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Pamela Beth Harris

The Endtimes of Human Rights

Stephen Hopgood

Ithaca, N.Y.: Cornell University Press, 2013. vii + 255 pp.

Speaking Rights to Power: Constructing Political Will

Alison Brysk

Oxford: Oxford University Press, 2013. xi + 252 pp.

Over a decade ago, David Kennedy asked supporters of international human rights to think hard about whether the “human rights movement might, on balance, and acknowledging its enormous achievement, be more part of the problem in today’s world than part of the solution.”¹ Since then, powerful realist critiques of the human rights project have also addressed its delegitimizing lack of democratic accountability.² Samuel Moyn has more recently faulted human rights for assuming a dishonest and dysfunctional “moral transcendence of politics.” From this fragile present, Moyn thinks that human rights can either go on trying to build “utopia through maximalist political vision” or it can more realistically focus on “preventing catastrophe through minimalist ethical norms.”³ Starting from this fork in the present road, two recent books aspire to take the future of human rights down these different paths: Stephen Hopgood focuses on the human rights project as the pursuit of utopia, in order to discredit it; Alison Brysk frames human rights more modestly, in order to offer her support. A comparison of the two suggests the strengths and weaknesses of each approach.

Marrying the realist critique of human rights to a “new atheist” hostility to religion, Hopgood announces to the traders in the human rights marketplace that their “secular god” is dead.⁴ It has squandered its moral authority, leaving the legitimacy of its universalist claims unhinged. Hopgood sees the “immanent decay” awaiting the global human rights regime as inevitable. Still, he wants to do his part to help the destruction along, by urging us forward to the bier, in the apparent hope that the stench of the corpse will wake us up to the sad illusion at the heart of humanist internationalism. By establishing the moral bankruptcy of modern humanism in general, Hopgood hopes to reveal the basic illegitimacy of modern practices of international human rights.

Though the modern human rights regime has lost its moral authority, Hopgood

sees its advocates as still holding “fiercely to the faith that they are doing the secular god’s work by globalizing humanism even in the face of stern resistance” (63). This book is provocative, in the narrow sense that it wants to start a fight with a caricatured class of true believers, those with “blind faith” in what he calls the religion of humanitarian universalism.⁵ It seeks to shock them out of their cozy moral comfort zone with a cold shower of realism. But the key question in evaluating this text is whether it is likely to move more thoughtful human rights skeptics and agnostics to overcome their considered respect for idealistic humanist universalism.

Hopgood contrasts an innocent, European, *humanitarian* “human rights” of yore to today’s corrupted, American-powered, *humanist* “Human Rights.” Now hand-maiden to capitalism, Human Rights discourse does not speak truth to the central power of our time. Having been institutionalized into a global power structure of legal and political norms, Human Rights serves instead to legitimize the hegemony of capital.

This is an extremely important claim, but Hopgood is more interested in the spiritual conditions of human rights than the economic ones.⁶ He explores the metaphysical origins of the contemporary middle-class devotion to human rights, observing that these universalist norms emerged contemporaneously with modernization. Hopgood makes a nice use of Émile Durkheim to interpret the religious dimension of nineteenth-century humanism and its successful use of social magic to construct its own authority. Resisting modernity’s disenchantment of the world, the early humanitarians built on the old Christian belief in a universal humanity, ennobled by its suffering, “to inspire a sense of the secular sacred among the new middle classes” (I). Proselytized by the International Committee for the Red Cross (ICRC), nineteenth-century humanitarianism developed as a “secular festival of atonement.” The humanitarian hero of this epoch channeled the spirit of the Christian Good Samaritan: the suffering individual victim “slowly replaced Christ as the raw material for the culture and aesthetic of protection. This innocent victim formed a new sacred object, the *totem*, ‘the visible body of the god’ of secular religiosity” (II).

The ICRC fused cultural Christianity with the professional practices of law and medicine “to create a new form of secular religiosity . . . that for a century partly compensated for the loss of religious authority under modernity” (35). This early, European humanitarian work sought to put sacredness into action. For all of its objectionable religious sentimentality, it succeeded in institutionalizing the protection of innocents in the Geneva and Hague Conventions. (The first Geneva treaty was signed in 1864, with addenda in 1906, 1929, and 1949. The Hague Conventions were forged in 1899 and 1907.) More importantly, it earned its moral authority through the personal, physical, and moral sacrifices of its practitioners, and its principled political detachment.

But then something went terribly wrong. Starting in the 1960s or 1970s or in 1977, virtuous European humanitarians sold out to petty American humanists (35, 48, 103). Hopgood basically agrees with Moyn’s influential periodization of the relatively recent emergence of human rights, according to which human rights “broke out” after 1968 because of the failure of other utopias, especially the socialist and postcolonial ones. Moyn underlines international lawyers’ original hostility to the human rights project,

especially in its service to national liberation ideals, even though they later appropriated its language to crowd these ideals out.⁷ Hopgood, in contrast to the international lawyers, may be sympathetic to the postcolonial utopia, which could help make sense of his wholly negative reception of this breakout.⁸ He seems not to recognize the moral failures of postcolonial collectivism and thus does not welcome the ways in which human rights challenged and supplanted it.

For Hopgood, it was the rise of marketing priorities and the related post–Cold War neoliberal hubris that generated the morally bereft model of human rights that we have today. No longer the self-sacrificing humanitarian work of post-Christian Good Samaritans, human rights became a soulless religion in which salvation could be bought, rather than achieved through faith and work. In this new model, suffering victims were no longer the religious stand-ins for Christ but rather the iconic product for sale by business-minded humanist organizations. The relative values and egotism of the market displaced the principled solidarity of religion. No longer sacred, human rights had to turn to international institutions and markets to fund professional global advocacy, litigation, and report writing. The purpose of the human rights industry shifted from helping innocents to providing ideological cover for the globalization of neoliberal democracy.

