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## WHY SO PESSIMISTIC ABOUT HUMAN RIGHTS?

The struggle itself toward the heights is enough to fill a man's heart. One must imagine Sisyphus happy.

*Albert Camus*

Like God, human rights discourse cannot escape the ever-vexing critique of the contemporary academic. The inevitable questions thus emerge: “. . . are human rights justified?” . . . “What are they justified by?” . . . “What about the hegemon and all its evil?” . . . “What about Marx’s prophecies?” These are great questions indeed, but they do not negate the immediacy and necessity of human rights praxis and discourse. Further, if indeed human rights deprivations being contemporarily suffered are not an emergency, how long do the purported liberalist hegemons want to wait before they elect to ignore criticism in order to *limit* actual human suffering? It seems apparent that the *political* interventions into the *genocides* perpetrated in the Former Yugoslavia or in Rwanda, at a minimum, had at least some *positive* effects. At a minimum, there seemed to imply an international admonishment on genocide, or even violations of ‘human’ rights; even so, one might assume that while ‘mass death’ was inevitable, the ‘Western Hegemons’ were in *some* way instrumental in limiting the *amount* of death (of course, a westerner is free to choose whether the limiting *limited* enough). For a certain strain in contemporary analysis, the ‘human rights’ idea, as embodied in contemporary ‘human rights discourse,’ is at best, unclear and undeveloped—indeed, unsophisticated; for others, human rights discourse is a fictional justification for expression of state-power—indeed, a product of subterfuge. These postulates of inquiry are not unwarranted; indeed, there have been ‘problems’ in human rights endeavors, and thus, to the skeptic, there are damning contradictions in human

rights discourse and human rights praxis. Even to the Marxist, do human rights endeavors fall short. Thus, my inquiry here involves the ideas enshrined in ‘Anti-human-rights’ discourse. That is, I look at the literature which calls human rights justification into question, and attempt to pinpoint whether I have been persuaded by the literature. I point this out so that it is understood that I have begun this endeavor with a certain bias in mind: I am the faithful; I *believe* in human rights, and thus, I might appear exceedingly tolerant and optimistic of a ‘human rights’ agenda. Therefore, I beg of you, please allow one’s self the position of *pro-human-rights* when reading this paper so that the inquiry may allow for clear contradictions to this position to emerge. To this end, I believe that at the core of human rights is a kernel of faith; in order to actually believe in this ‘stuff’ requires one to suspend certain cynicisms, skepticisms, and criticisms: alternatively, hold fast to them in a manner consistent with fundamentalist zealotry so that you may see the *ad absurdum* exposed.

### Anti-Human-Rights-Discourse

In the early 1990’s, John O. Nelson—prominent Professor of Philosophy at the time—argued that *Human Rights* were based in falsehood: a fiction conjured up by political maneuvering to provide for state-promulgated hegemony.<sup>1</sup> ‘Human Rights’ are not only *dishonest*, but dangerous; they provide for one group to *impose* its will on another; and, are based in discourse premised on faulty reasoning. That is, under ‘rights’ rhetoric, there exists an intellectual dishonesty—a flaw in reasoning; while ‘human rights’ are cast as normative claims in human-rights-discourse, in reality, they are “noble lies, grossly wicked, [and] amounting . . . to genocide.”<sup>2</sup> They are false justifications for imposing values on moral grounds. Where powerful states justify the imposition of will on ‘lesser’ states with falsehoods—to Nelson—the powerful states’ actions amount to *genocide*: the imposition of values upon *another* community, thereby

