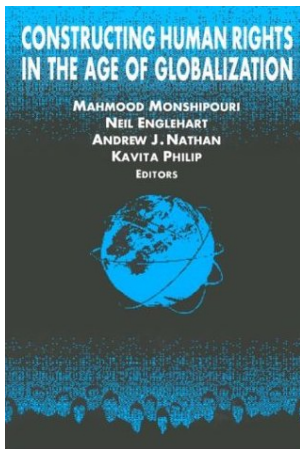# Globalization and the Construction of Universal Human Rights

By Eric K. Leonard

The History of Human Rights: From Ancient Times to the Globalization Era by Micheline R. Ishay. Berkeley: University of California Press, 2004.

Constructing Human Rights in the Age of Globalization edited by Mahmood Monshipouri, Neil Englehart, Andrew J. Nathan and Kavita Philip. Armonk, N.Y.: M.E. Sharpe, Inc., 2003.

Introduction

Every human rights scholar and activist must eventually engage the question of whether a set of universal human rights exists. For international relations scholars, this is an interesting debate, whether one is immersed in human rights research or not. The reason for the interest in the question is its focus on notions of authority and rule in the international system. If one accepts that a universal understanding of human rights exists, then one accepts that the relevant actors of the international community agree to uphold a common norm or set of norms despite the obvious differences in culture and history. In essence, an investigation into universal human rights is an investigation into the normative underpinnings of our global society and the actors that construct the rules for this society. This question becomes even more interesting given the intensification of the globalization process and the increased interdependence of traditional state actors, along with the increased relevance of non-actors.

The two texts under review for this essay attempt to address the question of whether universal human rights exist in an age of globalization. In fact, the common link between these two texts is their quest for a set of definable universal human rights, both historically and in contemporary times.

In the end, neither text ascertains a definitive list of universal rights (although Ishay has a clear idea of what that list should look like); however, they both employ fruitful methodologies for understanding the notion of universality and its impact on the study of human rights in a globalized society. Thus, one of the real benefits of these texts is their ability to further research, in an empirical manner, around an age-old debate concerning the question of "which rights and for whom?" Through a critical examination of these texts, this review essay will delve into the debate surrounding universal human rights and its subsequent consequences for understanding rule and authority—in an ontologically enlightened manner.

Historical Account

For Micheline R. Ishay's The History of Human Rights, the answer to this question resides in a detailed examination of the evolution of human rights as an idea. Her text travels on a detailed journey in which she examines the ideational component of human rights through different historical epochs in an attempt to find the commonality amongst several competing traditions. By engaging in such a detailed historical examination, Ishay also attempts to clarify many of the misconceptions embodied in the human rights literature. These include an examination of the origin of human rights, the Euro-centric nature of human rights, the influence of socialist thought, the relation between cultural and universal rights, the question of whether progress is possible, and the affect globalization has on the pursuit of human rights.

In her attempt to interact with all of these controversies, Ishay begins her historical account by guiding the reader through the early ethical understandings of human existence in an attempt to comprehend the origins of universal human rights. Ishay then leads the reader through a discussion of the liberal enlightenment period and then the subsequent socialist tendencies of the industrial age. Ultimately, she brings us to the 20th and 21st centuries and a discussion of the institutionalization of universal rights and the impact that the globalization process has on human rights endeavors. Throughout this wonderfully eloquent examination of cumulative history, Ishay is always probing for a set of rights that carries over from era to era. For it is within this historically relevant set of universals that the elusive quest for a definitive understanding of universal human rights culminates, thus forming a more inclusive society. As this essay will show, her quest for a definable set of universal rights ultimately hinges on an acceptance of difference with an understanding and desire for universals. The historical interplay amongst actors creates human rights and thus, the possibility of a universally accepted set of rights.