Motivated by a firm ideological belief in their own higher calling, contemporary practitioners claim to represent universal human values. But Hopgood sees them instead as moral spectators who care more about donors and public opinion than the supposed beneficiaries of their work. They are “strangers who do not need what they are selling. They work on the rights of others because their own rights are secure” (14). They speak only to an elite audience and are unable to forge solidarity with spontaneous popular movements. Hopgood singles out for contempt such universalist villains as Luis Moreno-Ocampo (the “disastrous” first prosecutor of the ICC), Jan Egeland, Antonio Cassese, Theodor Meron, Louis Henkin, Suzanne Nossel, and Geoffrey Robertson. He accuses them of regarding “an alienated, translated, cumbersome legal process” as “the sole conception of justice” and of regarding their own, ultimately bourgeois, values as universal (1, 128).

According to Hopgood, these so-called humanists are motivated above all by a will to legal and political power. They seek to mask and legitimate their ambitions through extrapolitical emotional appeals that exploit the suffering of others. One of their key strategies has been to spin what Hopgood calls the “Holocaust Metanarrative” (47–68). Propelled by Americans, it is the 1970s-vintage humanist story of ever-ascending progress, from the evil of genocide to redemption through global legal justice. Building on the religious roots of early humanitarianism, it taps into the metaphysical authority of moral absolutes and the Christian legacy of identification with innocent suffering. The metanarrative reinforces humanists’ faith, while stirring up wider, but ultimately feeble, support for the global human rights regime. Hopgood thinks that the Holocaust Metanarrative is a parochially Western story and cannot resonate in postcolonial countries. Failing to convince others of the sacredness of universal humanitarianism, the Holocaust Metanarrative ultimately exacerbates the legitimacy crisis of modern international human rights.

As morally questionable as Hopgood regards the humanists and their motives, so

is their grand achievement, the “Human Rights Empire” (119–41). He represents this empire in one institution, the International Criminal Court (ICC), and one political doctrine, the Responsibility to Protect (R2P). Hopgood characterizes the ICC as the “cathedral” of the international humanist church, whose rites of due process serve only to glorify the rule of law (130). Its shaky authority rests on the ideological claim that there is a “humanity” that it serves to protect. But Hopgood believes instead that the Court really exists to serve the law’s priests, to harden and dignify their power, rather than to redeem human suffering.

Hopgood wants to treat R2P as a kind of “institution” similar to the ICC, one that gives life to the political claim that the moral authority of humanity transcends the power of sovereign states and even the UN Security Council.⁹ There are many problems with this claim, starting from the fact that R2P is not an institution in any meaningful sense. Hopgood claims that R2P has been “steadily embedded” since 2001 (though he also acknowledges its rather “short life”) (138). But it is not an institution, and the fact that Hopgood thinks it is signals a general overenthusiasm in attempting to apply the “secular religion” metaphor.

Hopgood blames the spirit of American pragmatism for much of what has gone wrong with human rights. This makes his focus on the ICC and R2P, as key expressions of the Human Rights Empire, perplexing: whatever else they may be, the ICC and R2P are *not* major instruments of American power.¹⁰ How can we understand the apparent inconsistency between Hopgood’s criticism of American power and his simultaneous criticism of imperial instruments not terribly relevant to American power?

One explanation is that Hopgood does not quite grasp the basic difference between R2P and the *jus ad bellum* humanitarian intervention justification. He thinks that R2P is an extension of the Kosovo precedent, and that it embodies the notion that “there is a moral authority, that of humanity, over and above the Security Council” (137).¹¹ But in fact it is a political compromise made *after* Kosovo, when powerful states (read: China, Russia) *resisted* a right of unilateral humanitarian intervention, in order to reaffirm the centrality of the Security Council. And unlike the more robust doctrine of a right to humanitarian intervention, R2P is quite deferential to state sovereignty. But even if we accept Hopgood’s formulation of R2P as shorthand for humanitarian intervention, the United States has never used it to justify an unauthorized military intervention. Only Belgium invoked the doctrine before the International Court of Justice to defend its role in the NATO intervention in Serbia; only the UK made a sustained political appeal to it to justify the invasion of Iraq.¹²

Another explanation for Hopgood’s inconsistency may lie in his unarticulated but probable understanding of the Human Rights Empire as a kind of false paradise for old-fashioned European humanitarians, who yearn for an American-style marketing and enforcement power. Understood in this way, the empire would have been better represented by Amnesty International. This British-based human rights organization sold out to American power in appointing Suzanne Nossel, a former State Department official, *Wall Street Journal* reporter, and McKinsey consultant, to direct its U.S. section. Though Hopgood does not mention him, Tony Blair’s evangelical support for enforcing humanitarianism (Kosovo) and humanizing military invasion (Iraq)

would seem to make him a strong symbol of this British-led empire as well. If this is true, then the empire that Hopgood contests has a more European (or even British) postcolonial character than an American one.

Given the decay of the humanist project, Hopgood is happy to announce that “now” we have arrived at the “endtimes” for Human Rights. We “are entering a neo-Westphalian world,” in which there is “no longer” an international community (166). Hopgood candidly admits that his work “is an argument, not a history”; he views the secular realm of history from a postsecular beyond (ix). However, his use of a temporal language suggests a correspondence to history not always supported by critical examination. He seems to think that there was a moment (and though he does not specify, we can locate it in the late 1990s, with the establishment of the ICC and the NATO intervention in Kosovo) in which the so-called international community seemed poised to evolve from an ethical ideal into a kind of ontological political reality.

