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Book Review

American Gulag: Inside U.S. Immigration Prisons, by Mark Dow

Publisher: University of California Press (2004)
Price: $27.50
Reviewed by: Julie Wilensky

In the wake of stringent 1996 federal immigration laws and post-9/11 terrorism concerns, the number of immigrants held in administrative detention in the U.S. has increased at an alarming rate. The Bureau of Immigration and Customs Enforcement (formerly the Immigration and Naturalization Service) currently detains around 200,000 noncitizens each year, and the federal government plans to expand the number of detention beds by 40,000 in the next five years.1 Some detainees are held in agency centers, but most are held in public and private corrections facilities alongside criminals serving sentences.2 Mark Dow documents this lucrative and expanding system of immigration detention in American Gulag: Inside U.S. Immigration Prisons. Drawing on ten years of research and interviews with detainees, advocates, immigration officials, government bureaucrats, and prison personnel, Dow provides a compelling account of the arbitrariness, secrecy, and abuse that pervades the U.S. immigration detention system.

American Gulag's greatest strength is Dow's vivid presentation of

2. In 1996, Congress passed the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which together expanded the category of crimes for which legal permanent residents could be deported, eliminated agency discretion to release certain detained immigrants, and mandated increased detention of asylum seekers. The IIRIRA standards allow for the detention of a legal immigrant for offenses as trivial as hair-pulling. See DOW, supra note 1, at 15. Detainees include immigrants who entered the U.S. without proper documentation or overstayed their visas (including asylum seekers); those who have any past criminal convictions, regardless of whether they have already served time for the offense; and those who are suspected of terrorism.
individual stories using detainees’ own words in lengthy quotations from interviews and letters. Through these accounts, Dow demonstrates how detention transforms ordinary people into dissidents and activists who carry out widespread hunger strikes and media campaigns to protest their detention and mistreatment. He draws readers into the story of Tony Ebibillo, a Nigerian asylum seeker who was detained for a year and then deported in 1991 for overstaying his visa. During his detention, Ebibillo was often kept in solitary confinement, denied access to a phone, and verbally abused by guards. Although Ebibillo’s application for asylum was still pending, the INS decided to deport him. One day, guards forcibly sedated him, taped his mouth shut, put him in a straitjacket, and then handcuffed and shackled him to prepare for deportation. When the commercial airline employees saw Ebibillo’s condition, they refused to transport him to Nigeria, and the INS had to charter a plane to take him back.

Dow also tells the story of Felix Oviawe, another Nigerian asylum seeker who experienced outrageous abuse in detention. After voluntarily presenting himself to immigration authorities as an asylum seeker when he entered the U.S. at JFK airport, he was detained at the INS Esmor Detention Center in Elizabeth, New Jersey. When transferred to the nearby Union County Jail, he and two dozen other detainees received a “beat and greet” reception from the guards that, according to the prosecutor’s indictment, involved beating as well as “plucking detainees’ body hairs with pliers, forcing detainees to place their heads in toilet bowls, encouraging and ordering detainees to perform sexual acts upon one another, forcing detainees to assume unusual and degrading positions while naked...” Unlike most accounts of prisoner abuse depicted in American Gulag, in this case numerous Union County officers were convicted on multiple criminal charges. While abuse of detainees has only recently made headlines due to the situation in Cuba and Iraq, this incident took place in 1995 – nine years before Abu Ghraib. Although this story is extreme, Dow provides numerous examples of prison guards abusing detainees and threatening torture.

That both of these stories are about Nigerians is no coincidence; Dow makes a convincing case of institutionalized racism against African and Middle Eastern immigrants. He interviewed a former INS asylum officer who relates the story of a troubling event she witnessed in Los Angeles in the 1990s: an INS supervisor, frustrated with the large number of Somalis applying for asylum, handcuffed a Somali asylum applicant and left him in a locked car in the midday heat, calling the horrific event a “nigger roast.” Dow’s analysis is broad, and institutionalized racism is just one of many problems he depicts within the sprawling system of immigration detention.

Though Dow is clearly sympathetic to the detainees, American Gulag
offers a nuanced perspective on immigration authorities and corrections
officials, who enjoy a closely cooperative relationship. Many officials Dow
interviewed bragged about their authority and had no qualms about
treating the detainees like criminals, demonstrating what Dow calls the
“backward logic” that if someone is locked up, then the person must be a
security threat, regardless of whether the person has committed a crime.
However, Dow also interviewed a few prison and immigration officials
who are sympathetic to detainees and advocates: one INS District Director
told a roomful of lawyers that their options are “limited given the stupidity
of the law which [he is] mandated to enforce . . . and which [they] are
mandated to dismantle.”5 Dow captures a certain level of ambivalence
within the immigration agency, noting that that some immigration officials
have even criticized the 1996 laws in press releases.