Constructed Reality

For Mahmood Monshipouri, Neil Englehart, Andrew J. Nathan, and Kavita Philip's Constructing Human Rights in the Age of Globalization, the quest focuses more on contemporary as opposed to historical political constructs, although all of the authors tend to weave a historical understanding of rights into their analyses. In general, the authors of this text seek to test the notion of commonality in a contemporary globalized world in which "competing universals" (x) make it difficult to decipher the true affect of globalization on the quest for universal human rights. Unlike Ishay's acceptance that human rights are in fact universal, the authors of Constructing Human Rights view universalism as the only universal (xi). Concerning a notion of universal human rights, Monshipouri *et al.* prefer to discuss competing or multiple universals that in an age of globalization clash, resulting in either a homogenization process or localized rejection. In short, the authors of this

text intend to examine the position of "universal" human rights in a globalized world and examine the social dialogue that creates these rights, although nothing about them appears truly universal.

Common Thread

Surprisingly, the underlying purpose of both the Monshipouri *et al.* and Ishay texts is very similar, despite the seemingly fundamental disagreement surrounding the existence of universal human rights. In their quest for understanding the current state of human rights, neither Ishay nor the authors of Constructing Human Rights appear ready to accept that human rights are natural, metaphysical, or theologically based. They do accept that human rights are dynamic, historically contingent, and socially constructed. This is not to say that their desire for certain rights remains historically contingent. Ishay in particular progresses towards a reluctant acceptance of the socially constructed nature of rights, but always with a wishful eye towards a certain universal definition or listing of human rights that appears to correlate with the Universal Declaration of Human Rights and other comprehensive codified notions of human rights. The authors of Constructing Human Rights remain more accepting of the outcomes of social constructivism, although a consensus does not necessarily emerge as to what the outcome will look like. Thus, for both texts, the listing of rights is always difficult, but the method of understanding is very clear. The purpose of this review essay is to first, focus on the common thread that binds these two texts together (a social constructivist ontology) and then examine the impact of such an ontology on the debate over universal human rights in a globalized world.

A Focus on Ontology

Because these texts appear sympathetic, in Ishay's case, and overtly accepting, in Monshipouri *et al.*, to a social constructivist ontology, this essay must begin with two critical questions: 1) What is social constructivism? 2) How is it relevant to these two texts, and more importantly, the general debate concerning the existence of universal human rights? Let us begin with the definitional problems surrounding social constructivism. Once a definition is in place, this essay can move to a discussion of ontological understandings of universal rights. It is here, as stated above, that this essay will focus in its attempt to ascertain an understanding of human rights in a globalized world.

Defining Social Constructivism

In attempting to define social constructivism, one can be mired down in a literature of competing perspectives and theoretical debates.[1] For the sake of simplicity, this essay describes social constructivism in broadly accepted terms. The defining characteristic of social constructivism is that the world exists in its current form because we, agents in the world, have made it that way. However, this process is not causally unidirectional. Yes, agents do make the world, but conversely, social relations also make agents. The complexity of this perspective lies in the fact that social constructivism is a co-constitutive ontology in which agents and structures create each other. Within

---

[1] Kurt Burch (2004) and Maja Zehfuss (2001) have a wonderful discussion of these competing perspectives and theoretical debates. However, for a foundational discussion of social constructivism, see Vendulka Kubalkova *et al.* (1998).

this ontology, neither agent nor structure is privileged and neither is indispensable. Therefore, the world around us exists as a result of our interaction with it.

Because of this foundational premise, it is clear that when viewing the world from a socially constructed ontology no concept, term, institution, or agent is static. In short, due to the socially constructed nature of the world, the reproduction or reconstruction of everything is possible. Change is dependent on the interaction between the relevant agents and social arrangements, and more importantly, the rules that guide those agents, social arrangements.[2] Therefore, according to the social constructivist perspective, it is not possible to consider human rights, or any other concept within world politics, as a static institution or discourse; simply put, the world is what we make of it.[3]

Socially Constructed Rights

As previously stated, a discussion of universal human rights is not exempt from this premise and both Ishay and Monshipouri *et al.* accept this fact, although at different levels. In the opening chapter of <u>Constructing Human Rights</u>, the authors state that one of the attributes of their text is that it "collectively illustrate[s] how people have constructed multiple universalisms with respect to human rights" (xii). Thus, the authors in the Monshipouri text view everything as socially constructed including universal rights. This fact is explicit from the moment the reader opens this text and therefore, it is clear that the authors plan to employ a social constructivist ontology in their attempt to understand human rights in a globalized era. The one question that this essay must address is whether any of their understandings result in a notion of universal human rights or simply a set of competing understandings of rights. I will return to this question later in the essay.