Not all readers will share this belief nor attribute the same *post*-Westphalian significance to what came next. Certainly not American realist scholars who have been resisting the idea of a morally or politically meaningful international community since the 1980s.¹³ Many of Hopgood’s potential readers, human rights skeptics attracted by the book’s irreverent title, will have fretted about the United States’ rejection of international law in its international politics for over a decade now, from its rabid rejection of the ICC and actions against states supporting it, through the illegal war in Iraq, through the attempt to dismiss the Geneva Conventions in the war on terrorism. Some may have even despaired about the use, and the defense of the use, of torture and continue to worry about targeted killings and indefinite detention without due process. It has been hard to follow such events and maintain an unexamined faith in international law. Many are already likely to understand international law as an ambitious, and morally ambiguous, political project, rather than a *fait accompli*. So if Hopgood wants to show us that the world really is Westphalian after all, he is probably preaching to the converted.¹⁴

But Hopgood’s essentially political claim—that human rights had a moral authority or legitimacy that went sour—is not enough to establish the reality of an international community that is no more. We see the one-sidedness of Hopgood’s rejection of international human rights in his dismissal of international criminal law as just a ritual performance by which humanists consolidate their power. He rightly criticizes the ICC’s pretension to sit above politics in an ethereal realm of justice.¹⁵ But even though universal human rights may have justified the initial establishment of the ICC, Hopgood does not consider that the ICC might overcome this initial justification to develop a procedural legitimacy of its own.

Regardless of where we stand on the origins and current sources of international law’s legitimacy, however, we can still take its legitimacy crisis seriously and consider Hopgood’s prescriptive vision of the endtimes for Human Rights. According to Hopgood, we can now look forward to an era of multipolar authority (167). Hopgood understands that privileging diverse local norms instead of universal ones opens the door to religion and renewed nationalism. And he embraces this, believing that “religious, nationalist, ethnic and family structures, located much closer to people and integrated within their everyday needs and identities . . . hold more promise for

creating sustainable reciprocity-based and socially reinforced norms that reduce suffering” (20). Hopgood thus welcomes a postsecular global power politics, in which such forces as Gulf money will have more power than international human rights advocates in steering postcrisis societies (169).

In his allergy to the liberal norms of secular humanism, Hopgood is prepared to accept any alternative, from the indigenous patriarchy implied by local religious family structures to a Saudi-sponsored one (even, one presumes, in the formerly secular populations of countries like Bosnia and Kosovo). Postsecular global power politics does not necessarily privilege local norms but may instead seek to bend them to a utopian Islamic internationalism, for example. Hopgood ultimately affirms these two positions here. But as contradictory as they are, they have one very important thing in common: they condone—or do not provide resources against—patriarchy.

The implications of Hopgood’s postsecular antihumanism are particularly dire for women. He sees the rollback of women’s human rights in recent years as a serious realist challenge to humanism (157–58). He also welcomes the religious zeal poised to displace humanism, and the reinvigoration of the traditional patriarchal family values that humanism has hitherto threatened. And he defends legal pluralism, even in the area of family law, as important for respecting “deep-seated cultural norms about gender, marriage, childhood, sexuality” (65). Hopgood does not address the predictable feminist objection to this sort of uncritical multiculturalism: it ignores that “most cultures have as one of their principle aims the control of women by men.”¹⁶ Even human rights skeptics, disposed to agree with his diagnosis of the moral bankruptcy of international human rights, may be left wondering why local patriarchal practices ought to trump more universalist, liberal values of gender equality.

We can better appreciate this shortcoming if we examine the way that a typical expression of the secular human rights regime, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), can work. No doubt, the CEDAW asserts a universalistic claim that gender equality trumps culture, and that tradition is no excuse for discrimination against women.¹⁷ This claim has empowered international humanists to challenge practices—like widow burning, female genital mutilation (FGM), unequal marriage practices—that are discriminatory and violent against women.¹⁸ Hopgood is quite right to worry about the cultural imperialism of these secular humanists. Even *within* the CEDAW country reports, we see a tendency to value the “national” culture of secular, urban educated elites over that of backwards provinces or immigrant minorities.¹⁹ Hopgood is right to worry that the undemocratic imposition of these pseudo-universalistic, secular values can trigger a political backlash as secular values do not ring true for everyone, even in many Western industrialized societies.

But traditional cultures may evolve over time, and CEDAW’s humanist significance lies in its capacity to shape cultural understandings and to articulate a vision of rights as a path to freedom and justice. Hopgood rightly suggests that human rights efforts are more successful when they can build on local movements of resistance and contestation, to promote local cultural change over time, as opposed to trying to impose the “right” culture from outside. He encourages Western advocates to move from a universalistic view of “Human Rights” back to a more modest and democratic

conception of “human rights.” He sees local rights movements as currently suffering under the weight of the more powerful humanist international, and he supports their open challenge to its authority. Together with religious and nationalist movements, such local activists are forging a new postsecular world of multiple moral authorities. There may be a place for local human rights claims as “one language among others, and a conditional one, used for its capacity to create alliances between those whose substantive beliefs differ, and to connect with transnational networks” (171).

Hopgood’s desire to register local human rights claims as one language among others is unobjectionable. But he does not explain why the language of liberal humanism should be categorically excluded from this conversation. Hopgood’s criticism still leaves us wondering why human rights should not continue to play a role in checking unfettered nationalism, religious tradition, and exceptionalism. Why couldn’t the local rights movements that Hopgood supports gain strength from the criticism of rights violations by international humanist activists? Hopgood is so allergic to humanism that he cannot imagine humanist voices participating in a salutary way, in a larger contest for political power and moral authority. Whereas Moyn sees that to “give up church history is not to celebrate a black mass instead,” Hopgood’s rejection of the church also leads him to reject the god that it serves.²⁰ His atheism is as much a matter of faith as the humanism that he opposes. In his singular drive to discredit humanism, Hopgood does not consider that humanism might be able to contribute something, anything, positive.

