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'A Very Murky Process': Embracing the Intermediacy of International Justice and Human Rights

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I. REORIENTING THE ANTHROPOLOGY OF LAW AND HUMAN RIGHTS

THE ETHNOGRAPHIC STUDY of human rights and international justice is now a vibrant field of academic inquiry, due in no small part due to Sally Merry's inspiring scholarship and generosity as a colleague. She has been, to use the language of torts law, a substantial factor. To fully comprehend the scale and significance of Sally Merry's contribution, we need to situate it within the grand historical sweep of legal anthropology over the last century.

In the mid-twentieth century, many prominent anthropologists such as Malinowski[1] and Llewellyn and Hoebel[2] wrote about law and social ordering in non-Western societies. Their scholarship had a wide intellectual audience, and Llewellyn was a leader of an influential group of US legal scholars and practitioners who urged a re-evaluation of conventional theories of legal positivism. Their alternative theory, called 'legal realism', focused on how law actually functions in the day-to-day. Legal realists argued that legal outcomes could result from process, not solely from black-letter law. Experience, not doctrine, was their mantra.

After World War II, decolonisation movements gathered momentum in Africa and Asia, and anthropologists sought to understand the interactions between decentralised and often unwritten customary law and the centralised law of the colonial and postcolonial state.[3] Merry was a progenitor of the theory of 'legal pluralism', which arose from a desire to understand the interactions between overlapping, and sometimes competing and contradictory, legal orders. Legal pluralism also had something

[1] B Malinowski, *Crime and Custom in Savage Society* (New York, Harcourt, Brace & Co, 1926).

[2] K Llewellyn and EA Hoebel, *The Cheyenne Way* (Norman, University of Oklahoma Press, 1941).

[3] M Gluckman, *The Judicial Process among the Barotse of Northern Rhodesia* (Manchester, Manchester University Press for the Rhodes Livingston Institute, 1955); P Bohannan, *Justice and Judgment among the Tiv* (London, Oxford University Press, 1957).

to say about the relationship between legal and non-legal norms; it treated all forms of normative social ordering as 'law' and elevated customary law as equivalent to state law.[4] Communities in colonised or formerly colonised countries seldom managed their conflicts over property, or over family or religious matters, in state justice institutions; rather, they did so through village or religious courts (eg *qadi* courts) that operated on moral precepts and principles that were quite distinct from the rational, secular and proceduralist institutions of the modern nation-state.

In the late 1970s and 1980s, legal anthropologists studied the arc of local disputes and conflict resolution in settings outside of state courts.[5] In the USA, anthropologists embedded themselves in newly created Alternative Dispute Resolution (ADR) mechanisms, which they initially applauded but then criticised as being overly committed to a 'harmony ideology'.[6] Their findings were necessary as a palliative to the hubris of the ADR movement in the USA, but once the point was made, it was made, and there was not much more to say. By the late 1980s, with a few notable exceptions, legal anthropology had lost its pizzazz.[7]

When the Berlin Wall fell in 1989, legal anthropology was not especially well situated to respond nimbly to the resurgence of human rights and liberal constitutionalism that was occurring not only in Eastern Europe, but also in Africa and Latin America. In the early 1990s, post-conflict and post-authoritarian regimes across the world wrote new constitutions with bills of rights and signed and ratified international human rights instruments. To address the violence of the past, they established high-profile commissions of inquiry or 'truth and reconciliation commissions' (eg in Chile, El Salvador, Guatemala and South Africa). The United Nations created the first international criminal justice institutions since the Nuremberg and Tokyo Trials of 1945–46 to prosecute crimes against humanity, war crimes and genocide committed in Rwanda and the former Yugoslavia. Internationally sponsored criminal tribunals then followed in Cambodia, East Timor, Kosovo, Lebanon and Sierra Leone.

In this unique historical juncture, anthropologists seeking a theoretical and methodological basis to study international justice institutions such as truth and reconciliation commissions or national or international prosecutions for torture or genocide had very little to draw on. Previous theories of legal pluralism, regulating disputes in 'stateless societies' and ADR mechanisms in Western countries were not obviously applicable to the array of novel national and international institutions that arose to investigate and adjudicate mass atrocities committed by state and non-state

[4] F von Benda-Beckmann, 'Who's Afraid of Legal Pluralism?' (2002) 47 *Journal of Legal Pluralism and Unofficial Law* 37; J Griffiths, 'What Is Legal Pluralism?' (1986) 24 *Journal of Legal Pluralism and Unofficial Law* 1; SE Merry, 'Legal Pluralism' (1988) 22 *Law and Society Review* 869; F Snyder, 'Colonialism and Legal Form: The Creation of "Customary Law" in Senegal' (1981) 19 *Journal of Legal Pluralism* 49.

[5] L Nader and H Todd (eds), *The Disputing Process: Law in Ten Societies* (New York, Columbia University Press, 1978); L Nader (ed), *No Access to Law: Alternatives to the American Judicial System* (New York, Academic Press, 1980); J Comaroff and S Roberts, *Rules and Processes: the Cultural Logic of Dispute in an African Context* (Chicago, University of Chicago Press, 1981).

[6] L Nader, *Harmony Ideology: Justice and Control in a Zapotec Mountain Village* (Stanford, Stanford University Press, 1990).

[7] See, eg C Greenhouse, *Praying for Justice* (Ithaca, NY, Cornell University Press, 1986); SF Moore, *Social Facts and Fabrications: 'Customary' Law on Kilimanjaro 1880–1980* (Cambridge, Cambridge University Press, 1986).

actors during armed conflicts. If ethnographic researchers were to have something valuable and distinctive to say about this new era of accountability and global human rights, then they would have to renovate the theoretical and methodological tools of legal anthropology.

Sally Merry's monograph *Getting Justice and Getting Even: Legal Consciousness among Working-Class Americans* arrived at a propitious moment.[8] In her study of how working-class Americans litigate personal and family conflicts in lower courts, Merry observed that law is a form of social control that is compatible with, and advances, deep-seated cultural values of individualism and urban egalitarianism. At the same time, there are countervailing factors: for example, plaintiffs (especially women subjected to domestic violence) often engage with the legal process in order to restore a vision of community and forge a relational form of social life. American courts are therefore a site of contestation between the two sets of litigants over core values and community symbols. In the courtroom, legal values and societal norms are mutually constitutive. Merry's temporal and contingent theorisation of the legal process represents a departure from law's archetypal self-image as an enclosed, hermetically sealed adjudication model that is highly regulated by prior-stated rules.