Ishay's understanding of universal human rights is not as explicit in its ontological method, and in fact, may have benefited from a more open acceptance of social constructivism. It does not appear that Ishay would consider her work or her approach as social constructivist.[4] Yet, there remains a distinct, albeit implicit, social constructivist tone throughout this text, most notably in its conclusion. One of the best means to demonstrate the importance of this ontology to a discussion of universal human rights is via a discussion of understandings of universals.

The Quest for Universals

If one accepts the notion that human rights are universal in nature (and as the dialogue between these two texts exemplify, this is itself a very contentious issue), it becomes imperative that you describe how this phenomenon came to exist. In particular, one must examine the following three questions: How does one know what rights are universal? What is their origin? And how, if at all, have they changed through the centuries?

---

[2] Although different forms of social constructivism exist, this essay will employ a rule-oriented approach that is most commonly linked to the work of Nicolas Onuf. See Eric K. Leonard (2005a) for a discussion of these disparate forms of social constructivism.

[3] This phrase is taken from the title of Nicolas Onuf's 1989 text, <u>World of Our Making</u>.

[4] Ishay does reference such social constructivist thinkers as Michel Foucault and John Ruggie, but not because of their social constructivist views.

Natural Law

One widely accepted means for addressing these questions focuses on natural law theory.[5] According to the natural law tradition, rights are naturally occurring simply because of our innate humanness and they are universal in nature because of our common humanity and a notion of common morality. Their origin is usually metaphysical or theologically based (although this is not a prerequisite) and their nature is static; therefore they have not, and in fact cannot, change over time. Any suspected notion of change is not change in the rights themselves, but more likely a change in the extent to which humans understand these rights or, from a more divine perspective, how much has been revealed about the universal nature of human rights. As a result, these rights are universal in nature and not responsive to any cultural, national, or ethnic diversity. Human beings are united by their humanity and therefore, universality becomes the only logically consistent way to define human rights.

Positive Law

An alternative answer to the aforementioned question is predicated on the positive law or legal positivist tradition. According to this tradition, a definition of human rights is based not on the principles of static morality and/or an absolute understanding of truth (such as divine law), but instead on an intersubjectively (and often codified) held norm or ideal. When discussing this tradition in relation to universally held international human rights, the global community must accept and codify the norm.[6] If they do not, then the norm lacks universality because it lacks universal, overt acceptance. The codification of these rights exists in the multiple international law treaties and legal precedent that defines the human rights regime. Such treaties include the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Genocide Convention, and many others.

For many of the rights bound up in these documents, their universality is contingent on universal nation-state acceptance. States are the main mechanism in which international law becomes codified and enforced, thus a notion of universal rights would necessitate a universal state-based acceptance of these documents. In short, universality, from a purely legal positivist perspective, is difficult because no international convention on human rights has complete universal state acceptance/ratification.[7] Along with this problem, one must also address the lack of enforcement that exists within the human rights realm of law. Even in instances of near universal acceptance, lack of enforcement only trivializes the legal treaties and declarations that exist. Therefore, the only logical conclusion concerning universal rights from a positive law perspective is that a "universal" right may mean overwhelming state acceptance and enforcement rather then literal universal consensus.

---

[5] Terry Nardin (2002) and Chris Brown (1999), provide foundational definitions of the natural law tradition of universal human rights.

[6] See Terry Nardin (1999) for a comprehensive discussion of this tradition.

[7] The closest legally binding human rights document to universal state acceptance is the Convention on the Rights of the Child. This treaty is lacking the approval (ratification/accession/succession) of two states—the United States and Somalia.