The scope of Dow’s research is impressive, but the wealth of
information he presents sometimes undermines the organizational
structure of the work. At times, the chapters seem to blend together and
one may confuse the many characters in Dow’s narratives, finding it hard
to remember what each person’s role is in the system. Dow clearly faced an
overabundance of information from desperate detainees – for every
included anecdote, letter, or telephone message in American Gulag, one
wonders how much information the author omitted. On interrupting a
detainee’s story of his broken marriage, Dow reflects, “People need to tell
us many things that seem to have no place in a courtroom or bureaucrat’s
office or a newspaper article or a book.”6 Dow succeeds in documenting firsthand the treatment of immigrants
in detention: no easy task, as he encountered substantial difficulties in
obtaining access to sources. However, his work is limited to exposing and
describing the system of immigration detention as it has operated for the
past fifteen years. Although American Gulag vividly describes the many-
faceted problems of the immigration detention system, Dow’s only
proposal for addressing the underlying laws and policies is careful
monitoring.

Nonetheless, Dow’s work and the work of other critics may have
created ripples in the agencies themselves. In January 2005, the new
Inspector General of the Department of Homeland Security (DHS) began
an intensive audit of the immigration detention system, a task to which
Dow has dedicated ten years. It can only be hoped this audit will compel
DHS to overhaul and reform the current system of immigration detention.
Anyone who has read the horrific narratives in American Gulag would
certainly demand no less.

5. Id. at 249.
6. Id. at 246.
Book Review

Buried Secrets: Truth and Human Rights in Guatemala, by Victoria Sanford

Publisher: Palgrave Macmillan (2003)
Price: $22.05
Reviewed by: Jael Humphrey-Skomer

Over 200,000 people were killed or disappeared, more than 1 million displaced and at least 626 villages destroyed during Guatemala’s 36-year armed conflict according to the United Nations sponsored Commission for Historical Clarification (CEH). Victoria Sanford worked for more than a decade in Guatemala—literally unearthing the country’s horrific past as an anthropologist with the Guatemalan Forensic Anthropology Foundation (FAFG). From 1994—two years before the Peace Accords—onward, Sanford interviewed more than four hundred survivors of the conflict, from massacre escapees to massacre perpetrators, from soldiers to guerillas, from locals to officials. However, it is the voices of Guatemala’s majority, impoverished, indigenous population that most permeate Buried Secrets: Truth and Human Rights in Guatemala.

Perhaps the clearest lesson that arises from Sanford’s work is that the breaking of silence and confrontation of past abuses is necessary on an individual, community, and nation-wide level if Guatemala is to move beyond its past. Sanford successfully argues not only that memory and truth are fundamental in contesting the continued effects from the army’s campaign of terror, but also that truth and memory play a fundamental role in the transition from an authoritarian regime to democracy.

Sanford cautions that stories can be lost in numbers as she carefully broadens her analysis from the micro level of individual survivor stories to the macro level of categorization of shared experiences. In a phenomenology of terror, Sanford organizes the accounts of “La Violencia”

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(or simply "the Violence") into seven temporal categories: (1) pre-massacre community organizing and experiences with violence; (2) the massacre; (3) post-massacre life in flight; (4) army captures and community surrenders; (5) model villages; (6) ongoing militarization of community life; and (7) living memory of terror. An understanding of the violence, which extended beyond the massacres themselves, is essential to overcome its effects.

Sanford's use of testimony is extremely effective. Doña Elena's story, for example, exemplifies the extent of the violence against Mayan civilians. After the massacre in which Doña Elena lost her husband, she fled to the mountains where she gave birth to their son, endured hunger and illness, and fled constantly from the military until it announced an amnesty. In her new "model" village, the army controlled all aspects of life, men were forcibly recruited and women were frequently raped. The army-generated atmosphere of terror is a legacy that survives to this day, and distrust and insecurity are rampant in war-ravished regions.

Throughout the book, Sanford attacks David Stoll's work in which he portrays the luckless Maya as caught between the fighting of the state and guerilla armies. Both Stoll and Sanford agree that the army failed to differentiate between civilian and non-civilian populations and generally targeted rural Maya. In Sanford's eyes, Stoll accepts army rhetoric by alleging that the guerilla provoked army repression of indigenous communities. The Stoll thesis, thus, internalizes the army discourse which sought to make the guerilla responsible for the human rights violations the army committed. Sanford's testimonies, without idealizing the guerilla—indeed she describes guerilla abuses—convey an intimate story of a long-term struggle and social organization in indigenous communities that led to state repression. If more sympathetic to guerilla factions than Stoll, Sanford assigns responsibility for the massacres to the perpetrators. She thus more accurately reflects what the UN sponsored Commission for Historic Clarification quantified in their final report: that 93% of human rights violations were committed by the state while only 3% were committed by guerilla forces.