As a study of the legal consciousness of working-class Americans, the subject matter of *Getting Justice and Getting Even* may have seemed tangential to pressing human rights issues in conflict zones, but in fact the monograph showcased many of the methodological and theoretical tools that would guide ethnographers in their investigations of the new global expansion of human rights discourses and institutions. The central lessons of *Getting Justice and Getting Even* were applicable to international justice institutions in a number of ways. First, the monograph transcended the doctrinalism and formalism of law to emphasise the contingent nature of the trial process, which is profoundly shaped by the personalities, strategies and narratives of legal actors (such as judges, prosecutors or advocates) and non-legal actors (plaintiffs or defendants). This was especially relevant at the international criminal tribunals for Rwanda and the former Yugoslavia because in the early phases of their existence the international criminal law they implemented was itself novel and rested on only a slender statutory basis and limited body of case law.[9] *Getting Justice and Getting Even* directed the attention of legal anthropologists away from international legal doctrine to scrutinise the experiences of victims/survivors and to understand how their engagement with international justice institutions transformed their legal and political subjectivity. Crucially, Merry's monograph fostered attentiveness to the encounter (or in some instances, the clash) between social norms of personhood and dignity held by survivors on the one hand and the positivised rules, specialised procedures and evidentiary standards of the courts on the other.

Merry's method animated ethnographers to write about the emotional character and affective dimensions of a legal process, topics that lawyers are usually trained

[8] SE Merry, *Getting Justice and Getting Even: Legal Consciousness among Working Class Americans* (Chicago, University of Chicago Press, 1990) 178–80.

[9] On the 'strongly improvisational' nature of international criminal law, see S Moyn, 'Judith Shklar versus the International Criminal Court' (2013) 4 *Humanity: An International Journal of Human Rights, Humanitarianism and Development* 473, 474.

to dismiss as legally irrelevant and as the domain of subjective personal bias.[10] In her analysis, Merry combined structure and agency to simultaneously comprehend the 'cultural domination' of people by the law, as well as the discursive resistance of plaintiffs to the interpretations of the court.[11] Her recent application of 'new legal realism' to international human rights law extended her earlier studies of legal consciousness and legal pluralism, and offered new insights into the 'indeterminacy' and 'incoherence' of law[12] and how law is a 'set of practices with histories, habitual ways of doing things, and systems of cultural meaning'.[13]

II. THE VERNACULARISATION OF HUMAN RIGHTS AT INTERNATIONAL TRIBUNALS

In 1994, after reading *Getting Justice and Getting Even* and as the horror of the Rwandan genocide was being documented by the international media, I wrote to Sally Merry inviting her to participate in the first edited book on the anthropology of human rights. The central aim was to move away from a simple position of advocacy or rejection of human rights and instead to bring together rigorous ethnographic studies of concrete manifestations of human rights in the 'new world order'.[14] Sally responded warmly and positively, with a generosity of spirit that her many collaborators and colleagues are accustomed to and admire.

Sally Merry's chapter on 'Legal Pluralism and Transnational Culture' in the subsequent edited volume *Human Rights, Culture and Context* was the first statement of her now famous vernacularisation thesis.[15] Benedict Anderson[16] had advanced the concept of vernacularisation in his path-breaking analysis of nationalism, *Imagined Communities*, to explain how national languages rose to prominence in nineteenth-century Europe as public discourse (and especially religious doctrine and ritual) moved from Latin to colloquial English, French or German. Merry identified a similar process in transnational human rights talk as it circulated between United Nations' committees in New York or Geneva, regional agencies such as the Inter-American Court of Human Rights in San José and shanty towns in Mumbai, Nairobi or Lima.

Even though human rights laws and standards are produced in international agencies and institutions, they move through global networks to dispersed communities around the world. As globalisation extends the reach of human rights, local social

[10] For a pathbreaking ethnographic account of US law school education, see E Mertz, *The Language of Law School: Learning to 'Think' Like a Lawyer* (Oxford, Oxford University Press, 2007).

[11] Merry, *Getting Justice and Getting Even* (n 8) 180.

[12] TJ Miles and CR Sunstein, 'The New Legal Realism' (2008) 75 *University of Chicago Law Review* 831.

[13] H Klug and SE Merry (eds), *The New Legal Realism; Studying Law Globally* (Cambridge, Cambridge University Press, 2016) 3.

[14] See GHW Bush, '"New World Order" Speech', address before a joint session of the Congress on the Cessation of the Persian Gulf Conflict (1991) https://college.cengage.com/history/wadsworth_9781133309888/unprotected/ps/bushnwo.html.

[15] SE Merry, 'Legal Pluralism and Transnational Culture' in RA Wilson (ed), *Human Rights, Culture and Context: Anthropological Perspectives* (London, Pluto Press, 1997).

[16] B Anderson (ed), *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, revised edn (London, Verso, 2006).

actors revise and adapt rights talk to mesh with local value systems and priorities; this localised rights talk may, in turn, be re-exported back to the metropoles. The process of cultural adaptation of universal human rights is undertaken by 'translators', or intermediaries such as civil society activists, cause lawyers and social movements leaders who play a critical role in connecting the local with the global and rendering their goals and values intelligible to each other. These 'knowledge brokers', as Merry called them, translate human rights talk into local argot and present human rights knowledge in cultural terms that are comprehensible and convincing to members of their local communities.

In the act of translation, human rights intermediaries must (re)frame the underlying concerns of their constituency in a way that is consistent with the core principles of the international human rights system in order to attract international funding and global media attention. Translators connect local struggles to international networks of activists who assist community actors in pressuring their governments. This process has its limitations and may be constraining in its emphasis on international legal institutions and juridical outcomes. The predominantly legal focus of human rights can be depoliticising and hinder grassroots and legislative approaches to political and structural change. Of course, it need not be either/or: civil rights scholars such as Epp[17] observe that major social change in the 1960s was propelled by a combination of legal precedent, legislative and policy reform, and pressure by social movements.

Merry's vernacularisation theory facilitated a sea change in socio-cultural anthropology with respect to the universalism versus cultural relativism debate that it had been mired in for the previous 50 years. It is hard to overstate how groundbreaking this was at the time for the discipline. Up until to the mid- to late 1990s, most socio-cultural anthropologists adhered to the relativist principles laid out in the American Anthropological Association's 1947 statement on the United Nations' Declaration of Human Rights. At the time, the Association's position was a necessary cautionary statement about the need to respect local values and not impose universal standards created by an unaccountable committee in the metropole.