Enter Social Constructivism

A social constructivist approach to human rights blends aspects of the previous two traditions, although there is a clear emphasis on the consensual nature of legal positivism without the state-centric ontology.[8] In a social constructivist approach, we understand and ascertain human rights via the socially constructed nature of our world. This analytical perspective is not entirely antithetical to natural law, but its emphasis is less on static universals than constructed intersubjectively accepted rights.[9] The authors discussed in this review essay appear to accept the latter understanding of rights, although their overt acceptance of constructed universalism is not completely indistinguishable from the natural law tradition.

Micheline Ishay is very firm in her belief that a universal set of human rights exists and throughout her text she never wavers on this issue. As stated in the early pages of her book, "Human rights are rights held by individuals simply because they are part of the human species. They are rights shared equally by everyone regardless of sex, race, nationality, and economic background. They are universal in content" (3). As this quote clearly shows, Ishay accepts the notion of universalism, theoretically discards any acceptance of a cultural relativist argument, and defends this position throughout the text. However, readers of Ishay's text should not correlate her universalist position with a strict interpretation of natural law tradition. Ishay constantly emphasizes that although universal, inalienable rights exist, her understanding of these rights is "sensitive to the various socioeconomic and cultural circumstances" that exist in different parts of the world (12). Therefore, it is difficult to categorize Ishay's history of human rights as ontologically specific. She accepts universality but does not view it as wholly static. In essence, Ishay accepts the socially constructed nature of human rights without ever employing this theoretical perspective.

This understanding may exemplify one of the major shortcomings of the text, that is, a lack of clear theoretical justification for her understanding of rights. However, this weakness does not diminish the overall benefits of both her method and her argument and one may only have to look to the authors of Constructing Human Rights for assistance in overcoming this limitation.

Social Constructivism and Universals

The concept of constructed universals serves as a central component of Constructing Human Rights and shows the authors' affinity for a social constructivist perspective. It is not an easily understandable or accepted term; in fact, one could describe this concept as curious or as Monshipouri *et al.* describe it, "intentionally paradoxical" (xi). It appears as if the authors employ this term to evoke a critical dialogue concerning the topic of universals, but it is also intended to demonstrate the authors' obvious ontological understanding of human rights—one that is socially constructed. Therefore, in regards to Monshipouri *et al.* positing this term, this essay must now examine whether such a concept provides sufficient insight into an understanding of a truly universal set of human rights.

---

[8] This does not preclude a state-centric constructivist interpretation of human rights. One example of a state-centric constructivist approach is Donnelly (1999).

[9] As Chris Brown states, "some idea of natural law must underlie all genuinely universal approaches to human rights." (1999: 106)

In their attempt to address this question, the authors of this text do not engage in a linear historical account of human rights, but instead initiate an examination of multiple cases and the resultant universals that either exist or compete with each other. Somewhat surprisingly, a common answer does exist within the different essays and eventually surfaces within the final section. But, let us begin with a quick overview of the early essays and how they approach this question through the common theme of constructed universals.

The text's questioning of universal human rights is apparent from the outset and never wavers throughout the diverse set of essays. Part I of this text engages "assumed universals" or universals that have become so ingrained in the global society that the global community often perceives them as natural.[10] However, it is within the discourse of these chapters that the reader gains insight into the socially constructed nature, not naturally universal nature, of property rights, the position of the state, and women's rights. All of the authors contained within this section show the socially constructed nature of all universals and the possibility of altering these "assumed universals" through social dialogue.

Part II continues the discussion of competing universals but from a more local, cultural perspective. In discussing three of the more interesting cases concerning the universality of human rights, these authors explore the connections between local discourse and the quest for universals. It is also within these essays that an acceptance of a truly universal set of human rights finds its greatest advocates. In analyzing the case of human rights in Iran, China, and Hong Kong, the authors in this section find the local discourse, in many instances, congruent with the universal discourse. Such empirical observation shows the local dialogue reflecting a universal understanding of certain rights, which will become critical in the attempt to find a global consensus surrounding universal rights.