dismantling the community's political will (organized values, beliefs, judgments), and causing subjugation by virtue of an artificial conception of 'claims'—claims that are often pitted against the cultural norms that identify the community.<sup>3</sup> 'Claims' and 'privileges' that require 'protection' and 'enforcement' *between* communities cannot be established or derived by naturally observable phenomena. Nelson based this in his own scrutiny—utilizing formal logic—of definitions of 'human rights' as either *naturally* occurring or similar to *human* nature.<sup>4</sup> That is, where one is able to correlate rights claims to nature, one *ought* to be able to identify that which validates *universal* applicability and designations of 'rights'. What Nelson found was that *in fact* notions of human rights are not derivable from human nature<sup>5</sup>; that in the absence of such a connection based-in-fact, the "*de jure*" imposition of notions of rights on *others* is unjustifiable<sup>6</sup>; that the specification or particularization of so-called 'given rights' within a particular community develop out of "causally arbitrary"—perhaps even peculiar, or community-specific—means<sup>7</sup>; and, therefore, "it is easy to see why the advocacy of human rights has to be wicked . . ."<sup>8</sup> By advocating for what states utilize as pretext to interfere—which is not logically *rational*—one lends credence to state coercion that is unjustified—the *wicked* in Nelson's statement. Since a human right cannot be derived from human nature, *anything* may be termed a 'right'; that is, Nelson sees no distinction between a 'right to free speech' and a 'right to genocide', etc.<sup>9</sup> While the distinction between the two rights are clear, there is no clear indication as to why one has been established as a *human* right and not the other. The elevation of certain notions of rights verses others is not *natural*, nor products of *causal* outcomes; thus, the use of '*human rights*' as pretext for interference by one state into another is simply *unethical*: it amounts to one community *imposing* its will on another.<sup>10</sup> This is not to say that the rights associated with *citizenship*, i.e., rights of American Citizens, are *also* unnatural or unethical.

However, it presupposes a basis in law that developed *within* a particular community. Hence, “[t]here are the rights of Englishmen, the rights of Americans, the rights of Mexicans . . . and so on”<sup>11</sup>—but there are no ‘human’ rights: rights that apply to all that is *human*. There is no ‘world-community’; and thus, there are no universal beliefs; and thus, there are no universally applicable rights that transcend boundaries of community, culture, nation, etc. What this suggests, as Nelson describes, is that rights enforcement upon a *community* by one state, is in reality, *more so* a unilateral, unjustified act of aggression; the invocation of ‘humans rights’ as the basis for said action is simply a *reach* to an authoritative source—albeit an *artificial*, fictitious source—for justification of state imposition<sup>a</sup> upon an external community.

Approximately one decade later, Raymond Geuss—Professor of Philosophy, University of Cambridge—associated ‘human rights’ with illusion—perhaps *delusion*—an imagined system that only *works* for those who share a, “fantastically optimistic view about God, the world, natural resources, and the avoidability of conflict”<sup>12</sup>—a discourse to even speak of amounts to: “a kind of puffery or white magic.”<sup>13</sup> To Geuss, there is a separation from what current notions of natural, *subjective* rights are with prior notions of ‘natural law.’<sup>14</sup> That is, the notion of ‘natural law’—the idea that there exists an ‘order’ within the *state of affairs*, whereby human relations are bound by certain natural laws that *ought* to regulate inter-human conduct and at the same time bestow *humans* with certain rights before God—cannot be *logically* traced to the attribution of current notions of natural, *subjective* rights to individual *humans*.<sup>15</sup> A *subjective* right is one in which one has a claim on certain actions of *others*, to which if proven appropriately, there is a means for enforcement of the breach of said claim, and a mechanism for remediation in law.<sup>16</sup> That is, the subjective natural right is *inherent* within the individual. This

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<sup>a</sup> Nelson uses the term, “Ukase”: “[1.] an edict of the Russian government;” . . . “[2.] an arbitrary command.” “ukase” (*n.*) Oxford Dictionaries. April 2010. Oxford Dictionaries. April 2010. Oxford University Press. [http://oxforddictionaries.com/us/definition/american\\_english/ukase?q=ukase](http://oxforddictionaries.com/us/definition/american_english/ukase?q=ukase) (accessed December 09, 2012).