Like the believers that he criticizes, Hopgood buys into the eschatological myth of inevitable progress; he just prefers to set his sight on the apocalypse rather than a vision of justice lying beyond it. Beyond the historical objection to Hopgood’s celebration of the neo-Westphalian world, there is the additional problem of its normative appeal. In his eschatological view of the inevitable historical demise of Human Rights, he welcomes the power of conservative nationalist and religious forces to accomplish a decisive defeat of humanism. He does not see any point in mobilizing political will to defend it.

Instead of a sterile, bloodless legal retribution for crimes against humanity, he prefers a more passionate, and potentially violent, form of justice: “the rage, shame, grief, and redemption that makes more immediate forms of justice so powerful for those who suffered” (133). Hopgood’s penchant for cleansing violence as an alternative to the sterile universalism of international law appears in the unbounded admiration he visits on the East Timorese liberation fighters who, “through their own tight communal bonds . . . defeated a threat to their very existence.” He admires “local and transnational networks of activists who bring publicity to abuses they and their communities face and who try to exert pressure on governments and the UN for action, often at tremendous personal cost.” These “instinctive,” “spontaneous,” and even violent expressions of resistance will escape the judgment day awaiting the “disciplined and institutionalized resistance which is the stock in trade of global advocacy.”²¹ Rather than a rationalistic, liberal attempt to “stay the hand of vengeance,” Hopgood would like to let it loose.²² Underlying Hopgood’s rejection of humanism is a certain acceptance of unfiltered rage as a more real and thus a more respectable driving force. Readers who do not share this may have a hard time joining in his destruction party.

Alison Brysk will surely accompany them in sitting this party out. In *Speaking Rights to Power: Constructing Political Will*, she speaks self-consciously from the very American human rights marketplace that Hopgood disdains. Acknowledging from the outset the modest character of the human rights campaigns that she is trying to encourage (they will not “always be the best or only response to every social problem or all forms of human suffering”), Brysk goes on to analyze cases in which these campaigns have generated real interest, and sometimes even significant outcomes (8). She seeks to understand the mechanics of how to construct a cosmopolitan ethic of care, while soberly recognizing that the wrong kind of care may have the unintended consequences of “domination, burnout, dependency” or worse. Driving her empirical analysis of the mobilizing successes and failures of others is the pragmatic goal of providing theoretical guidance to contemporary human rights campaigners.

Brysk has absorbed the realist critique of human rights utopianism enough to avoid the pitfalls of idolatry. In contrast to the universalist humanitarians ridiculed by Hopgood, Brysk is very sensitive to the nonabsolute character of most human rights. She warns campaigners not to presume the universality of the rights that they use to frame their campaigns. Brysk recognizes that human rights are not the only paradigm for human emancipation. But she thinks that they are still valuable as “constructed and contested political tools” to that end (23–24). The power of Brysk’s response to the realist critique of human rights utopianism is that she does not take human rights to be legally or morally compelling norms but rather humanly constructed acts of performative speech.

The power of human rights rhetoric lies in its potential to transform us into cosmopolitans, endowed with “new transnational interests and identities” (33–34). “The process of socialization and affective appeals to these identities is a critical component of the politics of human rights” (200–201). Their resonance is not eternal but rather provides an image of the ideal society that reverberates with the contemporary zeitgeist (25). Brysk thinks that the value of this performance of new cosmopolitan identities goes beyond narcissistic self-affirmation, toward empowering vulnerable populations in the long run.

Brysk’s human rights constructivism consists in a desire to understand how to lay the path from point A (elite or victim recognition of an instance of deep and/or widespread suffering) to point B (the persuasion of cosmopolitan audiences that this suffering constitutes a human rights abuse to be addressed by the international community). This path, from “attention to recognition to political will,” runs through the construction of solidarity, to the crafting of the form and content of the message, to the engagement in a politics of persuasion (16). Solidarity between potential human rights campaigners and their beneficiaries can be constructed through the forging of an identity (which can happen though a real or symbolic meeting of eyes with the victim, or also through a shame-provoking identification with the oppressor) (20). Once the message has been properly framed, the politics of persuasion may be pursued, through the telling of stories that “use affective and appropriate symbols, answer fundamental questions, diagnose suffering and prescribe action, and unfold in accessible public space” (34). This path is not as linear as the organization of the book may suggest.

We undertake the difficult pragmatic journey to point B, the persuasion of cosmopolitan audiences to speak rights to power, on our way to utopian point C, the political will-generated transformation of “the power structures that are the sources of abuse or neglect” (1). Brysk is focused on getting us to B, which raises two important questions. First, can careful attention to Brysk’s itinerary get us there at all? And second, can it get us beyond mere cosmopolitan identification to C, to enable the mobilization of active political will to change institutions on behalf of those that suffer?

Brysk’s analysis of mobilization aims modestly at getting us to B, by “unpacking the dynamics of successful human rights appeals” (6). The elements of this analysis map onto the five specific things that human rights campaigners must get right in telling a story able to forge cosmopolitan solidarity: voice, message, performance, media, and audience. Human rights campaigners seeking to refine the marketing of their message are well advised to pay attention.

The bulk of this book can be taken as an empirically rich guide for human rights campaigners hoping to increase their share in the market for public attention, sympathy, and political support. We learn that successful human rights campaigns are led by speakers who demonstrate moral appeal, charisma, or “collective charisma leadership and credibility of highly legitimate social roles—like mothers, doctors or priests” (55). *Voices* able to mobilize political will belong to heroes, martyrs, witnesses, experts and, yes, celebrities. Brysk examines Nelson Mandela’s ability to bridge a cosmopolitan ethos with an African one, Aung San Suu Kyi’s similar “bridging” power, and the collective charisma of the Mothers of the Disappeared in Argentina as examples of the power of heroes and martyrs. Effective voices of witnesses and experts can be heard in the successful campaigns of Amartya Sen (bringing modernist economics to bear on inequality), Paul Farmer (AIDS advocacy), and Doctors Without Borders. In way of contrast, Brysk attributes the failure of campaigns against the death penalty in the United States to the lack of a compelling voice on behalf of its victims (76).