It is within the pages of the concluding section of this text (Part III) that the authors directly address the question of whether universals currently exist or will ever exist. The first essay in this section, Joanne Bauer's "The Challenges to International Human Rights," provides an overview of the debate from a regional, cultural perspective. Her essay is a critical assessment of the international human rights movement and its quest for universality. According to Bauer, the typical approach to universal human rights entails an "us versus them" mentality. For instance, non-Westerners must accept the Western traditions because it is within these traditions that we find a universal set of rights. Bauer rightfully discredits such an approach and shows that such generalizations fail to acknowledge differences within regions. Her challenge is for a more intellectually rigorous approach to the question of universal human rights with a need to move beyond many of the caricatures of this literature (a challenge that sympathizes greatly with some of the primary goals of the Ishay text).

However, it is in Charles Lockhart's essay, entitled "Obstacles on the Road to an Overlapping Consensus on Human Rights," that the issue of universality comes to a head. If this review essay were to recommend an alteration to this text, it would be to place this essay at the forefront of the text. The rationale for such change is that this single essay seems to capture the spirit of the entire text. Lockhart employs a grid-group theory to human rights practices/preferences, which exemplifies the fact that a consensus on universal rights is not probable and that the most we should

---

[10] According to the authors of this text, property rights (although contradictions exist in how one defines property rights) and the existence of states are two such assumed universals.

hope for is accommodation. The proposed usage of this essay, as the foundation for the text, is not the result of this authors' acceptance of Lockhart's conclusion. Instead, it is that Lockhart's essay so clearly embodies the challenge that all the other authors (Ishay included) must confront—is a universal set of rights possible? The other essays throughout this text, but most notably those in this final section, accept Lockhart's challenge and attempt to try to find a way to conceive of a set of socially constructed universals.

In the end, Constructing Human Rights' answer to the question of whether a universal set of human rights exists is maybe—but not necessarily. According to the authors' perspective, global universals are historically, and possibly culturally contingent if one can even discover a set of global universals. Lockhart is one author that does not view the construction of universals as probable. However, even the other authors accept that any understanding of global universals must be that— universal in nature, and this means overcoming a strong set of divergent histories, cultures, and understandings of human rights. If, and only if, the global community can find a way to rectify these multiple universals can a global set of constructed universal human rights emerge. The question that remains is how to accomplish such a daunting task.

Dialogue as Truth

In their quest for universals, Ishay and Monshipouri *et al.* discover some notion of truth within unrestricted social dialogue (unrestricted as result of its inclusivity of actors, ideas, and most importantly, in its cultural tolerance). This form of dialogue, often referred to as dialogical cosmopolitanism or dialogue ethics (Shapcott 2001: 226), must take place within an "open and uncoerced cross-cultural dialogue" (Parekh 1999: 139). Thus, the only means to acquiring an answer to the driving question of this review essay, "what are universal human rights?" is through an inter-subjective dialogue within a cosmopolitan community. Such a method allows for a diverse set of voices to interact within a tolerant global community. If we are to ascertain a set of universal rights, this form of dialogical understanding is not only critical to the construction process, but also essential for the establishment of enforceable norms.[11] Readers should note that Ishay and Monshipouri *et al.* do not engage the dialogical ethics literature directly, but its influence on the quest for universal human rights is undeniable.

As stated earlier, Ishay purports that human rights (including political, social and economic rights) are inalienable and universal (11-12). Yet, she acknowledges and accepts humanity's cultural uniqueness and the need for social tolerance. From such a seemingly contradictory position, how does one discover a set of human rights that are universal in character, if not by natural law? The answer is cross-cultural social dialogue that extends throughout human history.[12] As she herself articulates in the final chapter of her text, this dialogue must encompass the state, civil society or the public sphere, and the private sphere. However, if the global community is to overcome what Ishay

---

[11] Shapcott (1999), and Linklater (1998) are but two examples of the dialogical literature, although both are more concerned with global ethics than the more narrow focus of universal human rights.

[12] According to Ishay, this form of social construction is not always dialogue. Human rights are often found in social movements and revolution, but it is seemingly possible to view dialogue as part of these other forms of engagement.

views as the "impending neo-medievalism" (354-355), then it is the agents within civil society that must take the lead.