of course requires a ‘claimant’ to raise a ‘claim’ on a right—a petition to the appropriate authoritative body—in order to unencumber the claimant’s *right* from breach. The development (if connected) from notions of ‘natural law’ into *subjective* rights is not justified in opposition to establishing *objective* rights only. *Objective* rights are obligations that do not necessarily and inherently provide mechanisms for remediation and enforcement. It can be said that whether by decree, order, ethical precept, the *objective* right is one in which ‘duties’ are equally ascribed to individuals; *subjective* rights ascribe—where appropriate conditions are *met*—‘privileges’ to individuals against others who can be said to have *breached* said privileges. ‘Human Rights’ can be said to be “couched” in a *Subjective-Natural-Rights* framework, or, an *Objective-Natural-Rights* framework.<sup>17</sup> However, this does not reveal the distinction between ‘natural’ rights and ‘human’ rights; namely, that ‘natural’ rights connote rights legitimized in (found in, justified by) *nature*, whereas ‘human’ rights “simply” refers to rights possessed by all *human* beings.<sup>18</sup> Where humans are said to possess *natural, human* rights, it is assumed that said rights are steeped in ‘nature’ and *of* ‘natural’ law.<sup>19</sup> However, as Nelson asserts, Geuss finds no basis for ‘human’ rights in *nature*; to wit, he concludes that in reality, ‘Human Rights’ are simply something that *humans* ‘made-up.’<sup>20</sup> Further, he sees notions of ‘natural law’ to have been discredited, unless one maintains hold to a sort of *blind, moral* optimism. This is further exemplified by the fact that *procedurally*, rights can be waived, “suspended,” or revoked.<sup>21</sup> If this be the case, then no ‘Natural Law’ governs outcomes pertaining to ‘rights’;<sup>22</sup> this is also further exemplified by the fact that rights *can* conflict with ‘rights’ of others.<sup>23</sup> Thus, “rights discourse lacks a coherent rationale.”<sup>24</sup> Therefore, the *idea* that ‘Human Rights’ are a means for understanding or justifying political, international, or state-promulgated *action* is illusory.<sup>25</sup> Nevertheless, this *idea*: “. . . dominates the contemporary political scene.”<sup>26</sup> This is not to say that humans not *ought* to have

rights; however, there lies a *permanent*—indeed *hideous*—impediment to “harmonious cohabitation” in the modern world: the State.<sup>27</sup> For, “the state [is] a structure of coercion that is effectively unavoidable in the modern world and can never be fully voluntary, in any interesting sense of that term.”<sup>28</sup> Therefore, *liberalist* notions of *politics*: the assumption that states *ought* to be based in a “system of individual human rights” fail by the very nature of what the state *is*. The idea that state coercion can be justified by *liberalist* aims regarding *rights* is therefore ‘illusion.’

Shortly after human rights violations suffered by Abu Ghraib prisoners under U.S. Military detention became known via U.S. media in 2004, Wendy Brown—Professor of Political Science, University of California, Berkeley—argued that ‘rights’ are not only a moral discourse in which defenses to abuses of power are postulated, but *may* also be a “vehicle” for state subjugation of communities through “governance and domination.”<sup>29</sup> On one hand, human rights discourse can be said to involve *normative* propositions aimed at limiting suffering—especially state-induced<sup>b</sup> suffering;<sup>30</sup> on the other hand, under the *veil* of human rights, a state *may* commit human rights deprivations against the defenseless—as seen in the Abu Ghraib scandal.<sup>31</sup> Therefore, human rights discourse can be viewed as a form of “anti-politics”—a defense to *political* power; it also can be viewed as a contradictory, perhaps hypocritical pretext for giving expression to “political power”<sup>32</sup> This contradiction, to Brown, is due to an inherent defect in the design of “international human rights.”<sup>33</sup> That is, ‘rights’ as claims by individuals against state-induced suffering contradict with effective aims towards *fair*, “collaborative self-governance and power sharing.”<sup>34</sup> Despite existing individual checks on state-coercion, the state’s “power” is in no way *limited*—indeed, aims toward self-determination remain ‘reduced’ by state power<sup>35</sup>; further, human rights discourse establishes defenses to certain human rights violations, but does not establish *who* enforces, or *how* violations are to be enforced—equally a flaw in design.<sup>36</sup>

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<sup>b</sup> Brown states: “politically induced suffering” instead of ‘state-induced.’