However, in the intervening four decades, the human rights movement had transformed from a merely elite project to a grassroots mobilisation against authoritarian regimes around the world. Human rights covenants and discourse provided a cogent and compelling language for indigenous groups to claim basic rights from nation-states in places like Bangladesh, Brazil, Canada, Ecuador, Guatemala and West Papua. An increasing number of anthropologists such as Terence Turner actively participated in campaigns led by groups like Survival International. Yet there seemed to be an unresolved contradiction between anthropologists' involvement in indigenous rights activism and the generally hostile predisposition towards human rights within the discipline. And what were distinctly lacking were ethnographic methods and analytical theories for studying human rights as a loose constellation of social movements and politico-legal institutions.

[17] CR Epp, *The Rights Revolution: Lawyers, Activists, and Supreme Courts in Comparative Perspective* (Chicago, University of Chicago Press, 1998).

Sally Merry's legal realism and vernacularisation thesis offered an invaluable theoretical model for conceptualising human rights as a field of critical scholarly inquiry. In this respect, socio-cultural anthropology was ahead of most other social science and humanities disciplines, including history and sociology, which did not generate substantial literatures on human rights until about two decades later. As a result of Merry's timely intervention, anthropologists no longer had to choose between blindly endorsing human rights as formulated by United Nations drafting committees or adhering to nativist, romantic and essentialist accounts of local culture that often ignored how anthropological subjects were rapidly adapting to the modern world. Instead, Merry and other anthropological contributors to the *Human Rights, Culture and Context* volume offered a distinctively ethnographic path that began with the empirical study of what people actually say and do with human rights in everyday political struggles in their communities.[18] In the volume, Wilson advocated for a comparative and empirical anthropology of rights that examined how they are 'materialized, appropriated, resisted and transformed in a variety of contexts'.[19] This was a call for 'grounded theory' of the social and institutional lives of human rights in the classic Weberian sense.

What is frequently forgotten is that Sally Merry developed the theoretical concept of vernacularisation in order to comprehend the involvement of an indigenous group with an international justice institution: the People's International Tribunal for Native Hawaiians (Hawaiian People's Tribunal). This tribunal drew inspiration from the model first established by the radical philosophers Bertrand Russell and Jean-Paul Sartre. It was led by locals linked to the Hawaiian sovereignty movement, which campaigned for self-determination, sovereignty and/or autonomy for Hawaiians of whole or part Native Hawaiian ancestry. At the Hawaiian People's Tribunal, Hawaiians appropriated the adjudicative model of Western criminal law to put the US government on trial for international crimes, including genocide, illegal annexation and appropriation of natural resources (also known in international criminal law as pillage or plunder).

In her essay on the Hawaiian People's Tribunal, Merry identified a number of pressing theoretical questions that are still being discussed and analysed in the anthropology of international justice. She asked, for example: how are international justice institutions shaped by legal pluralism and global asymmetries of power; through what investigative process is evidence of crimes created; how does the legal epistemology of the courtroom exclude or distort certain types of information and testimony; what do the plaintiffs/survivors get out of the process, if anything; and how is the legal outcome (eg the judgment) shaped by the contingent strategies, practices and associated meanings pursued by the legal actors in an adversarial process?

Merry's[20] legal realist move decentred the law to comprehend how law is 'constituted by social practices and meanings' that establish 'law's symbolic identity'.

[18] Wilson, *Human Rights, Culture and Context* (n 15).
[19] ibid 23.
[20] Merry, 'Legal Pluralism and Transnational Culture' (n 15) 45.

Law has many levels, and ethnographers ought not to privilege state law over other domains of norm-generation and regulation which may be more relevant to people's everyday lives. International justice in particular is a salient normative order, and its meanings are forged at the intersection of local (in this case, Hawaiian Kanaka Maoli law), national (US criminal law) and global (international human rights) legal systems. In a processual view, the representational formation of international justice is not stable and fixed, but is transformed by grassroots social movements as well as developments at the United Nations.

Subsequent generations of ethnographers from anthropology and other social science disciplines have benefited enormously from Sally Merry's theoretical ground-clearing and intellectual leadership, and there now exists a lively anthropology of international justice institutions. Ethnographers have written about international tribunals and reparations claims mechanisms relating to, inter alia, the Holocaust,[21] apartheid-era crimes in South Africa,[22] the Extraordinary Chambers of the Courts of Cambodia,[23] the International Criminal Court,[24] the International Tribunal for East Timor,[25] the International Criminal Tribunal for Rwanda and the gacaca courts,[26] the International Criminal Tribunal for the Former Yugoslavia,[27] the Special Court for Sierra Leone and the Sierra Leone Truth Commission,[28] British trials of soldiers

[21] S Slyomovics, *How to Accept German Reparations* (Philadelphia, University of Pennsylvania Press, 2014).

[22] R Kesselring, *Bodies of Truth: Law, Memory and Emancipation in Post-Apartheid South Africa* (Stanford, Stanford University Press, 2017); F Ross, *Bearing Witness: Women and the South African Truth and Reconciliation Commission* (London, Pluto Press, 2002); RA Wilson, *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State* (Cambridge, Cambridge University Press, 2001).

[23] AL Hinton, *Man or Monster? The Trial of a Khmer Rouge Torturer* (Durham, NC, Duke University Press, 2016).

[24] KM Clarke, *Fictions of Justice: The International Criminal Court and the Challenge of Legal Pluralism in Sub-Saharan Africa* (New York, Cambridge University Press, 2009); KM Clarke, *Affective Justice: The International Criminal Court and the Pan-Africanist Pushback* (Durham, NC, Duke University Press, 2019); RA Wilson, *Writing History in International Criminal Trials* (Cambridge, Cambridge University Press, 2011); RA Wilson, *Incitement on Trial: Prosecuting International Speech Crimes* (Cambridge, Cambridge University Press, 2017).

[25] E Drexler, 'The Failure of International Justice in East Timor and Indonesia' in AL Hinton (ed), *Transitional Justice: Global Mechanisms and Local Realities after Genocide and Mass Violence* (New Brunswick, NJ, Rutgers University Press, 2010).

