

BOOK FORUM: ERIC D. WEITZ, *A WORLD DIVIDED: THE GLOBAL STRUGGLE FOR HUMAN RIGHTS IN THE AGE OF NATION-STATES* (PRINCETON: PRINCETON UNIVERSITY PRESS, 2018)

Human Rights, Nation-States and the Persistence of Oppressive Privilege

A world divided: The global struggle for human rights in the age of nation-states, by Eric D. Weitz, Princeton, Princeton University Press, 2019, 576 pp., USD\$35.00 (hardcover), ISBN: 9780691145440

A Divided World offers a compelling history of the global struggle for human rights in the age of nation-states. Eric Weitz presents insightful stories of travellers, scholars, activists and statesmen who fashioned empires into nation-states from the late eighteenth century to the present period. These are stories of rights ideas and struggles at defining moments in nation-state foundings and formations. Overall, it is a narrative of the paradox of human rights, celebrating its triumphs and critiquing its failures.

My commentary focuses on two themes that emerge from the book. The first is the question of human rights ontology; not necessarily the definition of human rights, but the varied contextual meanings of human rights and the relationships between them. I am interested in how Weitz deploys human rights as an analytical lens for his historical reconstructions. Like the concept of globalization, the notion of “human rights” provides historians with fresh analytic lens for creative reinterpretations of the past. With this new lens, familiar stories of human struggles, political crises and social upheavals can be re-told in ways that further illuminate our understanding of these histories. The doctrine of human rights has become the dominant language for public good in our world. It has become the language of choice for making and contesting entitlement claims, spawning a global human rights revolution – a revolution of norms and values that has redefined our understanding of ethics and justice (1). So, the question inevitably arises: given the discursive power of human rights ideology today, how much of the history that we see through human rights lens is an illumination of the past as it was, and how much of that history is a projection from the lens itself?

The second theme of my commentary is the persistence of oppressive privilege. Like all histories, *A Divided World* is a narrative of changes and continuities – changes in the expansion of citizenship rights in emergent nations-states, and continuities of systems of oppression and exclusion. In between the lines of Weitz’s narrative of human rights struggles, we can also find histories of oppressive privileges of all sorts – white privilege, Christian privilege, ethno-cultural privilege, intellectual and epistemological privilege, and perhaps, the most enduring of all, male privilege. If the grand narrative of *A World Divided* is the complicated and paradoxical history of human rights, its sub-narrative is the equally complicated history of the persistence of oppressive privilege. Oppressive privilege has shaped the history human rights over the past two centuries. To fully appreciate Weitz’s grand human rights narrative, therefore, we must pay attention to the sub-narrative of oppressive privilege.

The Ontology of Human Rights

The historical ontology of human rights - understood broadly as the interconnected socio-political processes by which human rights ideas have emerged - is evident throughout *A Divided*

World.¹ The compelling cases in the book show the contradictions and partiality of human rights advances when built around national citizenship. Exclusion and inclusion, rights protection and violations, Weitz argues, have defined the emergence of the nation-state. “The contradictions are blatant and cannot be easily recovered resolved or wished away ... They are irresolvable and an intrinsic part of the human rights system based on nation-state citizenship” (425).

While historical reinterpretation using human rights lens can illuminate our understanding of the past, there is always the risk of *overexposure*. Here, photography offers a useful metaphor. In the hands of the historian, the human rights lens is most effective when it is neither underexposed nor overexposed. When underexposed, the story is deficient because the complex histories of rights ideas and struggles are insufficiently illuminated. Too little of the “light” that human rights have reflected on human events is recorded. When overexposed, however, the narrative becomes distorted. Too much of today’s human rights sensibilities is projected into interpretations of historical ideas and events. As in photography, therefore, effectively deploying the human rights lens for historical reconstruction requires just the correct amount of exposure.

Historians are often reminded to avoid foisting their own problem definitions on the people and societies they study. Historians should leave open the possibility that the historical actors they write about might have considered themselves part of a different drama than the one the historian imagines. In the context of *A Divide World*, this raises a crucial question: Did eighteenth century Western travellers, who explicitly excluded Indians and Blacks from rights bearing citizenship, think of human rights in ways even remotely resembling contemporary conceptions of human rights? Weitz clarifies that the historical actors he writes about had a partial understanding of human rights, one that availed only certain categories of people defined by race, religion, ethnicity, gender and other identity markers.

