitation" (Rancière 2006, p. 17, 19).

I have no solution yet to these various inequalities in ability to acquire the capacity for self-assertion, or to the inequalities in starting conditions that so often result in non-egalitarian lives. Until resolved, these problems constitute limits on the project of human-rights addressees becoming human-rights authors. But a project not perfectible in every way can nonetheless be viable, particularly in politics, where success is so often unlikely and, when successful despite all odds, is never complete or whole or ever-lasting. But if the project for self-granted human rights were realizable only in part, in just some communities, for even a limited amount of time, it will have still have redeemed some part of its promise.

[26] On this view, self-ownership entails the recognition of others' self-ownership, and self-ownership means nothing if not a right to self-determination. If one has a right to self-determination in that sense (namely because the individual owns him- or herself), then all persons would seem equally entitled to grant themselves human rights. On this approach, people "need" to own themselves as a condition not only of granting themselves human rights but also of having those rights recognized by others. Self-ownership would be constrained by the Lockean injunction to leave "enough and as good in common" for others: I may grant myself human rights only insofar as my grant does not deprive other persons of their self-granted human rights (Locke 2005, p. 288). Thus the human rights of one person must not render any other self-granting person worse off in terms of possessing recognized human rights.

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