[26] MB Dembour and E Haslam, 'Silencing Hearings? Victim-Witnesses at War Crimes Trials' (2004) 15 *European Journal of International Law* 151; K Doughty, *Remediation in Rwanda: Grassroots Legal Forums* (Philadelphia, University of Pennsylvania Press, 2016); N Eltringham, 'Judging the "Crime of Crimes": Continuity and Improvisation at the International Criminal Tribunal for Rwanda' in Hinton, *Transitional Justice* (n 25); N Eltringham, '"Illuminating the Broader Context": Anthropological and Historical Knowledge at the International Criminal Tribunal for Rwanda' (2013) 19 *Journal of the Royal Anthropological Institute* 338; N Eltringham, *Genocide Never Sleeps: Living Law at the International Criminal Tribunal for Rwanda* (Cambridge, Cambridge University Press, 2019).

[27] RM Hayden, 'What's Reconciliation Got to Do With It? The International Criminal Tribunal for the Former Yugoslavia (ICTY) as Antiwar Profiteer' (2007) 5 *Journal of Intervention & Statebuilding* 313; Wilson, *Writing History* (n 24); Wilson, *Incitement on Trial* (n 24).

[28] G Anders, 'Testifying About "Uncivilized Events": Problematic Representations of Africa in the Trial against Charles Taylor' (2011) 24 *Leiden Journal of International Law* 937; R Shaw, 'Memory Frictions: Localizing the Truth and Reconciliation Commission in Sierra Leone' (2007) 1 *The International Journal of Transitional Justice* 183.

accused of torture in Afghanistan,[29] terrorism[30] and genocide trials in Guatemala.[31] All owe a substantial intellectual debt to Sally Merry.

III. CONTEMPORARY DEBATES IN INTERNATIONAL JUSTICE AND HUMAN RIGHTS

Sally Merry's theory of human rights emerged in the 1990s and early 2000s, at a time of rapid globalisation, not only of international law and human rights, but also of manufacturing and industrial supply chains, mining and resource exploitation, financial markets and cultural production. In the interregnum between the fall of the Berlin Wall and the September 11 terror attacks, human rights attained an exalted status that they had not held previously in world affairs. Multilateral institutions regained a legitimacy and influence they had not had since the heady days of the immediate post-World War II period. The European Union and NATO expanded rapidly to include eastern European countries. The International Criminal Court, World Trade Organization and Organisation for the Prohibition of Chemical Weapons were all established, and some international relations theorists boldly claimed that the world was moving towards creating a new global constitution under the aegis of a revitalised United Nations.[32]

The twenty-first century has proved a little less amenable to multilateralism and the project of international justice than many had hoped. Multilateralism is under siege, including from its erstwhile strongest advocates such as the USA and the UK. The number of populist governments has doubled worldwide since the early 2000s: populist leaders have been elected in, inter alia, Brazil, Guatemala, Hungary, India, the Philippines, Poland, Turkey, the UK, the USA and Venezuela.[33] Populists have risen to power by cultivating a nativist backlash to globalisation, by decrying established political parties and by inveighing against multilateral institutions and accompanying universal ideas such as liberal democracy and human rights.[34] In their place, populists extol the virtues of religious, racial or ethnic chauvinism, and propagate essentialist myths of race, religion and nation. They deny science (and, indeed, facticity itself) and climate change, and withdraw from environmental and climate treaties. They close borders, and impugn refugees and immigrants for any social ills and economic problems.

[29] T Kelly, *This Side of Silence: Human Rights, Torture and the Recognition of Cruelty* (Philadelphia, University of Pennsylvania Press, 2012).

[30] S Hirsch, *In the Moment of Greatest Calamity: Terrorism, Grief, and a Victim's Quest for Justice* (Princeton, Princeton University Press, 2006).

[31] ML García, 'Translated Justice? The Ixil Maya and the 2013 Trial of José Efraín Ríos Montt for Genocide in Guatemala' (2019) 121 *American Anthropologist* 311.

[32] D Held, *Democracy and the Global Order: from the Modern Nation-State to Cosmopolitan Governance* (Cambridge, Cambridge University Press, 1995).

[33] P Lewis et al, 'Revealed: The Rise and Rise of Populist Rhetoric', *The Guardian* (London, 6 March 2019) www.theguardian.com/world/ng-interactive/2019/mar/06/revealed-the-rise-and-rise-of-populist-rhetoric; RJ Heydarian, 'Understanding Duterte's Mind-Boggling Rise to Power' *Washington Post* (Washington, DC, 20 March 2019) www.washingtonpost.com/news/theworldpost/wp/2018/03/20/duterte/.

[34] RF Inglehart and P Norris, 'Trump, Brexit, and the Rise of Populism: Economic Have-Nots and Cultural Backlash' (2016) HKS Faculty Working Paper Series No RWP16-026, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2818659.

Is a theory of human rights like Merry's, developed in an era of globalisation, still relevant? For a number of reasons, it arguably is. First, the challenges facing the majority of societies are still global; pandemics, climate change and the refugees it creates, nuclear proliferation, the vagaries of markets, terrorism, hate speech online – the list goes on. Economies and polities are still deeply intertwined and interdependent, despite populists' best efforts to pretend otherwise. Even if this were desirable, there is simply no way to wall off a country and be unaffected by, say, a nuclear war or a global health pandemic.

And human rights still matter, both normatively and empirically. They matter normatively because no political system can claim to be democratic or even representational without constitutionalising and creating the necessary institutions to protect the basic rights of individuals and groups, and especially vulnerable minority groups. Empirically, human rights continue to be the foremost global language for speaking about politically motivated crimes committed by governments against their citizens. In the Latin American countries where I have conducted research – Colombia and Guatemala – there are many vibrant social movements campaigning for women's rights, LGBTQ+ rights, indigenous rights and legal accountability for genocide, all in the language of human rights. Civil society groups with a significant indigenous membership such as Asociación Minga (Colombia) or CONAVIGUA (Guatemala) embrace the values, discourses and practices of international human rights as they confront authoritarian measures imposed by their governments and non-state actors such as powerful multinational corporations. In so doing, civil society activists (Merry's 'intermediaries') translate international human rights into the local moral argot and pressure international human rights institutions to be more receptive to their specific needs. The concept of vernacularisation still describes this process accurately. Sometimes, to be sure, human rights are imposed from above, rejected from below or completely lost in translation. The concrete outcomes of international justice institutions and the character of popular legal consciousness are still empirical questions to be studied through careful ethnographic inquiry. They will vary from locale to locale, undermining any easy generalisations about human rights.