After the voice, the second key element in a successful human rights campaign is the form of *message* itself. No matter the inherent justice of their appeal, human rights campaigners must frame their message effectively. As challenges to hegemonic power, human rights claims must overcome forceful “counter-narratives of state sovereignty, moral panic, and legitimate authority” or, for private wrongs, “counter-frames of cultural autonomy, religious freedom, or self-determination,” (80). Brysk analyzes the specific issues of human trafficking, FGM, and military violence against civilians in Colombia, Darfur, and Congo. Successful human rights claims “tell a story of innocent victims abused by identifiable perpetrators in a familiar repertoire that violates widely shared norms” (105). The relative success of the human-trafficking campaign to mobilize political will can be attributed to its effective tapping “into the moral capital of the anti-slavery campaign” (80). The initial Western feminist campaign against FGM in Africa inspired an anti-imperialist backlash, while its more recent framing as a health issue, by doctors and humanitarians, has resonated better. Framing the violence in Darfur as government-sponsored genocide was clever enough to mobilize even isolationist U.S. evangelical Christians. Atrocities in Colombia and

the Democratic Republic of the Congo, by contrast, have not lent themselves to a narrative account in terms of innocent victims, identifiable perpetrators, and widely shared norms. The reason, which deserves more attention than Brysk gives it in this book, lies vaguely in the power of a hegemonic United States to shape dominant narratives, effectively muffling criticism of such abusive allies as the Colombian or Egyptian governments (97, 101).

Once they have framed a compelling story, human rights campaigners must then see that this story is told. Brysk breaks down the communication of the story into two distinct elements, performance and media mobilization. Particularly effective forms of *performance* range from the tragic testimonial of victims (such as Jacopo Timerman, Ariel Dorfman, Rigoberta Menchu, and Eve Ensler, which translate personal tragedies into larger social problems), to allegory (Anna Hazare's protests against corruption in India), to parody (Pussy Riot, Stephen Colbert) (112). Human rights campaigners must naturally use new media to mobilize their target audiences. Brysk describes the practices behind the successful new media campaigns by prodemocracy activists in both Iran and Egypt in undermining regime legitimacy (143). In China, by contrast, new media have been effective tools in both mobilizing grassroots protest against local corruption and in communicating government propaganda (147). The Kony 2012 campaign shows both the potential and the limits of media mobilization. In the end, Brysk realizes that media-driven mobilization is not enough, without further leverage to displace the source of abuse. But she thinks that it can still make a difference.

Finally, human rights campaigners must construct their *audience*. Brysk treats this as a distinct element. Possible markets for human rights messages may be found in networks of professional solidarity (PEN, Scholars at Risk, academic disciplines), interethnic solidarity between groups that have suffered analogous traumas (indigenous rights movements, African Americans against apartheid, Japanese Americans against post 9/11 profiling of Arabs), bystander audiences (male empathy for women's human rights), and cosmopolitan institutions (the UN or EU).

Brysk's empirical rigor comes through in the very balanced treatment of her examples. She acknowledges that a successful campaign may have negative effects, as in the case of sex slavery: notwithstanding the mobilizing success of framing human trafficking as sex slavery, this might create a problematic rescue industry that undercuts the rights of workers who need migration rights rather than humanitarian protections; it may distort the nature of the problem, which is rooted in poverty and labor exploitation rather than just coercive smuggling. "The recognition of contemporary slavery and sexual violence is a necessary but not sufficient response to trafficking. But successful frames can sometimes be widened to permit a broader vision" (87–88). (Hopgood falls short of this standard. He criticizes the major human rights organizations for their strategic drag in taking up LGBT rights. And to maintain his demonization of them, he cannot acknowledge the enormous gains achieved in recent years. Similarly, Hopgood sees the persistence of FGM as "an object lesson to the hubristic" humanists.²³ He does not try to illuminate the important progress that has been made.)

In the end, Brysk provides human rights campaigners with a handy list of ten

communication tasks and best practices for mobilizing political will, some more obvious than others:

1. Focus attention.
2. Diagnose and communicate the political pathology causing violations, labeling it in the most widely acceptable terms (war crimes, rather than imperialism).
3. Identify when and how a problem is ripe for rhetoric (neither in a closed society, nor where problems have already been publicized).
4. Take stock of rhetorical resources and opportunities.
5. Frame the message properly: “successful appeals must carry the key elements of humanization, connection, agency, and alternatives . . . [they] must promote both pity and hope over fear.”
6. Harness communication consciously to the stages and tasks of the campaign: make a principled claim for protection, and then engage with competing logics of nationalism and security.
7. Coordinate the dynamics of each communicative element as the dialogue unfolds.
8. Offer an empowering and appropriate solution that emphasizes resistance, agency, and the incremental accomplishments of both victims and publics.
9. Start from where you are, but keep moving.
10. Construct cosmopolitans by articulating “moral universalism, agency, and compassion within the grammars of particular cultures, religions, and political philosophies.” (210–12)

Brysk’s project of breaking down human rights appeals into separately analyzable (though overlapping) elements, and thereby bringing the evidence to bear on their effective management, is sound. However, her analytical framework—made up of the five elements of voice, message framing, performance, media mobilization, and audience—is not airtight. The distinction between the different elements does not always hold nor promote greater understanding. The examination of some cases under certain headings rather than others can seem arbitrary. For example, did early feminist campaigns against FGM fail because they problematically framed the message as female empowerment, or because the doctors and humanitarians who later framed it in terms of the right to health had a more charismatic voice?

This problem intensifies in the discussions of the communication elements of performance and media, and of audience, which cannot really be distinguished from the message itself, nor from the speakers. Audience construction “involves raising awareness, focusing attention, creating cognitive receptivity and establishing channels of communication with some subset of the global public” (163). This makes audience seem more like a passive by-product of the message framing and communication elements than Brysk can possibly intend.