The coming neo-medievalism, which is marked by a loss of rights for the private individual, is partly a product of the globalization process.[13] In order to counter this descent, Ishay proposes "a more vibrant global civil society [that] could thwart undemocratic policies associated with the unfettered march of neo-liberal globalization, protect the realm of privacy against state intrusion, and stimulate critical thinking" (354). In short, Ishay is proposing a coalescence of actors who adhere to the human rights principles found in international legal statutes, because these are the rights of all individuals within a cosmopolitan global community. These rights are divergent in their ideological foundations and the origin of their existence, but there exists solidarity within a strong civil society that might grant these rights a universal status.

The authors of Constructing Human Rights reach a similar conclusion without the *a priori* acceptance of universal human rights. Their notion of universals is also dependent on social acceptance and solidarity achieved through dialogue and interaction. However, in the conclusion of Constructing Human Rights, Monshipouri *et al.* discuss three different means to strengthening the human rights regime in a globalized world (333-334). The first is to focus on culture and values and center the discussion of human rights on a multicultural, instead of a particularistic, understanding of rights. A second and complementary means to a strong human rights regime is to allow the homogenization process to provide a global consensus. Both of these principles would emerge within a globalized world by allowing rights to form from below—that is, below the state. Finally, international positive law may also show the way for a strong human rights regime with the socially accepted norms of our time codified in formal treaties and conventions.

These means to a strong regime are not exclusive, but instead complimentary. If the international community can create a process through which cultural differences are examined and the universals that exist within these differences are codified, then a notion of universal rights is plausible. If such a process is to occur, then it must begin with an acceptance of the socially constructed nature of the regime and its ascension through a dialogical method. As Monshipouri *et al.* make clear, it is through this method of dialogue and debate that competing universals *may* be rectified and a true set of universal rights *can* emerge. However, despite serving as the mechanism through which cross-cultural and inclusive dialogue occurs, the globalization process also creates fragmentation (or as Ishay termed it, an impending neo-medievalism) that limits the ability of competing universals to emerge. Therefore, it appears that the only certainty is that the future of international human rights will remain socially constructed even if it fails to achieve universality.

---

[13] According to Ishay, the medieval era was so authoritarian nature that "no room was left for the advancement political and economic rights" (320). This lack of political and economic rights was due mainly to the lack of civil society or a dormant public sphere (323). Therefore, what Ishay fears in the current global context is a decline of civil society and a return to the authoritarian nature of the medieval era.

Movement Towards a Dialogical Community

It seems as though the current status of universal human rights is dependent on the construction of common norms amongst a diverse set of actors and not the discovery of natural laws or first principles. As with everything else in this world, human rights are socially constructed, although the actors involved in this construction process remains questionable. Therefore, the international community must universally, or at least widely, accept (by which they must also enforce) certain rights if we are to consider them universal. The actors involved in this process, if they hope to be successful, must form a dialogical community in which they acknowledge diversity, while retaining the goal of establishing universals. A large part of this formation process is an intersubjectively accepted ideational-cognitive shift in how actors perceive their political environment. In particular, this shift must entail a re-examination of who the international community deems relevant and what norms they permit into the dialogue. The final section of this review essay will briefly extend beyond the discussions of the texts and delve into the consequences of such a community and its socially constructed outcomes. Ultimately, one can see the normative basis of international human rights as a progression towards global governance beyond the state.[14]

The clearest articulation of the socially constructed nature of human rights exists within a dialogical process that culminates in the legal positivist tradition. As stated early in this essay, this tradition stipulates that the global community constructs human rights in a clear set of international legal documents and subsequently formed institutions (such as the UDHR, ICCPR, ICESCR, ICC, and others). It is within the formation process and subsequent ratification/acceptance phase of these documents and institutions that one can see the dialogical community at work. But who is the dialogical community and how has this community affected traditional understandings of authority and rule in the international system? The notion of a dialogical community extends beyond the state and traditional Westphalian understandings of the global system. This community is cosmopolitan and egalitarian in nature, not necessarily privileging the state or other historically dominant Western actors. In short, the emergence of a dialogical community is conducive of the movement towards a post-international society.