The continued relevance of Merry's ethnographic empiricism and legal realism can be illustrated by reference to the contemporary debate between Samuel Moyn and Kathryn Sikkink over the character and efficacy of human rights and international justice. Over the past decade, the study of human rights has extended to nearly every discipline in the humanities and social sciences, and with this has come a number of trenchant critiques and spirited defences of human rights. The rivalry between Moyn and Sikkink has helpfully crystallised these positions and allowed us to better understand how Merry's approach offers a constructive third way to think about human rights and international justice.

In *The Last Utopia* and *Not Enough*, Samuel Moyn[35] extends a materialist critique of contemporary rights talk that, in my reading, has its intellectual roots in Marx's dismissal of human rights in 'On the Jewish Question'.[36] Moyn identifies a

[35] S Moyn, *The Last Utopia* (Cambridge, MA, Belknap Press, 2010); S Moyn, *Not Enough: Human Rights in an Unequal World* (Cambridge, MA, Harvard University Press, 2018).

[36] K Marx, 'On the Jewish Question'/"Zur Judenfrage"' in *Deutsch–Französische Jahrbücher* (1844).

'connivance' between political terror and the neoliberal economic model that rose contemporaneously with human rights starting in the 1970s.[37] As socialism declined, human rights became the central language of justice, and international justice institutions stigmatised dictatorship 'while turning a blind eye to galloping material inequality'.[38] Human rights institutions drew attention to individual violations, but they did not challenge the neoliberal policies that resulted in massive wealth for the few and immiseration of the many.[39] Human rights failed to articulate a coherent commitment to distributive equality[40] or connect meaningfully with social movements struggling for socio-economic rights[41] such as housing, healthcare or worker's rights.

Moyn pushes back against Naomi Klein's outright dismissal of the language of rights to build a more nuanced position, observing that even though human rights are not responsible for causing, or even for distracting from, neoliberal economic policies, they have been 'condemned to a defensive and minor role in pushing back against the new political economy'.[42] Human rights advocates may be able to point to certain advances, but these came at the cost of sacrificing material fairness and mounting a fully blown campaign against the economic exploitation and dramatic increase in global inequality resulting from the inexorable rise of 'market fundamentalism' in the late 1970s. Moyn concedes that human rights campaigns on gender inequality, sexual violence and women's rights have achieved a great deal, but counters that the human rights movement has simultaneously neglected the mounting material inequality, which has had an even greater impact on women's lives.[43]

In *The Justice Cascade* and *Evidence for Hope*,[44] Sikkink provides a rebuttal to Moyn and other critics of human rights. She reflects that, since the mid-1980s, human rights prosecutions have challenged impunity and ensured that the prospects of accountability for human rights offenders have steadily improved. She charts the rise of international accountability institutions, from Nuremberg/Tokyo to the trials of Argentine military leaders to the International Criminal Court, and argues that these developments have brought us to a point where heads of state such as Slobodan Milošević, General Augusto Pinochet and Charles Taylor can no longer shield themselves behind the medieval notion of sovereign immunity. The norm of accountability for political leaders who commit mass atrocities against their own populations has triggered a cascade effect. This 'justice cascade' has had a positive impact on democracy, economic growth and equality. It has a deterrent effect by sending the message to proto-authoritarian political leaders that pursuing a strategy of corruption and violence may land them in a national or international court. Over recent decades,

[37] Moyn, *The Last Utopia* (n 35) 173.
[38] ibid 176.
[39] ibid 186.
[40] ibid 192.
[41] ibid 198.
[42] ibid 176.
[43] ibid 204.
[44] K Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics* (New York, WW Norton, 2011); K Sikkink, *Evidence For Hope: Making Human Rights Work in the 21st Century* (Princeton, Princeton University Press, 2017).

Sikkink observes an increase in states ratifying human rights treaties and an overall decline in armed conflicts and battle deaths worldwide.[45] She explicitly refutes claims that the achievements of the human rights system are 'minimal' and that human rights are 'powerless' to address economic inequality.[46] Sikkink lists the ways in which human rights have effectively confronted status inequalities, improved global health (eg by expanding access to retroviral drugs in South Africa) and tackled corporate greed (eg by holding tobacco companies accountable in Uruguay).[47]

Although Moyn and Sikkink's arguments are self-consciously opposed to one another, both contain many accurate observations. *Pace* Moyn, neoliberalism and human rights did arise concomitantly and seemingly without open contradiction. Moreover, the two paradigms share a number of elements, including an individual rights ethos and a legal-proceduralist approach to politics. A number of prominent human rights organisations such as Amnesty International, at least until the last few years, did not mobilise human rights laws to close the yawning chasm of material inequality, or to classify the neoliberal economic model as the primary threat to human well-being. It is true that human rights laws are more effective at addressing individual criminal responsibility than economic exploitation and structural forms of violence, yet Sikkink is also justified in her assertion that human rights have made enormous strides in securing accountability for mass human rights violations since the 1970s. This is important not only for survivors, but also for the rule of law, the independence of the judiciary and the kinds of institutional checks on political power that are essential to the creation of post-conflict governments that do not commit mass atrocities against their own citizenry. Evidently, Moyn and Sikkink are talking past one another.

Both theoretical stances towards human rights also have discernible frailties. Sikkink is careful to recognise that merely ratifying international human rights treaties is insufficient, and that there can be much backsliding on commitments by regimes. At the same time, the 'justice cascade' is a metaphor, and like all metaphors, it occludes as much as it reveals. It implies a flow in one direction and a kind of domino effect that is teleological towards ever-deeper state compliance with human rights. Sikkink's writings are characterised by a Whiggish tone in their historiography of human rights, in the sense that they present a steady and inexorable progression towards ever greater human rights protections which culminates in modern forms of liberal democracy. There seems to be no palpable downside to, or severe ruptures in, the onwards march of human rights and accountability for perpetrators. However, as with any political platform, human rights (when conceived narrowly as accountability for alleged perpetrators) have trade-offs, setbacks and unintended consequences. For instance, too inflexible a commitment to retributive justice may jeopardise a delicately poised peace process, a concern expressed by humanitarian organisations working in Sudan in 2006 when President Al-Bashir was indicted for genocide in Darfur by the International Criminal Court.