One of the most valuable contributions in Sanford's work is her argument that state violence against the Maya constituted genocide. The CEH employed the concept of intent to differentiate between acts of genocide and genocide itself, concluding that the former occurred in Guatemala. The final goal of genocide is to exterminate a group of people in whole or in part. Acts of genocide, on the other hand, have a political, economic, or military goal, and the extermination of a group in whole or in part is the means used to achieve this objective. This distinction begs the question of whether the extermination of a group of people is ever completely separate from another final goal. Sanford does not directly confront the CEH's problematic interpretation of intent, but rather

embracing CEH’s distinction, sets about to show that the genocidal acts
employed by the state were both a means and an end in the armed conflict.
Sanford cogently argues that the targeting of Mayan villages cannot be
separated from the army’s racist motivations. The army conflated political
affiliation with ethnic identity, and at least partially measured the success
of the counterinsurgency operations by the extent of systematic
extermination of the rural Mayan population.

The first part of her book lays the groundwork for Sanford’s arguments
about the necessity of truth and justice to move beyond the impediments of
state constructed terror if democracy and the rule of law are to be
established in Guatemala. There is value in exhuming clandestine
cemeteries and acknowledging the truth. Amnesty, on the other hand,
Sanford argues, legitimizes impunity and reinforces antidemocratic
notions. Her argument is compelling in the Guatemalan context where
many perpetrators of human rights abuses maintained power after the
Peace Accords were signed, making legal prosecutions even more
necessary to demonstrate that government abuses of the civilian
population will not reoccur. Sanford’s argument for legal prosecution is
tempered by her acknowledgment of the “grey zones” of responsibility.
Sanford describes the forced recruitment of indigenous youths into the
army and the plight of civil patrollers forced to choose between death and
engaging in acts of violence. She thus promotes the importance of focusing
prosecution at higher levels in the military chain of command.

Sanford’s writing style is refreshing in its clarity, and criticisms of
Buried Secrets may be limited to her approach. The text improves when she
drops herself as a personage and directly conveys the testimonies she
received or offers analysis. Additionally, despite Sanford’s warning against
forgetting the individual, she at times sacrifices some of the specific to the
general – focusing more on the common experiences of the armed conflict
survivors and failing to offer a nuanced depiction of how the violence
differed amongst the rural regions in Guatemala. At times it is even
difficult to decipher which massacre or which region the author is
describing.

As a whole, Buried Secrets is a valuable contribution to scholarship on
Guatemala’s armed conflict. Sanford offers insight into the experience of
those who lived through the armed conflict, contributes to the legal debate
about the Guatemalan genocide, and advances a vision of Guatemala
where justice can lead to reconciliation.
Book Review

International Law from Below: Development, Social Movements and Third World Resistance, by Balakrishnan Rajagopal

Publisher: Cambridge University Press (2003)
Price: £50.00
Reviewed by: Ji Li

While many lawyers and legal scholars seek to promote human rights using international law, Rajagopal proposes to revamp the international system by incorporating the concept of third world social movements. He contends that international law has been “too western, elitist, male-centered, and imperial,” and that the International Relations theory of liberalism focuses too narrowly on NGOs and therefore does not sufficiently explain most third world social resistance. Meanwhile, recent research reinforces the notion that international human rights law, which is often minimally monitored and enforced, is “not reliably associated with better human rights practices.” In International Law from Below, Rajagopal encourages readers to consider how incorporating third world resistance and downplaying the role of the state may strengthen the impact of international law. However, while Rajagopal’s efforts are timely and valuable, his analysis is incomplete. He fails to take sufficient account of the political contexts of third world social movements. Nor does he offer a feasible alternative to the extant international law and institutions.

Rajagopal’s neglect of domestic political structure may have been intentional, given that traditional categorizations of political institutions dichotomize the world into democracies and non-democracies—an institutional approach that Rajagopal views as insufficient. More precisely, he views this dichotomization as a western concept that gives too little

thought to third world social movements. However, due to his concern with the conceptualization of democracy, Rajagopal neglects to thoroughly analyze underlying domestic political dynamics, which are indispensable for a full comprehension of the relationship between international law and third world movements.

Rather than neglecting domestic political considerations, Rajagopal could have utilized an approach similar to that of Robert Dahl, who demystifies democracy by creating a continuum of political institutions ranging from a “closed hegemony” to a “polyarchy.” Each point along the continuum is composed of two factors: public contestation and the right to participate. The former refers to the extent of permissible opposition or political competition, and the latter represents “the proportion of the population entitled to participate on a more or less equal plane in controlling and contesting the conduct of the government.” Without resorting to abstract conceptualization, Dahl creates a theoretical tool to analyze the politics of third world countries.