Post-internationalism is a concept first articulated by James Rosenau (1990, 1997) and currently applied by numerous IR theorists, including Yale Ferguson and Richard Mansbach. According to Ferguson and Mansbach (2002), post-internationalism contains several primary tenets. They include the acceptance of constant change in the system, the decline of state authority, the rise in numbers and relevance of "sovereignty-free" actors, a multiplicity of identities, mass participation in the construction of global norms, and an emphasis on the individual instead of the system (Ferguson and Mansbach 2004: 17-30). In this post-Westphalian society, states are no longer the primary actor and broad-based socially constructed norms serve as the rules for the system. States remain relevant, but social movements, NGOs, individuals, among others, now affect the establishment of rules and norms. In essence, the construction of global society occurs from a variety of actors, both state and non-state in nature.

---

[14] One can see this movement towards "global governance" within human rights in the initiation of domestic universal jurisdiction laws, the formation of the International Criminal Court, and the normative acceptance of basic human rights on a global scale. See Eric K. Leonard (2005b) for a more empirical analysis of this phenomenon.

Now let us apply this understanding of global politics to the current discussions on universal human rights. If we employ a post-international perspective to the debate on universal human rights, it becomes clear that universal rights are not derived from first principles or natural law. Universal rights are socially constructed by a multiplicity of actors that extend beyond the state, but also involve all states regardless of cultural bias. The importance of this inclusive network of actors is found in the failure of the state to uphold the universal human rights principles that they have historically created.[15] This new network of actors exists not only to create a truly universal conception of rights, but also to apply pressure on the still powerful states so that they might uphold and enforce these norms in a manner that is befitting of their presence. Therefore, in this age of globalization and post-international politics, the construction of human rights is now more plausible than it has ever been before. The possibility of a universal set of human rights now exists within the emerging global governance structure. However, it will require a dialogical community with a determined political will to create such a reality.

Conclusion

These two texts do not sound the end to the quest for universals human rights. The quest for a definitive understanding of human rights will continue within the literature, the classroom, and in diplomatic conferences, and courtrooms around the world. In fact, one of the many accomplishments of these two texts is that they have re-energized a somewhat static debate and placed it into a vital dialogue (although not always intentionally). However, whether or not you agree with their conclusions or their means to a universal understanding of human rights, one thing is clear: these two texts are both very much worth reading for scholars, students and activists alike; and they are worth reading in conjunction with one another.

There is a complementary nature to these texts that I hope readers of this essay now understand. Ishay's historical assessment of human rights is unrivaled. She cogently and comprehensively explicates the history of human rights while deconstructing some (of the many) myths encased in the human rights literature. And while some may find it difficult to accept her initial argument that human rights are "universal in content," she derives a clear origin and evolution for these socially constructed rights. However, it is the socially constructed nature of human rights that Ishay should emphasize. The text does not engage the social constructivist literature, nor does it overtly employ this ontology to understand human rights; but it is clear that Ishay purports that the international community has constructed the current set of universals (as codified in international legal doctrine) through centuries of dialogue and debate. Thus, Ishay could have benefited from a reading of the Monshipouri *et al.* text to show the truly historically constructed nature of human rights. In the end though, her argument that an active civil society, through dialogue and experience, can discover a set of universals and save the world from the impending neo-medievalism is thoroughly justified. And although the need for salvation may be true, the discovery of universals may require greater construction then Ishay acknowledges.

---

[15] The United States is a example of a state talking the human rights rhetoric but failing to fully implement it. See Julie Mertus (2004), for a detailed discussion of U.S. failures within the human rights arena.

Enter Monshipouri *et al.,* who also recognize the need for social dialogue as a means to universal human rights. However, the difference between the two is in <u>Constructing Human Rights</u>' refusal to accept universality. For these authors, universalism is bound up in competing perspectives that the global community must somehow rectify. The most likely source for this process is the sub-state actors, but such recommendations do not automatically equate into a single set of universal rights. This somewhat pessimistic, or more appropriately realistic, vantage point endears the Monshipouri text to this author. However, the authors of this text, despite their pessimistic views on the construction of true universals, still view the only method to universalism through open, unrestricted dialogue.