[45] ibid 187–88, 203.
[46] ibid 235–36.
[47] ibid 237–38.

Criminal law is a blunt instrument and a full awareness of societal complexity, including discussions of racism and material inequality, can be lost in a criminal proceeding. International justice is not always the best forum for hearing the voices of victims or fathoming the structural conditions that gave rise to political authoritarianism and armed conflict. Sikkink's 'justice cascade' that emerges from human rights prosecutions and the expansion of human rights treaty ratification only has full applicability in two regions of the world: Latin America and Europe. This is because they have strong human rights movements, because of the 'neighborhood effects' of human rights convention ratifications[48] and because they have reasonably robust regional human rights mechanisms – such as the Inter-American Court and Inter-American Commission of Human Rights and the European Court of Human Rights – that can hold recalcitrant regimes to account. As Sikkink has argued,[49] Latin American governments, social movements and regional organisations have played an outsized role in the formulation and implementation of the international human rights regime. Sikkink's arguments are on much shakier ground in Asia, where fewer states have ratified international treaties and only a handful have signed and ratified the Rome Statute of the International Criminal Court. In Africa, more states have ratified international treaties, but impunity for mass atrocities is the domestic norm; over the last 15 years, many African elites have turned to Pan-Africanism and rallied to shield political leaders from the International Criminal Court.[50] The justice cascade metaphor seems entirely inappropriate in the context of the flagrant and repeated flouting of international human rights law by the governments of Russia, China and the USA, not to mention Syria.

If Sikkink is over-reliant on Latin American examples for her defence of human rights, then Moyn seldom contemplates Latin American experiences except as a laboratory for neoliberalism. There are enough examples of social movements in that region campaigning for housing, healthcare and worker's rights and opposing mining and dam projects to disqualify Moyn's thesis that human rights movements have not meaningfully challenged neoliberalism or material inequality or have been unconcerned with socio-economic rights. In Guatemala alone, robust anti-mining campaigns at La Puya and El Estor and indigenous groups opposing the massive hydroelectric dams at Ixquisis and Rio Chixoy embrace international human rights as a central aspect of their struggle.[51] Many more examples of socio-economic rights movements that also appeal to international human rights can be found in Colombia, Ecuador, Mexico, Peru and other Latin American countries.[52] One of the problems in this discussion is that Moyn sets the bar impossibly high by saying that

[48] On theories of compliance with human rights, see B Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge, Cambridge University Press, 2009) 112.

[49] K Sikkink 'Latin America's Protagonist Role in Human Rights' (2015) 12 *Sur – International Journal on Human Rights* 207.

[50] Clarke, *Affective Justice* (n 24).

[51] SR Munzer, 'Dam(n) Displacement: Compensation, Resettlement, and Indigeneity' (2019) 51 *Cornell International Law Journal* 823.

[52] S Hertel and L Minkler (eds), *Economic Rights: Conceptual, Measurement, and Policy Issues* (Cambridge, Cambridge University Press, 2007); S Sawyer and E Gomez (eds), *The Politics of Resource Extraction: Indigenous Peoples, Multinational Corporations and the State* (London, Palgrave Macmillan, 2012).

'No human rights NGOs, northern or southern, emphasised inequality for its own sake',[53] which shows little awareness of how grassroots movements are compelled by practical considerations to mobilise marginalised communities against concrete manifestations of inequality rather than the abstract conceptualisation of economists and other learned analysts.

There are yet more unrealistic expectations in Moyn's critique. That resounding victories of human rights movements are few, and that they have not succeeded in single-handedly thwarting the rise of neoliberalist policies since the 1970s is undeniable. But this failure is hardly exclusive to human rights movements: it also applies to many more powerful actors, such as the Soviet Union and other socialist regimes, political parties of the left, trade unions and the labour movement, and progressive social justice-oriented social movements in liberal democracies. Neoliberalism crushed all in its path, backed as it was by the world's most powerful governments (principally the USA and the UK), the world's biggest multinational corporations, global financial markets, the International Monetary Fund and the World Bank. One could add to this list the most powerful military forces in the history of the planet, which acted aggressively to protect rapidly expanding global markets.

Human rights, on the other hand, have been backed intermittently by a handful of liberal governments when it suits them, international civil society organisations and philanthropic foundations, vulnerable grassroots social movements and the institutional agency structure of the United Nations. Nation-states and corporations possess vastly more resources than civil society groups and international institutions. The United Nations, it should be noted, has a budget a little more than half that of the New York Police Department. The mandate of the latter is to police the five boroughs of New York City, whereas the mandate of the United Nations is to ensure peace, security and human rights in the entire world.[54] Moyn's frustration at the uncontested supremacy of neoliberal economics is understandable, and I share it, but laying the blame at the door of human rights for our current condition of colossal global inequality seems misplaced.

Despite the occasional hubris of some advocates in the human rights field, human rights are not well designed to usher in a political utopia; they are designed to respond in fairly narrow legal and policy ways to a violent dystopia. They are most effective when they set minimum standards for governments and private actors, not when they articulate aspirational targets for the realisation of humanity's full potential. Achieving healthcare for all, eradicating poverty or promoting social mobility are more productively pursued through legislative and policy means, that is, through the political process, than through rights-claiming in law courts, although the latter can play a supporting role.

[53] Moyn, *Not Enough* (n 35) 195.

[54] The budget of the New York Police Department for 2020 was $5.6 billion and the UN's budget was $3 billion: Council of the City of New York, 'Report to the Committee on Finance and the Committee on Public Safety on the Fiscal 2020 Executive Plan, the Ten-Year Capital Strategy for Fiscal 2020–2029, and Fiscal 2020 Executive Capital Commitment Plan: New York Police Department' (15 May 2019) https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/05/NYPD.pdf; UN Affairs, 'General Assembly Approves $3 Billion UN Budget for 2020' (*UN News*, 27 December 2019) https://news.un.org/en/story/2019/12/1054431.

Sikkink and Moyn's diverging conclusions about human rights are in part the outcome of their respective theoretical models and methods of inquiry. In the quantitative data analysis favoured by Sikkink, it is hard to see anything that has not been coded into a dataset and for which you are not already looking, and this can elide an understanding of the unintended consequences and imperfections of international justice institutions. Moyn's legal, historical and philosophical approach is informed by a review of texts, archives and theory; here again, there is a tendency to marshal the evidence and cast aside the messiness of social life that is commonly encountered in ethnographic and empirical inquiry.