Rajagopal’s failure to differentiate countries based on public contestation and the right to participate compromises his analysis in several aspects. First, Rajagopal argues that current international law is made partially by elite policy makers of third world countries and suggests de-elitizing it. This suggestion inappropriately fails to recognize that elite policy does incorporate the goals of social movements in certain political contexts. As noted in the book, a major feature of third world social movements is the plurality of their participants. For such social movements to exert certain impact, some organizations or NGOs must act as the “glue.” The leaders of the NGOs, as participants of local movements, recognize the preferences of the “invisible.” If the social movements are embedded in a polyarchy, these NGO leaders will be able to interact with and periodically replace national policy makers. In this situation, allowing international law to bypass elites may hinder achieving the proposed goal of reaching the social movements. Even if the leaders of NGOs lack political ambitions, high levels of political contestation will render elite policy makers bound by the preferences revealed by social movements.

Second, Rajagopal’s neglect of political institutions compromises his contention that international law and institutions are inappropriately state-centered. Rajagopal fails to recognize that the importance of external recognition of social movements varies with the level of internal democratization. In a polyarchy, the state will likely respond to the preferences of the majority voters, so the attention of international institutions or the imposition of international law is not necessary for the incorporation of social resistance. The unexpected defeat of the Bharatiya Janata Party (BJP) in India in 2004 best illustrates how domestic political institution enabled concerns of “invisible” social groups to trump the

4. Id. at 4.
5. RAJAGOPAL, supra note 1, at 238.
narrowly-set development agenda.  

Third, Rajagopal stresses that international law and institutions should be reformed to increase the visibility of marginalized movements. This is a valid argument. Even in a polyarchy, the state tends to ignore the preferences of marginalized groups. Therefore, state-centered international law and institutions will not improve the status of these groups. However, the social movements of these marginalized groups belong to a subset of the movements discussed by Rajagopal. Due to his neglect of political factors, Rajagopal fails to distinguish this subset or to provide a theoretical justification for rendering specific attention to marginalized social resistance. Moreover, since almost every individual in a third world country is simultaneously a member of different cultural or social groups, which of his or her preferences should be incorporated and justified? What if there are conflicting preferences and interests? Rajagopal leaves these important questions unanswered.

Rajagopal advocates that international law treat the state as one of many actors and derive concepts from third world social movements rather than from pre-set western norms. Though Rajagopal has detected the debatable features of extant international law and institutions, his suggestions do not constitute feasible alternatives. First of all, he does not have an operable definition of social movements. "Social movements ... are extremely diverse and dramatically vary from country to country or even from region to region." Rajagopal considers this "plurality" and "contradiction" an interesting and useful area of study for human rights; however, readers cannot help asking "the plurality of what?" and "the contradiction of what?" Rajagopal tries to delineate the set of social movements by the concept of cultural politics. Yet this only leads to the question of how exactly cultural politics orient or motivate social resistance.

Rajagopal's efforts to rethink the extant international law and institutions are timely and valuable. However, his failure to differentiate social movements according to their political contexts flaws his analysis and undercuts his sweeping proposal for systematic change of international law and institutions.

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9. RAJAGOPAL, supra note 1, at 249.
Book Review

Overcoming Apartheid: Can Truth Reconcile a Divided Nation? by James L. Gibson

Publisher: Russell Sage Foundation (2004)  
Price: $47.50  
Reviewed by: Michael Y. Yarbrough

Law and legal institutions have always drawn heavily from their cultural contexts in formulating assumptions, interpretations, and normative standards. Similarly, legal institutions can effect large changes in cultural norms and structures that in turn can change popular notions of justice. Truth commissions, themselves part legal and part cultural institutions, have by their very nature always implicitly acknowledged this feedback loop. But South Africa made it explicit to a greater degree than had ever been done before. Its Truth and Reconciliation Commission (TRC), led by a cleric rather than a jurist, simultaneously intervened both in concrete questions around the legal status of individual actors from the apartheid regime and its opposition, and in more abstract questions about the role of that immediate history in the remaking of the country's values. The TRC thus explicitly tied questions of law to questions of culture as crucial to its role in instituting a human rights regime.

This explicit mission presents an unprecedented opportunity for a kind of social experiment: Did the TRC succeed in establishing a broadly-held human rights culture that can support the legal enforcement of those rights for decades to come? In his recent book Overcoming Apartheid: Can Truth Reconcile a Divided Nation?,1 James L. Gibson concludes that it probably did. He presents data suggesting that many South Africans emerged from the TRC process more open to interracial reconciliation and a human rights culture. Although tempered somewhat by what Gibson views as troubling signs, particularly among black respondents, he presents a largely optimistic picture both for South Africa and for future truth commissions.