In the end, the social constructivist ontology binds these two texts together and makes them a necessary read for anyone trying to understand whether universality, within the human rights regime, can truly exist. The scholars, students and activists of our world may not agree on the conclusions of these authors or the conclusion of this review essay, but they will gain much knowledge as they too construct the future of global human rights—whether it is relative or universal. They will also ascertain a foundational knowledge for broader questions of authority and rule, both within human rights discussions and beyond. The authors' implicit call for a dialogical community provides insight into the notion of authority, sovereignty and rule in the 21st century global arena. The question of whether a truly universal set of norms can emerge remains unanswered, but it is apparent that the status of power is shifting and the Westphalian moment is fading. For many in the international community, this alone provides a sense of hope for the future of universal human rights.

References

Brown, Chris. 1999. "Universal Human Rights: A Critique," in Tim Dunne and Nicholas J. Wheeler (eds.) <u>Human Rights in Global Politics</u>. Cambridge: Cambridge University Press, 103-127.

Burch, Kurt. 2004. "Toward a Constructivist Comparative Politics," in Daniel Green (ed.), <u>Constructivist Comparative Politics: Theoretical Issues and Case Studies</u>. Armonk, NY: M.E. Sharpe, Inc.

Donnelly, Jack. 1999. "The Social Construction of International Human Rights," in Tim Dunn and Nicholas J. Wheeler (eds.) <u>Human Rights in Global Politics</u>. Cambridge: Cambridge University Press, 71-102.

Ferguson, Yale H. and Richard W. Mansbach. 2002. <u>The Elusive Quest Continues: Theory and Global Politics</u>. Upper Saddle River, NJ: Prentice Hall.

_____. 2004. <u>Remapping Global Politics: History's Revenge and Future Shock</u>. Cambridge: Cambridge University Press.

Kubalkova, Vendulka, Nicholas Onuf and Paul Kowert (eds.). 1998. <u>International Relations in a Constructed World</u>. Armonk, NY: M.E. Sharpe, Inc.

Leonard, Eric K. 2005a. "Discovering the New Face of Sovereignty: Complementarity and the International Criminal Court." *New Political Science* 27: 87-104.

_____. 2005b. The Onset of Global Governance: International Relations Theory and the International Criminal Court. Aldershot, England: Ashgate Publishing.

Linklater, Andrew. 1998. The Transformation of Political Community. Columbia, S.C.: South Carolina Press.

Mertus, Julie A. 2004. Bait and Switch: Human Rights and U.S. Foreign Policy. New York: Routledge.

Nardin, Terry. 1999. "Legal Positivism as a Theory of International Society," in David R. Mapel and Terry Nardin (eds.) International Society: Diverse Ethical Perspectives. Princeton, NJ: Princeton University Press, 17-35.

_____. 2002. "The Moral Basis of Humanitarian Intervention." *Ethics & International Affairs* 16: 57-70.

Onuf, Nicholas G. 1989. World of Our Making: Rules and Rule in Social Theory and International Relations. Columbia, SC: South Carolina University Press.

Parekh, Bhiku. 1999. "Non-ethnocentric Universalism," in Tim Dunne and Nicholas J. Wheeler (eds.) Human Rights in Global Politics. Cambridge: Cambridge University Press, 128-159.

Rosenau, James N. 1990. Turbulence in World Politics: A Theory of Change and Continuity. Princeton, NJ: Princeton University Press.

_____. 1997. Along the Domestic-Foreign Frontier: Exploring Governance in a Turbulent World. Cambridge: Cambridge University Press.

Shapcott, Richard. 2001. Justice, Community, and Dialogue in International Relations. Cambridge: Cambridge University Press.

Zehfuss, Maja. 2001. "Constructivisms in International Relations: Wendt, Onuf, and Kratochwil," in Karin M. Fierke and Knud Erik Jorgensen (eds.), Constructing International Relations: The Next Generation. Armonk, NY: M.E. Sharpe, Inc.

Eric K. Leonard is an Associate Professor of Political Science at Shenandoah University in Winchester, VA. His recently published book is entitled, The Onset of Global Governance: International Relations Theory and the International Criminal Court (2005).