Ethnographic inquiry into international justice is quite a different and more uncontrolled undertaking. Ethnographers of international justice institutions regularly experience the demise of their research design and theoretical platform immediately upon entering the field and commencing fieldwork and interviews.[55] Political science, law and history are more insulated from the fragmentation and incoherence of qualitative empirical social research. Ethnography can be unpredictable and unnerving, but it is exactly this characteristic that is generative of original ideas and perspectives. Perhaps this is the reason why lawyers, historians and political scientists have been more willing than ethnographers to make sweeping judgements about the emancipatory or shackling implications of human rights institutions. Generalisations are good for promotional soundbites, but they have their intellectual drawbacks.

IV. THE ETHNOGRAPHIC STUDY OF INTERNATIONAL JUSTICE INSTITUTIONS

The current terms of the Moyn–Sikkink debate about human rights are pitched at such a high level of abstraction that they hinder a full understanding of international human rights laws, discourses and institutions, not to mention popular discourses on human rights as they are manifested globally. If we just concern ourselves with one domain of human rights – international criminal tribunals – there is wide variation in institutional design, underlying case law and legal outcomes. For instance, the Nuremberg trials were sponsored by only four nations (France, the Soviet Union, the UK and the USA) and employed an Anglo-American adversarial courtroom model. They had little basis in international law, which was incipient at the time, and instead relied on British and American legal theories (such as conspiracy) and novel concepts that had yet to be adjudicated in a court of law (eg crimes against humanity).

In contrast, the current International Criminal Court has a lengthy and detailed international law statute that has been signed and ratified by a majority of states and applies predominantly civil law rules of procedure and evidence in the courtroom. In between, there were the United Nations-sponsored ad hoc tribunals of former

[55] On the experiential dimensions of international legal ethnography, see J Meierhenrich and RA Wilson, '"The Life of the Law Has Not Been Logic; It Has Been Experience:" International Legal Ethnography and the New Legal Realism' in H Klug et al (eds), *Handbook on New Legal Realism* (Cheltenham, Edward Elgar Publishing, 2021).

Yugoslavia and Rwanda, as well as hybrid in-country models such as the Special Court for Sierra Leone and the Extraordinary Chambers of the Courts of Cambodia that integrate national and international legal procedures and personnel. While the ad hoc tribunals were quite disconnected from the populations and countries in which the crimes occurred, the Special Court for Sierra Leone launched an ambitious public outreach programme that succeeded in informing many Sierra Leoneans about the legal process.[56] This variance in design and outcomes makes it very difficult to generalise about international justice, much less Moyn's compendious concept of 'human rights law and politics', which would bring into view public international law and a host of other human rights settings and institutions.

In Sally Merry's new legal realism, we can identify a nuanced and grounded approach to human rights and international justice that allows us to navigate past the Scylla of utopian optimism and the Charybdis of dystopian pessimism.[57] As Merry sets out, its methodology 'includes transnational and multi-sited ethnographic research that tracks the flows of people, ideas, laws, and institutions across national boundaries and examines particular nodes and sites within this field of transnational circulation'.[58] Theoretically, Merry's legal realism promotes an attentiveness to 'how human rights law works in practice' and the production and global circulation of legal knowledge.[59]

Merry illustrated her method in her groundbreaking study of the process at the United Nations that governed the review, implementation and enforcement of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which she concluded was 'a very murky process'. States may sign the Convention but not ratify it, or both sign and ratify it but apply reservations (essentially, opt-outs) on certain contentious provisions. Some states sign, ratify and pass domestic legislation to implement all provisions and then enforce them, whereas others sign, ratify and implement but then ignore the provisions. When states fail to live up to their obligations under public international law, there is no international enforcement mechanism apart from shaming in diplomatic circles, although this can be surprisingly effective in shifting state behaviour. In her study of CEDAW implementation at the local level in five Asia-Pacific countries, Merry found that different approaches to violence against women – including international human rights law, national concepts of rights and feminist social services – coexist in marked tension with one another. Merry's new legal realist method leads her to conclude that human rights 'do not constitute a coherent system but are contingent, fragmented, and unevenly supported by the general public … the articulation of rights does not guarantee performance'.[60] This is a far cry from Sikkink's 'justice cascade' or Moyn's blanket condemnation of the congenitally milquetoast nature of human rights.

[56] R Kerr and J Lincoln, 'The Special Court for Sierra Leone Outreach, Legacy and Impact: Final Report' (War Crimes Research Group at the Department of War Studies, King's College London, 2008) www.rscsl.org/Documents/slfinalreport.pdf.

[57] SE Merry, *Human Rights and Gender Violence; Translating International Law into Local Justice* (Chicago, University of Chicago Press, 2006); Klug and Merry (n 13).

[58] Merry, *Human Rights and Gender Violence* (n 57) 976.

[59] ibid 977.

[60] ibid 979.

Ethnographic studies of international justice provide a precise and empirically grounded basis to understand both the benefits and inadequacies of international accountability institutions. Overall, we can say that ethnographers have been broadly critical of these tribunals' efforts at accountability and documenting the past. Retributive justice has a restricted mandate and framing of events: to ascertain the guilt or innocence of the accused on the basis of whether the actions sufficiently match the elements of the crimes (*actus reus* and *mens rea*) as formulated in the statutes of international criminal law. The scope of international tribunals is limited to the actions or inactions of the defendant and those with whom the defendant was working in concert (through concepts such as 'joint criminal enterprise'), and whether these actions or inactions imply individual criminal responsibility. The wider structural conditions driving the conflict (eg religious discrimination, racism, material exploitation) are often overlooked, as are the actions of those who may have tolerated, benefited from or been complicit in structures of violence.[61] Even as they document the criminal actions of corrupt elites, courts generally neglect the role of international markets, corporations and other powerful global actors in fomenting conflict.