Philosophers and activists alike may chafe at Brysk’s bathetic instrumentalization of human rights into a marketing campaign checklist for selling cosmopolitan identities. Hopgood too would likely cringe at such neoliberal American pragmatism. Brysk clearly understands that activists cannot always will a charismatic speaker into existence, but her more realistic advice to “inventory your rhetorical resources and

opportunities,” for example, casts human rights campaigns as top-down, technocratic operations pursued by competent but unheroic managers. Brysk values the importance of such ineffable qualities as charisma. But she risks feeding the cynicism of critics like Hopgood and others in instrumentalizing these qualities so openly: holding them out as inputs that activists, like good corporate marketers, should seek to appropriate for their own ends, like a celebrity product endorsement. This may prick the vanity of campaigners who do see themselves as ineffably heroic, and obscure the glory of those who really are.

A more serious issue is Brysk’s focus on the audience as passive consumers, emotionally tugged in by careful advertising to assuming a cosmopolitan identity. The force of her examples suggests that political will formation depends on moving the audience not only to identify with, but also to more actively support—vote for, give money to, lobby and raise their own voices in favor of—the cause. But Brysk does not inventory what members of this audience have to do, beyond feeling a cosmopolitan identity with suffering others. To the extent that she depicts the audience as passive consumers, she is vulnerable to Hopgood’s criticism: “Human rights advocacy therefore becomes a status symbol signaling membership in the transnational capitalist class. But if human rights depends on the *intensification* of capitalism, there is little hope for economic, social and cultural rights” (Hopgood, 173).

Brysk announces from the outset that the contemporary struggle for human rights aims more at “mobilizing persuasive rhetoric to garner global solidarity” than at challenging state power (1). She does not examine this aim, and her uncritical focus on democratic mobilization is not sufficiently tethered to a consideration of mobilization’s concrete human rights outcomes. In fact, Hopgood does a better job at explaining the failure of the Kony 2012 campaign, by attributing it to slacktivism, and highlighting the weakness of this model (though, unlike Brysk, he does not analyze media campaigns that might have been more successful). While Brysk is sensitive to the limitations of social media in general, she does not address the political limits of mere mobilization.²⁴ While she clearly understands such mobilization as a means to the end of positive human rights outcomes, she assumes a stronger relationship between the two than she proves.

Brysk never fully explicates the standard by which she regards some campaigns as political will-generating successes while others are models to avoid. The standard implicit in her discussion has something to do with these campaigns’ impact, which is a function of “receiving attention, recognition, solidarity and response” (2). To pin down the criteria for determining this, Brysk carefully claims that “political will can be measured by a commitment to translate cognitive awareness and normative recognition into action, such as monitoring, lobbying, litigation, people power, institutional reform, and humanitarian and diplomatic intervention” (7). But she channels her examples only toward illustrating the mechanics of making a successfully *intense* human rights appeal. The more rigorous measuring of political will, and evaluation of its consequences, will have to be pursued in a future project.

In analyzing the success of the politics of persuasion, Brysk’s standard of evaluation tracks the intensity of the mobilization itself, not its consequences. This raises serious concerns, especially in her admiring treatment of new media—mobilized mass public

protests against hegemonic governments (Iran in 2009, North Africa in 2011). Surely it matters for viable human rights campaigns that these protests lead to greater liberty and security in their wake. Brysk encourages campaigners to construct their human rights appeals with care, in order to steer clear of a “reckless activism.”²⁵ But where does she draw the line between a reckless activism and a successful one? Brysk’s own commitment to human rights scholarship and activism suggests anything but an indifference to material changes in the political practice of abusers and the bodies of victims. But in focusing on the intensity of cosmopolitan activism rather than its consequences, Brysk risks coming across as an instrumentalist who cares more about the creation of new metaphysical subjects than the actual reduction of human suffering.

She trains her attention on the media campaign, whose success can be judged in terms of what it does to the souls and voices of the campaign’s producers and consumers. She mentions some institutional processes for registering human rights claims (litigation, monitoring), or addressing them (reform, intervention). But she does not explore the relationship between extrapolitical cosmopolitan lobbies and those making human rights policy within businesses and governmental institutions more generally. Brysk avoids the problematic assumption that human rights are simply a zero-sum game, pitting the people against the state. However, her strong focus on the side of autonomous grassroots empowerment, constructed by charismatic leaders, greatly obscures the important role of economic and political institutions.

Brysk identifies “speaking rights to power” (the expressive goal of democratic mobilization) with actual political will formation. While people power against the state, or on behalf of more distant victims, is sufficient for the former, meaningful political will formation requires that the people power has penetrated institutions. Brysk’s forced equation of the expressive goal with the political one leads to a certain confusion in characterizing the role of the state and other institutions of power in both violating and protecting human rights. The mobilization, speaking rights to power, pits people against institutions; political will formation manifests itself in actions carried out within those institutions.

Brysk’s treatment of failed human rights campaigns illustrates the risks of overly identifying upstream democratic mobilization (speaking rights to power) with the more downstream political will formation (using power to protect rights). Her method of examining failed campaigns to better highlight the distinct qualities of the successful ones is very sound, in theory. But as applied, it reveals that in all the failed campaigns, from the U.S. death penalty and Palestinian rights, to Colombia, Congo, and Kony, hegemonic U.S. political will is working against them. Brysk recognizes that “in the real world, the success of human rights advocacy will be influenced by a combination of material and moral force” (8). How then can scrupulous attention to the best practices guidelines succeed when material and moral forces are pushing in the other direction? To what extent can the former influence the latter? On the other hand, what are the moral implications of giving up on a just human rights cause because the problem is not ripe for rhetoric? The overall effect of this elision is to render a book about political will surprisingly apolitical. From her position in the political marketplace, Brysk is well aware of the fraught, competitive nature of human rights claims:

they may displace other important values; they may backfire. She does not make the lawyer's mistake of thinking that she is doing good by doing right. However, her overall advice to campaigners is so focused on the means as to risk crowding out political and ethical reflection on the ends. Her strategies, taken by themselves, could tend to reproduce the moralization of politics and political judgment that Brysk herself seems keen to avoid. Brysk does not actively encourage this, though, and one hopes that her audience will find other occasions for more searching political and moral reflection.