Weitz largely succeeds in the delicate task of reinterpreting familiar histories of nation-state formation through human rights lens in ways that appear “correctly exposed” – neither underexposed nor overexposed. However, he does not tell us what type of human rights lens he has used. Although he argues that the nation-state and human rights have played a central role in the making of our global world, he does not offer a definitive answer to the question of the meaning of human rights (6). Rather, he takes “an open ended, capacious, and practical approach to the disputes regarding the philosophy and history of human rights” (6). Anticipating critics, Weitz states that some will dispute that the cases he recounts have anything to do with human rights. “They would say that these examples and thousands of others we could summon are too fragmentary and episodic to constitute a full blown programme of human rights” (7). Even though he concedes that we need some distinctions, he rejects this argument, opting for a more fluid understanding of human rights (7). On this, I agree with Weitz. The essentialist definitions of human rights preferred by those who see human rights as a uniquely twentieth century phenomenon, disconnected from earlier notions of rights, limits our understanding of how rights ideas and struggles have shaped our world. A less rigid notion of human rights allows for better understanding of the deep and complex history and politics of human rights.

Still, the debate about human rights ontology remains integral to histories of human rights. Making histories of pre-twentieth century human rights struggles intelligible to twenty-first century audiences demands some definitional parameters. Weitz acknowledges that as the

¹ For discussions on the social and historical ontology of human rights see Carol Gould, “A Social Ontology of Human Rights,” in *Philosophical Foundations of Human Rights*, eds. Rowan Cruft, S. Matthew Liao, Massimo Renzo (Oxford: Oxford University Press, 2015), and William Sweet, *Idealism and Rights: The Social Ontology of Human Rights in the Political Thought of Bernard Bosanquet* (Lanham, MD: University Press of America, 1997).

circle of rights bearing citizens has expanded, so has the meaning of these rights. Therefore, in order to fully understand the historical development of human rights, we first

need to see just how radical a break is our own modern world from the preceding millennia marked by empires; small, regional forms of governance; and tribes and clans - all of them built systems of inequality and non-recognition at least in terms of rights of other individuals (14).

Indeed, only since 1945 has the emergence of international human rights offered in model of universal rights beyond the nation-states. While we might debate whether this late model of universal human rights constitutes the defining essence of human rights, most commentators agree that it provides the ontological reference point for our understanding of human rights. The universalist human rights model that emerged in the aftermath World War II, and in the context of the United Nations, was a response to the limitations of nation-state-based citizenship rights. The holocaust and other war-time atrocities showed that states could not be trusted to protect the rights of citizens and subjects. The adoption of the Universal Declaration of Human Rights marked the international recognition of certain fundamental and inalienable rights and freedoms to which all humans are entitled simply by virtue of their humanity, and not simply because they are citizens of nations. The hope was that universal human rights would be the antidote to the partiality and contradictions of nation-state-based citizenship rights regimes. This promise has, of course, not been fully realized. However, it provides a powerful reference point for understanding histories of rights struggles in the era of empires and emergent nations states.

Oppressive Privilege

Scholars have long drawn attention to the inequities and injustices wrought on societies by systems of oppressive privilege. In his influential 1891 land reform treatise titled *The Birthright of Man*, the Scottish classicist William Ogilvie described "landlordism" and aristocratic land monopolies as a "most oppressive privilege, by the operation of which the happiness of mankind has been for ages invaded and restrained, more than by all the tyrannies of kings, the imposture of priests, and the chicane of lawyers, taken together ... " A few men, he lamented, "were permitted to engross a most oppressive privilege - the exclusive rights to the immovable value of soil."² Later political theorist have shown how the preservation of oppressive privilege in the face of popular pressure for egalitarian measures, provides the principal motivation for the separation between the public political realms with citizenship rights and a private non-political one with limited rights protection.³

If citizenship rights in the eighteenth and nineteenth century contexts that Weitz discusses were so restrictive and premised on the exclusion and subordination of others, do they really fit within the ontology of human rights? True, rights may bestow privileges, but oppressive privileges (embodied, ascribed or acquired), reinforced by power, is the very antithesis of human rights. Oppressive privilege bestows benefits, immunities or exemptions on persons or restricted group of persons, to the exclusion of others, and at the expense of the rights of others. As Weitz notes, the establishment and expansion of human rights have never been pure and straight. The paradoxes of human rights manifest in the patterns of inclusions and exclusions that accompanied nation-states and the establishment citizenship-based rights regimes (110).