Thus, there exists a *lack* of challenges to state intervention (“imperialism and [support of] indigenous efforts to transform authoritarian, despotic, and corrupt postcolonial regimes”) on a *Human Rights* basis;<sup>37</sup> this is furthered by illusory links between human rights discourse and justice.<sup>38</sup> At best, human rights praxis is a feeble attempt at establishing international justice; at worst, it is “the relatively unchecked globalization of capital, postcolonial political deformations, and superpower imperialism combining to disenfranchise peoples.”<sup>39</sup> It is the product or “ruse” of a ‘liberalist’ agenda.<sup>40</sup> To Brown, the contemporary ‘human rights’ endeavor is a sham; they *amount* to: “[the] installing [of] liberalism and the conditions of free trade.”<sup>41</sup> Alternatively, international human rights *ought* to have been designed as: “[a] form of collective power or vehicle of popular governance;”<sup>42</sup> to Brown, this *would* have been a better alternative to limiting state-induced *suffering*. Thus, like Nelson and Geuss, Brown sees something pernicious about the intermingling of human rights causes and political, *state* power. It provides a false pretense to state action—one that is easily applaudable, yet potentially equally disastrous in terms of *causing* suffering. That is, even where a state goes to war on Human Rights grounds, there is still *more* suffering to come by the community—more so for the victims of human rights deprivations than for the saviors of human rights causes: the intervening state. This flaw exposes a fissure between human rights discourse and the human rights pretext to state intervention. It begs the question: is pretext to state intervention *mainly* an expression of state power? If not, are human rights a justifiable pretext to expressions of state power? If so, are states successful in limiting suffering where action is justified on human rights grounds? Brown believes that it is here where the endeavor—at best—falls short; indeed, she asks: “[is it] the most we can hope for?”<sup>43</sup> Further, to Brown, human rights discourse has ‘drowned’ out all other *attempts* to limit suffering and to better establish international justice—indeed, it has “monopolized.”<sup>44</sup> However, if the telos of



human rights discourse is to limit suffering, or even spread “self-governance,” for the sake of effectiveness, *other*, more suitable means (“political projects”) *ought* to be employed.<sup>45</sup>

One year later, in 2005, Slavoj Žižek—the ‘celebrity’ academic—looked upon the contradiction enunciated by Brown, and saw the worse-case-scenario: “universal human rights are effectively the right of white, male property-owners to exchange freely on the market, exploit workers and women, and exert political domination.”<sup>46</sup> Žižek sees the contradiction between human rights discourse and human rights justification for state intervention as borne out of the dominating liberalist ‘agenda’ in western, capitalist society; indeed, he sees deception in contemporary secular democracies, and as such, in human rights as pretext for expression of Western-state power.<sup>47</sup> Like Marx, Žižek illustrates the view that the endeavors of ‘capitalist’ regimes prevent true, *political* transformation of communities.<sup>48</sup> The hindrance is exacerbated by the Western-state hegemon, which is able to dominate given its exploitation of labor, and, the resulting socio-economic inequality amongst communities.<sup>49</sup> Žižek traces this down to individual behavior in the liberal-capitalist society: our cultural artifacts are stripped away to the point where acknowledged differences are rooted in nature: “[a]ll big ‘public issues’ are now translated into attitudes towards the regulation of ‘natural’ or ‘personal’ idiosyncrasies.”<sup>50</sup> In effect, we are reduced to that which we possess in our individual bodies, which is depoliticizing in nature. By this, human rights discourse—the model in which we may all be reduced to—serves as pretext: a *reason* for the ‘exploitation of labor’ to spread.<sup>51</sup> For Žižek, contemporary aims at reducing state-induced suffering and defending against state power have the effect of ‘depoliticizing’ groups—disidentifying agents from their own cultural norms, and reducing them to a fictional, universal code of claims which ultimately serve to further subjugate the purported victims—the subjects of the hegemon.<sup>52</sup> This is tantamount to the imposition of ideology—