These conclusions are drawn from an extensive, and groundbreaking, survey of South Africans’ attitudes about race, politics, tolerance, history, and law. The TRC appears at every stage as a special optic through which to view the current state of South Africa’s young democracy. While largely discrete and readable on their own, successive chapters build on metrics developed earlier in the book. This allows Gibson to analyze, for example, the relationship between South Africans’ acceptance of the TRC’s version of “truth” and their willingness to reconcile across racial and political lines. A reader who is willing to accept the validity of his metrics on faith, however, can easily focus only on those chapters which interest her.

The sheer mass of data assembled here is itself an important achievement. Covering a wide range of topics and population groups, this study constitutes perhaps the most comprehensive and statistically representative snapshot of South African attitudes ever. Without a careful read, however, the data can start to blur. Gibson typically describes his results at great length before analyzing them, which yields many paragraphs that read like hazy streams of the words “black,” “white,” “more,” “less,” and so on. Gibson mitigates this problem somewhat by summarizing his findings at the close of each chapter. The non-social-scientist reader could easily start with these conclusions and work backwards to catch any details.

The chapter most likely to interest human rights readers explores the creation of a South African human rights culture. Unfortunately, it is also the chapter most constrained by the survey method, which necessarily surrenders some grasp on the dynamic and specifically collective nature of meaning and belief in order to gain generalizability. Gibson defines a human rights culture as “one in which people value human rights highly, are unwilling to sacrifice them under most circumstances, and jealously guard against intrusions into those rights.” It comprises, in other words, a set of broadly and deeply held norms. In Gibson’s conception, these norms exist to the aggregate extent that individuals hold them.

This conception of culture is weaker than the vision held by some scholars, who see culture as having its own transcendent qualities over and above individual articulations. The potential benefit of this latter vision from a human rights standpoint is that, if true, it represents a culture with more durable regulatory force. Gibson’s snapshot survey method cannot capture such features as well as could a discourse analytic or ethnographic project. His data is nonetheless effective as a very rough mark of the distribution of such norms across different population groups, and a

2. Id. at 177.

synthesis of his work with more qualitative methods might be very helpful.

A concrete discussion of his data helps illustrate this point. Gibson chooses as his index for human rights culture four questions regarding the rule of law, justifiably reasoning that support for such rule is a necessary if not sufficient condition for creating a human rights culture. He compares his 2001 results to similar questions asked in 1996. The numbers he reports are generally quite low and do not change much over the five-year period, which encompasses the bulk of TRC activity. One could provisionally deduce from that a lack both of human rights culture and of TRC effects in building one.

What do such numbers really indicate, however? In an environment where law was so recently utilized to enforce racism, perhaps skepticism in response to these questions represents an awareness of law’s potential manipulation by regressive forces, an awareness that could actually indicate deep rather than shallow respect for human rights norms and anti-racism. Gibson acknowledges these complexities in his hypotheses, and some of his analyses even suggest that support for (implicitly black) majoritarianism and respect for law are inversely related across racial groups. His method is ill-suited to fully represent this complexity with the precision it demands, however. At best he can provide data that might in future research be correlated with qualitative analyses to describe more precisely the development over time of interrelated norms around human rights and the law over time.

Gibson’s book is an accomplished and innovative contribution to the literature on the relationship between justice and culture. Its weaknesses are largely the necessary evils of survey research itself. Gibson’s care and creativity in performing this work mitigate many of those problems. The work’s particular strengths are its unprecedented breadth and its innovative operationalizations of complex abstract concepts. It represents an important resource both for human rights practitioners and for future qualitative researchers, all of whom can use *Overcoming Apartheid* as a useful jumping-off point for their own social justice and research projects.
Book Review

Pathologies of Power: Health, Human Rights, and the New War on the Poor by Paul Farmer

Publisher: University of California Press (2003)
Price: $27.50
Reviewed by: Eisha Jain

Pathologies of Power opens with Paul Farmer’s account of a visit to a refugee camp in the highlands of Guatemala. Farmer uses the setting of the camp as a way of illustrating a larger point about the ideology that ought to guide health care. He contrasts two approaches to health care reform that have played out in the camp. One initiative, developed in Guatemala City, involves a series of refugee rehabilitation workshops on themes such as gender sensitivity. The other proposal, developed by the refugees, involves exhuming mass graves where genocide victims have been buried by the Guatemalan army. The survivors tell Farmer that the dead have been “buried with their eyes open” and cannot know peace until they receive a proper burial. Farmer sees this project as a valuable way for health workers to act based on the voices and interests of the refugees. In contrast, he rejects the workshops as a misguided attempt to change the minds and culture of the refugees, and to advance “an agenda imported from capital cities... from do-gooder organizations... from U.S. universities with the ‘right’ answers to... every question.”