From the perspective of the human rights marketplace, Brysk's advice to help campaigners maximize the impact of their message makes perfect sense. Hopgood, positioning himself outside this marketplace, would surely disagree. In her laudable desire to avoid a politics of utopia, Brysk instead openly advocates what others have criticized as a misleading "politics of rhetoric and gesture."²⁶ One might fault Brysk, in pragmatically taking this marketplace for granted, for setting her sights too low.

But while evading the pitfalls of idolatry, Brysk ultimately manages not to maroon in the quicksand of pragmatism. There is some evidence in the book that Brysk understands that the language of human rights can not only speak truth to power but *is* a power as well.²⁷ And she provides all of the ingredients for a politically responsible practice of human rights. Beyond its practical advice to human rights campaigners, this book offers a modest but meaningful response to the tonic realist critiques of human rights. Brysk is a believer, but a thoughtful, empirically grounded, and rigorous one. A great strength of this book, especially in comparison with Hopgood's, lies in its capacity to speak to believers and nonbelievers alike.

This book is valuable in the end as a spirited and levelheaded defense of cosmopolitan humanism. Brysk argues plausibly that "in every society . . . there is a quest for cosmopolitanism . . . Although specific forms of human rights may be modern and Western, the animating spirit of connection with all that is human is universal, and just as authentic and legitimate as any other element of the world's range of cultural norms" (8). She wants pragmatic cosmopolitan mobilization to point to a more utopian goal of peace, love, and happiness. And she understands that the utopian pursuit depends first on the pragmatic political construction of a cosmopolitan identity, rather than a theological or ideological belief in its normative force. She encourages human rights campaigners to see themselves not as universalists but as political partisans. This is an implicit rebuttal to Hopgood's caricature of human rights as simply a blind faith ensconced in an antipolitical institution. We may still be left wondering whether this kind of neoliberal human rights, conceived so modestly, is equipped to address the greatest threats to human emancipation, which are also economic and environmental and transcend how states treat their own people.²⁸ In the meanwhile, Brysk's constructivism provides an attractive alternative to Hopgood's anti-utopianism and a promising project for reinforcing minimalist norms for addressing certain kinds of catastrophe.

NOTES

1. David Kennedy, "The International Human Rights Movement: Part of the Problem?," in *Harvard Human Rights Journal* 15 (Spring 2002): 109, originally published in the *European Human*

Rights Law Review in 2001. One of Kennedy's key concerns is the human rights movement's implicit support of the neoliberal project: human rights ultimately legitimates "the existing distributions of wealth, status and power in societies once rights have been legislated, formal participation in government achieved, and institutional remedies for violations provided. However useful saying 'that's my right' is in extracting things from the state, it's not good for extracting things from the economy, unless you are a property holder. Indeed, a practice of rights claims against the state may actively weaken the capacity of people to challenge economic arrangements."

2. See, for example, Jack Goldsmith and Eric Posner, *The Limits of International Law* (Oxford: Oxford University Press, 2005), 107–34, 205–24.

3. Samuel Moyn, *The Last Utopia* (Cambridge, Mass.: Harvard University Press, 2010), 226–27.

4. Inspired perhaps by such titles as Christopher Hitchens, *God Is Not Great: How Religion Poisons Everything* (New York: Twelve, 2009), and Richard Dawkins, *The God Delusion* (New York: Mariner Books, 2006). Unlike the new atheists, however, Hopgood rejects the antimystical rationalism at the core of their arguments.

5. Possibly an apostate from this religion himself, Hopgood spent a year (2002–2003) doing empirical fieldwork at the International Secretariat of Amnesty International. Moved by a sympathy for its work and a desire to understand its moral force, he was able to witness its internal struggle between traditional humanitarian letter writers and modern humanist fundraisers. Stephen Hopgood, *Keepers of the Flame: Understanding Amnesty International* (Ithaca, N.Y.: Cornell University Press, 2006).

6. The book, unfortunately, does little to elucidate these economic conditions. Hopgood asserts, intriguingly, "more affluence, more social inequality, more human rights talk" but does not explain the underlying mechanisms (177).

7. Moyn, *Last Utopia*, writes that "the passing of the anticolonialist movement in human rights history and the surprising reclamation of human rights in their antitotalitarian guise in the 1970s led international lawyers to reevaluate their long-confirmed positions in this regard" (179). "It was not World War II and genocide, but anticolonialism and decolonization, that really broke international lawyers' long-term apologia for the state and its projects" (195). "Skepticism about human rights in the guise of anticolonialist self-determination" gave way to "enthusiasm for human rights as a potential interference in sovereign jurisdiction" in the new postcolonial states (208).

8. Hopgood is a reader in international relations at the School of Oriental and African Studies, University of London, an institution that he describes affectionately as "organised in the main around the experience of Asia and Africa, the formerly colonised world, it is also highly critical, ensuring that we produce students who are questioning of the established order in an often radical way." Karen Shook, "Interview with Stephen Hopgood," in *Times Higher Education*, November 14, 2013, accessed February 11, 2014, <http://www.timeshighereducation.co.uk/books/the-endtimes-of-human-rights-by-stephen-hopgood/2008870.article>.

9. He insists that both "the ICC and R2P are institutions with only an imagined constituency beyond activists and advocates." Hopgood, *Endtimes*, 141.