somewhat akin to Nelson’s ‘genocide’ claim. However, in human rights discourse, Žižek sees an *emerging peculiarity: universality*.<sup>53</sup> Universality implies the stripping away of the many diverse circumstances in which one might identify themselves with, and replaces it with an abstraction—in effect, a reduction of the human; it is the human removed from context—the “social edifice.”<sup>54</sup> This is symptomatic of the commoditization of the human—defining humankind in terms of “[a] universal capacity to think or to work.”<sup>55</sup> Thus, like Marx, Žižek sees a ‘gap’ between human rights ideology and the particular economic, state-power dynamics at play in liberal-capitalist society. Žižek extends this conceptual gap to exist between the universality of human rights and the rights of *citizens*, citing Rancière: “[the universal] separates the whole of the community from itself,”<sup>56</sup>—and therefore becomes the designate place-holder *for* “politicization.” This contradiction—between depoliticizing and reducing the human apart for society, and, establishing the sphere of politicization around the human apart from society, within a human rights framework—has the effect of *universalizing* the social, in which universal rights and political rights are indistinguishable. The effects, as Žižek puts it, is the: “reduc[tion] [of] politics to a ‘post-political’ play of negotiation of particular interests;”<sup>57</sup> thus, there exists yet another contradiction<sup>c</sup>: human rights politicizes the dehumanized human, and limits, or standardizes, political rights to a bare minimum. Further, the framework itself—the discourse used by Western hegemony as pretext, and, the universalizing reduction of the human apart from society—is a ‘post-political’ abstraction taken up by the sufferers as: “a means to symbolize their terrible plight.”<sup>58</sup> In essence, to attribute rights to the reduced human is to reduce the rights *of* the human, and equally, to reduce the political rights of citizens to tenets ascribed to the ‘dehumanized’ human.

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<sup>c</sup> Žižek terms it ‘paradox’.

## Counterarguments

It can be said that where the description of atrocity is ‘dressed up’ in terms of ‘crimes against God and Nature,’ the academic adds: “. . . but there is no God and no Natural Law; ergo, human rights discourse is delusion.” This seems excessively pessimistic, especially in light of the *fact* that there have occurred crimes—*wrongs* perpetrated by states, of which are so great in magnitude, that there *ought* to be an attempt to permanently admonish the conduct—by the *entire* community. Perhaps natural law is a fiction, and the rights discourse that is said to stem from Locke, Hume, Mill, *et al.*, beginning in the 17<sup>th</sup> Century, as applied today, is product of historicist, materialist reading of history.<sup>d</sup> That is, one looks back and ‘connects dots’<sup>e</sup> in history to justify *belief*: faith that the justification to human rights is *real*. Looking to nature to assess what appears ‘natural’ or ‘unnatural’ is a difficult task indeed. Where unnatural, it is presupposed that there are things—facts—that have emerged out of nature as unnatural. Of course, this typically encompasses the entire human discourse of any sort, any topic. That is, all that humankind produces is ‘unnatural.’ Yet, there are facts—events that *have* occurred—which our culture now ‘freely’ associates with that of ‘human’ rights. Indeed, this is generally assumed to be a ‘good’ thing. Put another way: “[f]or the totality of facts determines what is the case, and also whatever is not the case.”<sup>f</sup> Well, currently, there *in-fact* exists a body of law in which state conduct *may* be measured, and, there is *in-fact* a mechanism—albeit seemingly ineffectual at times—for utilizing ‘human rights’ in law to justify limitation on excesses of state-power. It is also fact that ‘human rights’ has been wholly adopted into our contemporary lexicon. This is to say, clearly human rights are human-made, and, clearly human rights exist. Are they justified in nature? Of course, Nelson and Geuss do not believe so. Perhaps, instead of looking to define

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<sup>d</sup> See Walter Benjamin, *On the concept of History* (1940)

<sup>e</sup> In this instance, meaning selectively picking facts to justify a theory or belief.