Farmer’s account of the Guatemalan camp reveals much about his goals and his analytical framework. As an anthropologist and a physician who operates a clinic in Haiti and also teaches at Harvard Medical School, Farmer has much to say about international approaches to health care. Put simply, his goal is to show that devastating inequities in global health are not inevitable, but rather are created and maintained by economic, social, and political frameworks that trap the poor in a cycle of sickness and poverty. Farmer calls this process structural violence, and challenges the

2. Id. at 4.
human rights community to recognize its effects on poor communities. In Part I, Farmer examines structural violence in a number of contexts—Haiti, Chiapas, and Russia, and in Part II, he examines different analytic perspectives in the field of health and human rights. Throughout the work, Farmer emphasizes local approaches to health care. He argues that the health of the poor ought to be the ultimate indicator of progress, rather than markers such as gross national product, economic development, or the creation of human rights charters, which often do not translate into better lives for the poor.

The idea of structural violence is not unique to Farmer, nor is the emphasis on local administration. What is exceptional about Farmer’s approach, however, is the breadth and depth of his analysis. By narrating in detail the events that precede the outbreak of illness, Farmer is highly effective in capturing the way in which structural constraints limit opportunity for his patients. Although he describes himself as a chronicler of the health of the poor, Farmer also identifies policies and ideologies that create or enable continued disparity in health outcomes. In Chapter Two, he documents the abuse of HIV-positive Haitian refugees in Guantanamo Bay and chronicles the way in which U.S. policies have contributed to the entrenchment of dire living conditions in Haiti. In Chapter Three, Farmer describes the Zapatista Rebellion as the result of structural violence against the poor in Chiapas, which he sees exemplified by the long history of colonization, discrimination against Indian farmers and laborers, NAFTA, and the slow pace of land reform in Mexico. In Chapter Four, he describes a conflation of poor policy measures that have led to an outbreak of multiple drug resistant tuberculosis (MDRTB) in Russian prisons. Farmer uses this case study to make the point that patchy first-line drug treatments are actually less cost effective than a more expensive regimen that includes second-line drugs.

Ultimately, Farmer succeeds most in demonstrating the way in which top-down, bureaucratic approaches to reform have failed to protect the health of the poor. He is less able to demonstrate ways in which better results have been achieved by listening to local voices and interests. The relative scarcity of locally-rooted approaches to health care reform, and the difficulty in evaluating such initiatives, contribute largely to this result. For instance, in Farmer’s case study of MDRTB, the costs of treatment are easily calculated, the public health risk is well known, and the treatment environment is highly ordered and vertical in nature: the prisoners are under the control of the guards, and are easily monitored for compliance with treatment. Ironically, however, the very factors that make this study such a good illustration of poor health care policy are also the factors that are impossible to replicate in many other contexts. For instance, in Haiti, where Farmer has worked the longest, patients also suffer and die from disease that could easily be treated, but a solution to their illness is not as readily available. In Russia, the regular availability of first and second line tuberculosis drugs is the clear solution; in Haiti and Chiapas, however,
health problems are the result of many layers of problems, and the solutions are complex and difficult to document. Although Farmer does propose some ways to increase local involvement in health initiatives, such as home visitations, he is unable to offer an example as compelling as that in Guatemala, in which patients have been able to become advocates for themselves in their treatment. This is not to say, however, that his case studies lack value; rather, by illustrating the very real ways in which top-down initiatives have failed to protect the welfare of the poor—and indeed, have often worked against their interests—Farmer compellingly lays out the need for a paradigm shift in which human rights work is focused on working with local communities to achieve better health outcomes.

Farmer’s work is an important first step in examining health and human rights. He offers valuable insight into new ways in which primary care providers and health policy advocates may become work to transform the conditions of the poor. His work is a valuable reminder that, given the opportunity, those who have suffered the most from structural violence may have much to contribute to the human rights agenda.
Book Review

The Dark Sides of Virtue, by David Kennedy

Price: $29.95
Reviewed by: Oliver Babson

In the course of his two-decade career in the international human rights movement, Harvard Law professor David Kennedy has had ample opportunity to observe international humanitarians as advocates of tolerance and moderation in a harsh world of power politics. Humanitarians, says Kennedy, tend to think of themselves as champions of ethical decision making, a weak voice straining to humanize the Machiavellian princes who wield real power in the world. In *The Dark Sides of Virtue* Kennedy traces the evolution of his own thinking about humanitarianism and arrives at the conclusion that such self-perceptions are frequently inaccurate – and sometimes dangerous.