With respect to legal knowledge production, criminal law has a unique, limited and highly regulated set of criteria for investigating events and pronouncing on the validity of arguments.[62] The rules of evidence and procedure at an international tribunal and how the court comprehends the relationship between factors (ie causation) are tightly regulated. International courts often struggle to combine evidence from different systems of knowledge such as medicine, social science, historical inquiry and legal and forensic investigations.[63] In sum, if deep comprehension of why the conflict occurred in the first place is the goal, then international tribunals often fall short: they view events through a narrow legal prism, which often excludes the context, motivation and structural factors that shaped the violent patterns of behaviour in society. And as is true of criminal law generally, international courts have not always been receptive to the narratives of survivors, especially women speaking about their experiences of sexual assault.[64]

At the same time, ethnographic studies have also recognised the constructive contributions of international justice institutions in documenting and prosecuting past atrocities.[65] After mass crimes, there is intense contestation over the past. Powerful perpetrators (who may still hold high political office) often seek to erase or distort evidence of their crimes and evade accountability. International tribunals, by virtue of their liminal interstate position, often allow the introduction of more evidence of a historical or cultural nature than would be permitted in a national criminal court. Anthropologists and historians have proved to be effective expert witnesses

[61] Clarke, *Affective Justice* (n 24).
[62] Eltringham, *Genocide Never Sleeps* (n 26); Wilson, *Incitement on Trial* (n 24).
[63] Kelly (n 29).
[64] Dembour and Haslam (n 26).
[65] EL Lutz and C Reiger (eds), *Prosecuting Heads of State* (Cambridge, Cambridge University Press, 2009); L Nettelfield, *Courting Democracy in Bosnia and Herzegovina: The Hague Tribunal's Impact in a Postwar State* (Cambridge, Cambridge University Press, 2010).

in the international criminal courtroom, with a surprising ability to sway the judges' thinking and legal decisions.[66] International courts have produced comprehensive accounts of conflicts that are authoritative and resistant to historical revisionism by perpetrators, and thereby played a vital role in national projects of constructing collective memory and memorialising the past.

International courts have responded to criticisms that they diminish the testimony of survivors. The International Criminal Court now allows survivors and their legal representatives to be actual parties to the trial and participate in the legal proceedings: for instance, to scrutinise the evidence presented before the trial chamber and to cross-examine the defendant and other witnesses. In particular, the testimony of women about sexual assault has been handled more sensitively, and international tribunals have established, through key decisions such as *Akayesu*[67] (International Criminal Tribunal for Rwanda, ICTR) and *Kunarac*[68] (ICTY), the precedent that sexual violence is a war crime and a crime against humanity. Even if the outcome of a trial is not what the survivors hoped for, ethnographic studies have shown that international trials represent a focal point for survivors' groups to organise around, and this process can create new forms of sociality that are healing in themselves.[69]

In sum, international tribunals play an important role in pursuing accountability for perpetrators of mass crimes, although they represent only one element in a necessarily holistic response to an era of violence. Despite their flaws, international courts perform a valuable function when they articulate the moral values of a community and reject, for instance, the anti-Semitism of the Holocaust or sexual slavery during the conflict in eastern Congo. Merry's account of how working-class Americans approach courts in *Getting Justice and Getting Even* is directly applicable to understanding survivors' engagements with international courts. Even though law is constituted as a form of social control and cultural domination, there is always a process of resistance and struggle over the history and meaning of mass crimes. At international tribunals, survivors and their legal representatives demand recognition and reparations for harms, articulate a moral discourse of repudiation of violence and, in so doing, help to construct a new image of social relationality.

V. CONCLUDING REMARKS

Human rights movements, laws and discourses operate in so many settings globally that most generalisations about them crumble on closer scrutiny. Human rights may motivate a social movement protesting a dam project in Colombia or a women's maternal health campaign in India, or they may propel an international criminal tribunal adjudicating charges against an accused. They may also be distorted and

[66] Wilson, *Writing History* (n 24).

[67] *Prosecutor v Akayesu* (Judgment) ICTR-96-4-T, T Ch I (2 September 1998).

[68] *Kunerac et al* (Sentencing Judgment) IT-96-23 & 23/1, A Ch (12 June 2002); *Kunerac et al* (Judgment) IT-96-23 & 23/1, T Ch II (22 February 2001).

[69] Kesselring (n 22).

misused by powerful actors seeking to legitimate their ideological project of violent domination.[70]

These are all distinctive contexts, with diverse outcomes that challenge any sweeping assessments of the success or failure of human rights as a paradigm of law or politics. Instead, we are better advised to try to understand the particular instantiations of human rights in their social contexts (or what I call the 'social life of rights'). For this, we require grounded theories and empirical methodologies that will furnish insights into the concrete effects of human rights. This case-by-case approach to 'how law works in practice' focuses on process as much as outcome, and recognises the contingency and fragmentation of human rights. It inclines scholars towards intellectual humility instead of magisterial pronouncements of a utopian or dystopian kind about human rights.[71]

Throughout her career, Sally Merry argued for a complex and sophisticated approach to understanding human rights and international justice, one that encompasses the multiple influences of global, national and local law, and that is aware of law's coercive power while still reserving a place for contingency, social resistance and agency. She charted high-level diplomatic negotiations in New York and Geneva, as well as the local impact of human rights at a women's centre in Delhi. Her intellectual style of writing and analysis embraced the unexpected, and was comfortable with indeterminacy and a lack of analytical closure. To my mind, this is one explanation of the long-standing salience and influence of Sally's work; she did not insist dogmatically on a single template of analysis or a set of hard and fast conclusions about human rights. She was willing to dwell on the unsettling and murky nature of the process of creating and enforcing human rights and to recognise that what happens in Geneva may have entirely different effects on the ground in Hong Kong or Hawaii. Sally Merry was a legal realist without ignoring the strong inertial effects of legal doctrine and law's unique and specialised rules and procedures. She was a legal pluralist without falling into the arid formalism of some forms of legal pluralism. She was a feminist without focusing solely on gender. The suppleness and sophistication of her research and analysis, and the inclusive and open manner in which she collaborated and exchanged ideas with other scholars in the field, is a model for us all.

[70] On the Guatemalan military's appropriation of human rights discourse, see J Schirmer, *The Guatemalan Military Project: A Violence Called Democracy* (Philadelphia, University of Pennsylvania Press, 1999); on how the communist dictatorship in the German Democratic Republic portrayed itself as a champion of human rights, see N Richardson-Little, *The Human Rights Dictatorship: Socialism, Global Solidarity and Revolution in East Germany* (Cambridge, Cambridge University Press, 2020).

[71] Mark Goodale also makes the case for humility in the study of human rights, in *Surrendering to Utopia: An Anthropology of Human Rights* (Stanford, Stanford University Press, 2009).