<sup>f</sup> See Ludwig Wittgenstein, *Tractatus Logico-Philosophicus* (1921), Quote taken from § 1.12

human rights in nature, Nelson should have looked to define *nature*. Whether it is *believed* or *not*, human rights *is* a political topic, *is* a politicizing topic, and *is* a moralizing topic. The ‘topics’ or ‘strategies’ exist in fact, and do indeed *effect* contemporary inter-community relations. To say that the designation of claims to humans in a *universal* way is unnatural is to entirely skip-over the magnitude—indeed the emergence—of there being a potential political consensus centered on the *rights* of the human. Indeed, this idea has either mutated, evolved, matured, or perhaps more recently been borne out of post-Second World War ad-hoc administration of justice.<sup>8</sup> Nevertheless, as-is today, Human Rights discourse does indeed dominate political thought in western-capitalist societies, and it does provide at a minimum, a sort of *hope* that where states commit atrocities, there can be a method in which state action can be measured, and even better, admonished. Thus, a quasi-‘Pasquale’s Wager’ emerges: if justification is required, isn’t the individual human *better-off* if one believes that human rights are justified, whether in nature or in history? Perhaps even better: maybe ‘belief’ is not necessary? Being established as praxis in law, human rights ‘administration’ is certainly developing and applying *procedural* human rights to inter-State relations. Thus, there appears an emerging telos to human rights discourse, and an outcome of which, its totality cannot *precisely* be known at this time. The ‘choice’ lies in whether it is progressive or not. That is, whether the reduced human *codified* is leading us toward *less* human suffering; and, whether rights couched in terms of ‘freedoms’ are an effective means for preventing *future* human suffering and excessive expression of state-power. Telos as reducing human suffering and limiting excessive state-power, is at a minimum, a progressive one.

Brown, of course, sees human rights—at best—as an ineffective means to limiting state-induced suffering; at worst, it is a pretext for validating state coercion and aggression.

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<sup>8</sup> See Samuel Moyn,

Likewise, Žižek sees either a fiction that provides for the *veiled* exploitation of labor and expansion of western hegemony; he also sees an emerging notion that reduces the human by splitting-off the human from social context, and, has the effect of limiting existent *political* rights possibilities. By all means, there have been ‘mishaps’ and ‘misuses’ in human rights praxis. Indeed, there have been contradictory motives amongst state actors and there have been human rights abuses in human rights causes. It is perhaps due to inefficiency at the administrative level, i.e., United Nations, International Court of Justice, etc.; it is perhaps due to the seemingly contradictory nature that state-power holds in relation to human rights efforts. Clearly, inefficiencies, misuse, and mishaps can be *cured*; but, does state-power stand in opposition to normative *aims* enshrined in human rights discourse? Is it inconceivable that a state can legitimately use its power to both limit external state-induced suffering, and, at the same time not commit human rights atrocities of its own? Is all state-action purportedly based in human rights that of capitalist exploitation and exported liberalism? Perhaps sometimes, and perhaps sometimes *not*; indeed, Abu Ghraib<sup>h</sup> is a really bad example—it is the worst case scenario potentially seen as defining of the entire human rights endeavor. However, who presumes that the US is the best example of an intervening state on rights grounds? Who is unaware that certain officials within the US Administration that waged war in Iraq have been characterized as ‘War-Criminals’ in contemporary discourse? Who is unaware that the prosecution of ‘Crimes against Humanity’ is separate and distinct from the dropping of atomic bombs on Hiroshima and Nagasaki? Brown and Žižek appears to resist splitting human rights discourse *in toto* from the United States—this perhaps due to a lack of faith in there actually being the *chance* for all humans to possess fundamental rights before *all* states. Attaching human rights to the US as the

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<sup>h</sup> Use of the Abu Ghraib Scandal is my own. Brown references the US Guantánamo Bay Detention Center and invasions of Iraq and Afghanistan as examples.