The essential claim of *The Dark Sides of Virtue* is that humanitarians often make poor decisions because they are not sufficiently attentive to the potential costs of their advocacy. Why don't humanitarians do a better job thinking through the consequences of their policies? Because, says Kennedy, humanitarians are more comfortable thinking of themselves as powerless outsiders, critics and advocates who strive to influence the authorities that bear final responsibility for making policy – and also for the inevitably mixed results that attend difficult policy trade-offs. In other words, humanitarians want to be "effective without responsibility," and this aversion to accountability diminishes incentives to take careful account of the costs of particular humanitarian initiatives.

What human rights advocates need to understand, says Kennedy, is that their advocacy is actually quite effective. The language of human rights increasingly provides the vocabulary that articulates international norms, the terms in which power is discussed and exercised. Discussions about international development and war are now framed in the language

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2 *Id.* at 338.
of human rights: Development experts speak about individual rights to clean water, basic health and education services; military commanders speak of proportionality, civilian casualties, collateral damage. Such terms are now stock expressions in the parlance of modern power. The argot of human rights has become the vernacular of governance, shaping the way policy makers go about responding to humanitarian emergencies.

The Dark Sides of Virtue makes an effort to catalogue the ways in which well-meaning humanitarian projects go wrong, the "difficulties, unforeseen bad consequences, routine blind spots, and biases of humanitarian work." In the first chapter of the book, Kennedy draws up a "worry list" of his concerns. Inter alia, he notes that the dialectic of international human rights tends to crowd out other vocabularies - religious, cultural, economic - that might provide useful alternatives for conceptualizing and remedying humanitarian problems. The human rights movement overemphasizes legal solutions and relies too much on fixed, codified definitions of "justice" and "rights" that may hinder local deliberation and self-determination. Concern for preserving an immaculate moral reputation can discourage human rights activists from taking decisive action of the sort required to resolve crises.

What can international humanitarians do to redress these problems? The most important thing is to be more thoughtful and pragmatic about applying humanitarian principles. For Kennedy, the best way humanitarians can force themselves to be pragmatic is to cease thinking of themselves as weak and instead acknowledge that human rights is a powerful influence in the world. Beyond this essential point, Kennedy does have some further advice. Humanitarians should spend a little more time thinking about the ends before declaring the best means to those ends; they ought to give more weight to how their prescriptions affect peoples' lives and less weight to how their prescriptions bolster the cause of human rights in general. Humanitarians should think of themselves less as representatives of the voiceless (who are largely above criticism) and more as independent advisors (who are more accountable). Humanitarians should not presume to know what the right thing to do is in emergencies; such pious certainty is likely correlated with a failure to subject prescriptions to rigorous analysis. Unfortunately Kennedy crams these specific suggestions into the final ten pages of his near 400-page text. The book would have been stronger if it took more care to elaborate these suggestions and give examples of how such guidelines could be applied in particular situations.

The narrative style of The Dark Sides of Virtue makes this an accessible and readable book. As a catalogue of concerns about the human rights movement, Kennedy's contribution is successful and is likely to spur constructive debate within the humanitarian community. Kennedy's call for a "new attitude" of pragmatic humanitarianism, however, does not persuade as strongly as it might. Kennedy provides many insightful

3 Id. at xviii.
observations from his personal experience, but he does not subject his contentions to serious challenge. Readers are left to imagine for themselves what counterarguments might be raised to rebut the claims made in the book. Kennedy's assertion that humanitarians do not effectively assess the costs of benefits of their advocacy, a claim on which much of his argument rests, deserves closer scrutiny. Some critics have suggested that Kennedy ought to support this claim empirically. It might also be argued that, to the extent that simple messages are more powerful and more easily communicated, it may be reasonable for activists to avoid introducing a high degree of nuance into the public face of the human rights movement. Even for sympathetic readers, the one-sided quality of argumentation in *The Dark Sides of Virtue* makes it difficult to judge the value of Kennedy's critique.

For disenchanted idealists like Kennedy who are interested in bringing more pragmatism to the human rights movement, *The Dark Sides of Virtue* is a useful assessment of the task at hand. For those who are more skeptical of the critique, Kennedy's views will provide a thought-provoking challenge. For all readers, Kennedy's iconoclastic book is a sharp reminder of the increasingly heated debate over the future role and direction of the international human rights movement.