² William Ogilvie, *Birthright in Land* (London: Aberdeen University Press, 1891), 286.

³ Frank Cunningham, *Theories of Democracy: A Critical Introduction* (London: Routledge, 2005), 69.

Human rights are typically framed as claims against the authorial power of states; yet human rights have historically been mediated by hierarchies of power and privilege. *A Divided World* offers many examples of this. In his discussion of Indian removals in America, Weitz notes that the vision of the nation-state as the preserve of one race meant that Euro-American whites would be able to enjoy the full complement of rights available at the time, while indigenous people will be pushed to the margins (32). White privilege was founded on what Weitz describes as the “racial international” - a racialized way of thinking about human diversity that transcended national borders. Nineteenth century Western statesmen and writers drew on Darwin’s ideas on biological evolution and the “survival of the fittest” to promote an agenda of scientific racism that affirmed the embodied privileges of some, with devastating consequences for others. The nation-state, defined in racial terms, would mark the “the most exclusionary and potentially deadly form of categorizing populations,” as Weitz shows in the cases of United States, Brazil, Namibia, and Rwanda and Burundi (33).

Discourses and practices of citizenship rights in these historical contexts also then become discourses and practices of privilege - white privilege, Christian privilege, varied forms of ethno-cultural privileges, ethnic privilege, religious privilege, male privilege and elite privilege. To understand the paradoxes of human rights, we must first understand the ways in which oppressive privilege determined patterns of rights inclusion and exclusion. For example, the persistence of embodied privilege partly explains why nineteenth century British liberal reformists could condemn the contemptuous way English imperialists treated the Indians while at the same time advancing arguments of Indian intellectual and cultural inferiority that sustained such contemptuous treatment.

In the increasingly cosmopolitan world of the eighteenth and nineteenth century, Western military, technological and governmental superiority came with immense power and privileges for those within the circle of a particular race, religion, culture and ideology. This would shape the pace and patterns of rights inclusion and exclusion in the era of declining empires and emergent nation-states. Privileged ideas about the hierarchy of races, cultures and civilizations influenced the organization of states and determined who could be entitled to right-bearing citizenship, when and how.

Weitz provides an insightful example of the power of this kind of privilege in the writings of Lord Byron and the English Philhellenes who supported the Greek revolution against Ottoman rule. The Philhellenes justified the exclusion of Muslims from the Greek state on grounds of what they saw as Greek subjection under Ottoman “barbarity.” Byron called on the Great Powers to rescue the Greeks from bondage and destruction while ignoring the atrocities committed by Greeks against Muslims. For all their humanitarian sensibilities, Byron and other Philhellenes “could not surmount the political contradictions of their positions.” They were in love with Greece, and it was a Greek state that they wanted, one in which other populations, most notably Muslims and Jews, would be rendered invisible (61).

Why couldn’t Bryon and other Philhellenes of his time surmount the political contradictions of their positions? Partly, I would argue, because of the persistence of oppressive privilege - in this case, ethno-religious privilege. Philhellenes like Bryon campaigned for the Greek cause by arousing European consciences; but they also invoked the specter of the loss of Christian dominance and privilege. Could Europeans stand by and allow fellow Christians to be subdued? In Russia, pan-Slavists and an emergent public sphere exercised similar pressure on the tsarist government to aid fellow Orthodox Christians (62–63). This was as much a cause to uphold Christian ascendancy and privileges as it was a cause for liberty. The Greek revolt would ultimately succeed only with European help, rendered in the name of Christian liberties. It did not matter that the rights claimed by Greek nationalists were limited to men who adhered

to the Greek Orthodox religion. However, as Weitz notes, these rights were not static. Especially after 1945, they broadened significantly and expanded progressively. But to understand the pace and patterns of rights expansion and contraction, we must pay attention to the tenacity of oppressive privilege.