sole constituent of human rights praxis is indeed an exercise in belittling, perhaps insulting the more idealistic, normative claims enshrined in human rights discourse. To be clear, western nations have indeed committed human rights violations—in the deep past and more recently in the present. However, to therefore assume that human rights efforts are therefore discredited, or worse: that they incorporate a subversive aim, seems to me, to be quite a leap. After all, infallibility is *unnatural*. Perhaps it is not that ‘human rights’ reduce the human to an automaton without culture; perhaps human rights simply *transcend* culture—or even, *national* identity, in aim and at a minimum. Therefore, hegemonic forces and use of abstraction in defining the human relative to the state do indeed exist, but there equally exists potential for state-actors to legitimately limit state-induced suffering externally, and at the same time, limit collateral fallout associated with state-intervention, especially on human rights bases. This is not to say that state intervention not based in human rights is justified; rather, it is to say that there is room for *better* human rights and state-intervention outcomes. Perhaps Žižek is mistaken in the view that the universalization of rights occurs across *all* humankind; perhaps what is occurring is the memorialization and universalization of human rights views across all *states*. It would appear that that which prevents Žižek from making such a connection are his Marxist views. Namely, that western, capitalist nations’ sole *raison d’être* is to exploit labor and dominate ‘lesser’ socio-economic states via hegemony. Brown does not go so far; instead, she merely suggests that it cannot be assumed that human rights are not being used to serve the subversive motives of Western nations, and thus, there ought to be *critique*.

### Conclusions

I have not found Nelson’s, Geuss’, Brown’s, and Žižek’s comments to be persuasive. That is, while I do see ‘hints’ that *rights* are not steeped in nature, or, that human

rights pretext *can* run contradictory to normative aims in rights discourse, or, that hegemony and crude capitalism are the dominant forces under veil of human rights. However, I am in no way persuaded to surrender my own views on human rights; namely, that albeit subject to change, human rights represent fundamental, inherent, and necessary claims for the individual within *modern* state-power structures. It is an available defense, of which, I will gladly use if necessary. Further, I can unequivocally state that where there can be said to be human rights deprivations as conceived in modern rights declarations, treaties, and in human rights advocacy, there exists an implicit admonishment on behavior that contradicts normative aims in human rights discourse. It is entirely possible that state action may contradict these normative aims, but that does not negate the validity of the normative claims. Indeed, contradictory ‘behavior’ occurs amongst states, and, there are unintended consequences associated with war; but in lies the discourse is a *moral* designation upon conduct that runs counter to the rights of individuals—despite the violations and deprivations that occur. Does this therefore suggest that human rights endeavors are therefore ineffectual? No—I do not think so; it is the *moral* designation that is key. Only if moral claims centered on human rights fail, would there appear to be a defect so disastrous that the entire discourse ought to be trashed. Thus, suffering *ought* to be limited—especially state-induced suffering; equally, excesses to state-power *ought* to be curtailed. Under these aims, the human rights framework works in theory; it is in the implementation, whose praxis is perhaps not fully developed, where human rights aims become problematic, i.e., the intervening state on human rights pretext committing human rights violations of its own. Therefore, perhaps the insufficiency of contemporary human rights aims lie in contemporary *political* or *governmental* praxis, and not an inherent lack of justification in nature. Is it therefore right to blame human rights discourse when states—including our own—fail to limit state-induced suffering at home

and abroad? Of course not; we look to the administrators, the leaders, the agents, etc., and attribute blame for failures of the endeavor. The pretext to this blaming is that the *ideal* has not been achieved. That *ideal* is one whereby all humans possess certain, factually existent (whether in procedure or history) ‘freedoms,’ which *ought* not to be violated. The consistent development of efficient and effective methodologies for assessing, correcting, and enforcing human rights *ought* to more closely facilitate outcomes more consistent with the ideal. Thus, in human rights discourse, I see an emergent telos: the establishment of rights for all individuals before the state—in any form (e.g., western democracies, oligarchies, etc.). In essence, it is the process of making *state* legitimacy contingent upon its human rights record, whereby state-illegitimacy stands relative to the individual and to justification for an external state to intervene. By this, I can concede that even the US may be ‘down-graded’ for human rights deprivations. Equally, given the nature of transitional justice (namely, that at a certain point after punishment, states are able to ‘forget’ past violations), I can see there being a pathway for states to *gain* legitimacy: by subordinating expressions of state-power to the rights of *humans*, and not only the rights of ‘citizens.’ It is here that Marxist aims may finally find solace: conceding that the human is reduced, there exist fundamental rights that even the liberal-capitalist agenda *ought* not to defy. In other words, we *ought* not to burn the entire human rights discourse simply because it has not met utopian achievement *as yet*.