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Book Review

The Seduction of Unreason: The Intellectual Romance with Fascism from Nietzsche to Postmodernism, by Richard Wolin

Price: $18.87
Reviewed by: Mihailis E. Diamantis

"Thinking begins only when we have come to know that Reason, glorified for centuries, is the most stiff-necked adversary of thought." With this quotation from Martin Heidegger's "The Word of Nietzsche: 'God is Dead,'" Richard Wolin opens his account of the enduring presence of the Counter-Enlightenment thinking of fascists and proto-fascists in his The Seduction of Unreason. Wolin's thesis is twofold: "les extremes se touchent" in their criticism of universalized truths of Enlightenment Reason, and this fact is dangerous for modern liberal developments in the realms of civil liberties and human rights.¹

The Seduction of Unreason is not only an introductory course in fascist and proto-fascist thought, it is also a political guide to those who would oppose Counter-Enlightenment thought and the rejection of human rights, civil liberties, and democratic equality that it entails. Behind the 1920s German movement, the 1960s French movement, and the present Europe-wide movement, Wolin uncovers a similar cause. The early trend towards Counter-Enlightenment values in Germany was fueled by a "fairly large middle-class electoral base ... the 'losers of the modernization process'..." In 1960s France, the antipathy to determinacy and reason resulted from post-World War II Vichy Syndrome and a resultant "'will to nonknowledge': a desire to keep at bay an awareness of unsettling historical complicities, facts, and events."² Finally, "[t]he constituency of

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2. Id. at 275.
3. Id. at 190.
the New European Right is also heavily composed of potential 'losers of the modernization process.'" More generally, "feelings of anxiety and social isolation, political exasperation and powerlessness, loss of purpose in life, and insecurity and abandonment provide social conditions conducive to the success of far-right political views." Wolin perceptively notes:

The pronounced ideological emphasis in the discourse of the European New Right on 'values' and questions of 'collective identity'... is consciously cultivated. It is intended to compensate for the instability and disorientation sensed by those who have become supernumeraries in a profoundly threatening economy or 'world society'—a highly impersonal, brave new cyber-technological order.

Theoreticians and practitioners who take as their guiding light the pursuit and realization of universal human rights must recognize and appreciate not only present illiberal trends, but also the root sources of those trends. Wolin, gesturing towards these poisoned wellsprings, has given direction to those human rights advocates who would not attempt merely to dam back proto-fascist trends, but who would plug them at their issue. Interestingly though, Wolin suggests that in part, the philosophical discourse of the political left may be one of those sources of that fundamentally illiberal thought which is so damaging to a human rights agenda. The serious advocate must also address these concerns.

Wolin, engaging in what he describes as "philosophical archaeology," begins with an account of the irrationalist currents in fascist German thought before and during World War II, focusing on Nietzsche, Jung, and Gadamer. He then traces the often forgotten transmutation of these ideas to the postmodernist and poststructuralist thought of the French left in the 1960s, emphasizing the contributions of Bataille, Blanchot, and Derrida. To each of these accounts, Wolin appends a narrative of the rise of the New Right in both Germany and France. To crown the book, Wolin’s final chapter traces the development and present manifestation of the process by which critical "images of America once a staple [of] the European Counter-Enlightenment have been assimilated and recycled by the multicultural left," as America has come to symbolize at various and concurrent times: infertile wasteland (de Pauw), cultural/racial mongrelization (de Masitre and Gobbineau), Semitism (Sombart), liberalism (de Bonald), capitalism, dehumanizing mechanization (Heidegger and Spengler), and cinematic
hyper-reality (Baudrillard).¹³

The generalized summary given above, however, misses entirely the true heart of the book: the act of philosophical archaeology itself. From the details of Nietzsche’s anticult, Jung’s mystical confrontation with the irrational, and Gadamer’s German particularism to Bataille’s search for myth, Blanchot’s obsession with violent renewal, and Derrida’s indeterminacy, Wolin’s book could serve as a philosophical introduction to recent movements away from analytical philosophy toward continental pursuits of unreason. Amid his occasional and unnecessary (though entertaining) forays into the philosophers’ biographical details, and his frequent (though misplaced and incomplete) attacks upon the logic of unreason, Wolin exercises his keen ability to distill and yet to animate the Counter-Enlightenment. This understanding of Counter-Enlightenment thought, which itself is counter-human rights thought, is crucial to those human rights advocates who would effectively combat it.

As Hitler ascended to power in pre-War Germany, Goebbels, referring to the French Revolution and the beginning of human rights, modern democracy, and democratic liberalism, announced: "The year 1789 is hereby erased from history." ¹⁴ Those who would see his words ring hollow and who wish the present gains in liberal principles and universal reason to be permanently enshrined as the proper political discourse, must do more than scoff at, argue against, or suppress proto-fascist, anti-human rights, however: They will have to address the deep spiritual needs modern society has created in large segments of the European population. Such a task may be too large, the present direction of modernization too advanced and established, for the true left—the democratic left—to have any effect. At present, perhaps the best writers, thinkers, and politicians can do is to force the extreme left “to acknowledge the compromised legacy of its own intellectual genealogy” and the potentially disastrous political implications of its philosophical predispositions.¹⁵ This, in part, is the role Richard Wolin has begun to play.

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¹³. Id. at 301-06.
¹⁴. Id. at 3.
¹⁵. Id. at 313.