10. In fact, Hopgood sees the main resistance to both R2P and the ICC as coming from China and Russia, not the United States (*Endtimes*, 161). U.S. resistance to a robust International Criminal Court goes back to the 1998 Rome Conference, where it worked hard to limit the Court's universal jurisdiction, and continued through 2007, with the Serviceman's Protection Act. At the 2010 negotiations for defining the crime of aggression, the United States succeeded in clearly

limiting the Court's jurisdiction over this crime to cases involving the territory or national of a state party, absent Security Council authorization, in order to better insulate itself.

11. Contrast this with the much more modest mainstream view of R2P in the United States, according to which remedial action for humanitarian violations is permissible only *within the bounds of the UN Charter*. "The concept is designed to reinforce, not undermine, national sovereignty . . . Only when a government fails or refuses to live up to the responsibility of sovereignty does it run the risk of outside intervention. Even then, R2P's implementation is to be done in accordance with the UN Charter, which means that the central decision-making authority is the UN Security Council." Madeline K. Albright and Richard S. Williamson, *The United States and R2P: From Words to Action* (Washington, D.C.: United States Institute of Peace, United States Holocaust Memorial Museum, and the Brookings Institution, 2013), 9–10.

12. There are liberal interventionists who would like see the establishment of an R2P-enabled regime of humanitarian intervention, led by the United States. See Thomas Weiss, *Humanitarian Intervention* (Cambridge: Polity Press, 2007); Nicholas Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2003); Ramesh Thakur, *The United Nations, Peace and Security* (Cambridge: Cambridge University Press, 2006); Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (Washington, D.C.: Brookings Institution Press, 2008); Alex Bellamy, *Responsibility to Protect* (Cambridge: Polity Press, 2009), as well as critics, such as Jonathan Graubart, "R2P and Pragmatic Liberal Interventionism: Values in the Service of Interests," *Human Rights Quarterly* 35, no. 1 (February 2013): 69–90. Liberal interventionists like Hillary Clinton, Susan Rice, Samantha Power, and Anne-Marie Slaughter have gained positions of power in the Obama administrations. And they have even been successful in advocating for a UN-authorized intervention in Libya. But the United States under Obama has resisted, in the face of considerable debate, a duty to intervene in such humanitarian crises as the Syrian one.

13. Michael Ignatieff writes that beginning in the 1980s, "academic lawyers like John Bolton, Jeremy Rabkin, and Jack Goldsmith questioned the liberal assumption that American rights conduct needed to measure up to international standards" ("Introduction: American Exceptionalism and Human Rights," in *American Exceptionalism and Human Rights*, ed. Michael Ignatieff [Princeton, N.J.: Princeton University Press, 2005], 22).

14. Contrary to Hopgood's rhetorical stance as a new prophet of anti-universalism, multicultural critiques of human rights are as old as modern human rights itself. See, for example, the American Anthropological Association, *Statement on Human Rights*, 1947, excerpted in the serious consideration given to the anti-universalist position in a leading human rights textbook since 1996: Henry J. Steiner et al., *International Human Rights in Context: Law, Politics, Morals*, 3rd ed. (Oxford: Oxford University Press, 2008), 517–40.

15. The ICC justifies its political obtuseness by claiming to represent "'humanity,' 'civil society,' and the 'international community,' empty abstractions all of them . . . It clearly aspires to . . . permanently subject politics to the law (as if the law was not politics of another means)" (87).

16. Susan Moller Okin, "Is Multiculturalism Bad for Women," in *Is Multiculturalism Bad for Women?*, ed. Joshua Cohen et al. (Princeton, N.J.: Princeton University Press, 1999), 13. See also Catharine A. MacKinnon, "Are Women Human?," in *Reflections on the Universal Declaration of Human Rights: A Fiftieth Anniversary Anthology*, ed. Barend Van Der Heiden and Bahia Tahzib-Lie (The Hague: Kluwer Law International, 1998).

17. Convention on the Elimination of Discrimination Against Women, A/34/46, Article 5.
18. Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2006), 72–102.
19. See, for example, the most recent report submitted by the government of Italy to the Committee on the Elimination of Discrimination Against Women, CEDAW/C/ITA/4–5 (Rome: Ministry for Equal Opportunities, 2002), in which discrimination against women in Italy would seem to be concentrated in southern Italy and the minority Roma communities.
20. Moyn, *Last Utopia*, 8.
21. In Egypt, “violent political action was necessary to realize gains, not decades of protest by Human Rights advocates.” Hopgood, *Endtimes*, 173; see also vii–x.
22. In the famous words of Justice Robert Jackson’s opening statement to the Nuremberg Tribunal. See also Gary Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton, N.J.: Princeton University Press, 2000).
23. Hopgood, *Endtimes*, 145: “their role as self-appointed ‘gatekeepers’ over what constitute Human Rights at the global level [is] one of the ways that the high priests of the secular sacred prevent the dilution and democratization of their authority.”
24. Brysk is familiar with the work of Evgeny Morozov but doesn’t address his important argument in *The Net Delusion* (New York: Public Affairs, 2011), 179–203: “Getting people onto the streets, which may indeed become easier with modern communication tools, is usually a last stage of a protest movement, in both democracies and autocracies. One cannot start with protests and think of political demands and further steps later on. There are real dangers to substituting strategic and long-term action with spontaneous street marches . . . The newly gained ability to mobilize may distract us from developing a more effective capacity to organize.”
25. Joseph Raz, “Human Rights in the Emerging World Order,” *Transnational Legal Theory* 1, no. 1 (2010): 47.
26. Wendy Brown, *Politics Out of History* (Princeton, N.J.: Princeton University Press, 2001), 36.
27. That is why, Brysk writes, “abusive regimes . . . work so hard to ban, subvert and contest them” (Brysk, *Speaking Rights*, 7).
28. David Kennedy, “The International Human Rights Regime: Still Part of the Problem,” in *Examining Critical Perspectives on Human Rights*, ed. Rob Dickinson et al. (Cambridge: Cambridge University Press, 2013), 33.