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<sup>1</sup> John O. Nelson, “Against Human Rights,” *Philosophy* 65(1990): 341, accessed December 2, 2012, doi: 10.1017/S0031819100057648.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Id.* at Pg. 347

<sup>4</sup> *Id.* at Pg. 344-345

<sup>5</sup> *Id.* at Pg. 345

<sup>6</sup> *Ibid.*

<sup>7</sup> *Id.* at Pg. 347

<sup>8</sup> *Ibid.*

<sup>9</sup> *Id.* at Pg. 345

<sup>10</sup> *Id.* at Pg. 347-348



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- <sup>11</sup> *Id.* at Pg. 347
- <sup>12</sup> Raymond Geuss, *History and Illusion in Politics* (UK: Cambridge University Press, 2001), 149.
- <sup>13</sup> *Id.* at Pg. 144
- <sup>14</sup> *Id.* at Pg. 136
- <sup>15</sup> *Ibid.*
- <sup>16</sup> *Ibid.*
- <sup>17</sup> *Ibid.*
- <sup>18</sup> *Id.* at Pg. 140
- <sup>19</sup> *Id.* at Pg. 145
- <sup>20</sup> *Ibid.*
- <sup>21</sup> *Id.* at Pg. 147
- <sup>22</sup> *Id.* at Pg. 149
- <sup>23</sup> *Ibid.*
- <sup>24</sup> *Id.* at Pg. 150
- <sup>25</sup> *Id.* at Pg. 152
- <sup>26</sup> *Id.* at Pg. 153
- <sup>27</sup> *Ibid.*
- <sup>28</sup> *Ibid.*
- <sup>29</sup> Wendy Brown, ““The Most We Can Hope For...”: Human Rights and the Politics of Fatalism” *South Atlantic Quarterly* 103(2004): 459, accessed December 9, 2012, doi:10.1215/00382876-103-2-3-451.
- <sup>30</sup> *Id.* at Pg. 453
- <sup>31</sup> *Id.* at Pg. 460
- <sup>32</sup> *Id.* at Pg. 453
- <sup>33</sup> *Id.* at Pg. 461
- <sup>34</sup> *Ibid.*
- <sup>35</sup> *Id.* at Pg. 459
- <sup>36</sup> *Id.* at Pg. 460
- <sup>37</sup> *Ibid.*
- <sup>38</sup> *Id.* at Pg. 459
- <sup>39</sup> *Id.* at Pg. 462
- <sup>40</sup> *Id.* at Pg. 461
- <sup>41</sup> *Id.* at Pg. 460-461
- <sup>42</sup> *Id.* at Pg. 461
- <sup>43</sup> *Id.* at Pg. 460
- <sup>44</sup> *Id.* at Pg. 461
- <sup>45</sup> *Id.* at Pg. 462
- <sup>46</sup> Slavoj Žižek, “Against Human Rights” *New Left Review* 34(2005): accessed December 19, 2012, Pg. 129
- <sup>47</sup> *Id.* at Pg. 128
- <sup>48</sup> *Id.* at Pg. 126
- <sup>49</sup> *Id.* at Pg. 121
- <sup>50</sup> *Id.* at Pg. 117
- <sup>51</sup> *Id.* at Pg. 128
- <sup>52</sup> *Ibid.*
- <sup>53</sup> *Id.* at Pg. 129
- <sup>54</sup> *Id.* at Pg. 130
- <sup>55</sup> *Id.* at Pg. 129
- <sup>56</sup> *Id.* at Pg. 131
- <sup>57</sup> *Id.* at Pg. 131
- <sup>58</sup> *Id.* at Pg. 130