The persistence of oppressive privilege also explains the paradox of human rights in the case of Indian removals in the United States. Once indigenous nations were defeated, and Minnesota and the Dakotas were incorporated as federal states, US politicians contemplated the legal and political status of Indians. Did the Fourteenth amendment equal protection clause apply to these newly subjugated people? Were Indians to be accorded citizen rights as individuals or as collectives? (107). The court decisions that addressed these questions struggled with balancing the liberal promise of citizenship rights with entrenched white privilege. As Weitz shows, these court decisions affirmed Indian collective land rights but only to the extent that they did not impinge on the embodied, ascribed and acquired privileges of white settler population. Indians, the courts held, had rights of occupancy, not of absolute title. So long as they hunted, fished and farmed on areas clearly delineated theirs following conquest, and so long as they had not ceded land to whites through treaties, Indians possessed their land. But the absolute ultimate title lay with the “discoverer,” the Europeans and their descendants who had come from distant shores (112). In effect, the extent of Indian rights was contingent on what white privilege would accommodate. As Weitz notes, the Euro-Americans who settled in Minnesota quickly

assumed all the rights, *privileges*, and protections that the American nation-state had to offer. If newly arrived from Europe, they only had to declare their intent to become citizens and they could vote, speak out, and find redress in the courts. (119)

The devastating power of oppressive privilege to subjugate and disenfranchise is perhaps most evident in the case of Brazil. Nineteenth century Brazilian statesmen who lauded the mixing of races, did so only because they believed it would eventually whiten the entire population and lead to the elimination of blacks as a group. The extinction of the black race in Brazil was the primary motivation for seemingly liberal attitudes toward miscegenation. Even though Brazilian racists did not believe that race mixing led to the degeneration of the race, (unlike most European and North American intellectual racists of their day), they shared a common goal of maintaining white ascendancy and privilege – one group, by segregation, the other by strategic dilution. In all cases, the belief in black inferiority, strengthened by so-called racial science, furthered the ideology of white supremacy and its associated privileges.

Conclusion

The stories that Weitz tells in *A Divided World* are as much about the tenacity of oppressive privilege as there about human rights and the foundings of nation-states. The logic of the nation-state that emerges and prevailed after World War I was founded on expansions and constrictions of citizenship rights in patterns mediated by oppressive privilege. As Weitz concludes from his cases,

The nation-state granted Orthodox Christians in Greece, Euro-Americans in the United States, light skinned males in Brazil the *privileges* and responsibilities that came with rights. They possessed the benefits of full citizenship, including security of property and persons and the ability to participate politically, that human rights offer. For those who did not fit the dominant category, it was a different matter, even more so with the rise of the explicit category of minority. (204–205. Emphasis added)

To be sure, since the mid-twentieth century the circle of human rights has extended beyond propertied white men, as was largely the case in the eighteenth and early nineteenth centuries. Universal human rights now specifically encompass several previously excluded groups – children, persons with disability, asylum seekers, indigenous people, stateless persons, and more broadly, women. However, as we see in the global rise of xenophobic populism, exclusionary nationalism, growing economic inequalities, and the proliferation of toxic forms of digital communication that reinforce prejudice, oppressive privilege continues to constrain human rights. Contemporary debates about the prioritisation of human rights centre on questions of power and privilege. Why have certain human rights agendas gained prominence and visibility over others despite the rhetoric of the indivisibility of human rights? Even the dominant generations of human rights ordering where *first generation* individual-centred civil and political rights precede *second generation* economic and social rights, and *third generation* collective solidarity rights, are steeped in histories of power and oppressive privilege. Power and privilege continue to mediate human rights doctrine, raising fundamental questions about its normative objectivity. This partly explains, for example, why the bulk of the cases before the International Criminal Court (ICC) have originated in weak African states and why, as Weitz opines, it is unlikely that any of the Great Powers will ever be hauled before the court for human rights violations (421). Thus, as in the eighteenth century, the reach of the ICC is contingent on what Great Power privileges will allow.

A Divided World excellently captures the contradictions of human rights and the processes of inclusion and exclusion as the circle of human rights expanded with the emergence of nation-state settings. However, explaining these contradictions remains an ongoing task. We need to better understand how historical and contemporary systems of oppressive privilege engender the many paradoxes of human rights so vividly captured in this book.

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