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The Pinochet Affair: State Terrorism and Global Justice, by Roger Burbach

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Book Review

The Pinochet Affair: State Terrorism and Global Justice, *by* Roger Burbach

Publisher: Zed Books (2004)
Price: $22.50
Reviewed by: Kristen Eichensehr

While most accounts of the prosecution of Augusto Pinochet focus on the undoubtedly dramatic progression of Pinochet's case in the British courts, Roger Burbach takes a different tack, construing *The Pinochet Affair* to include the pre- and post-history surrounding the British proceedings. Burbach draws on his personal familiarity with Chile since the 1970s—he fled the country during Pinochet's coup overthrowing Salvador Allende—and interviews with prominent figures in the Chilean human rights movement, judiciary, and political sphere. He constructs a picture of Augusto Pinochet as calculating his ascent to power, developing the necessary personality to order atrocities in pursuit of power, and using various tactics to avoid prosecution in Chile after his detention in London. Burbach tells a lucid story beginning with Pinochet's early years and continuing through Pinochet's recent evasion of Chilean courts. Burbach's access to key players in Chile provides especially good insight into the Chilean attempts to prosecute Pinochet since his return from London.

Burbach trumpets the Spanish and British judicial actions against Pinochet as a triumph of the human rights movement. He argues that the Pinochet affair more firmly ensconced the idea of universal jurisdiction in international law and that it inspired campaigns by human rights organizations to bring other human rights violators, such as Uganda's Idi Amin and Paraguay's Alfredo Stroessner, to justice. He praises the establishment of the International Criminal Court as a "critical event in the advance of human rights law"[1] and touts the attempted Belgian prosecution of Israeli Prime Minister Ariel Sharon. But he condemns the

1. ROGER BURBACH, THE PINOCHET AFFAIR: STATE TERRORISM AND GLOBAL JUSTICE 156 (2003).

NATO intervention to protect human rights in Kosovo.

An important issue about the book is the author's apparent lack of objectivity. Readers should be aware that Burbach allows his political views to pervade his analysis. In the preface and introduction his reverential attitude toward Salvador Allende becomes apparent and appears to compromise his objectivity. Burbach also does not hide his current political views, particularly his opposition to Tony Blair and George W. Bush. The "state terrorism" referred to in the title extends, in the author's opinion, to include current United States' policies. Notwithstanding the author's political views, the book tells an interesting and clear story about Pinochet, but the prevalence of the author's viewpoint, inserted throughout, renders suspect his attempts to draw larger implications from the Pinochet affair.

On a more theoretical level, Burbach wholly embraces universal jurisdiction for the perpetrators of gross violations of human rights, but he takes this position as axiomatic and does not address any potential challenges to it. Burbach leaves several questions unanswered.

First, if the choice is between a peaceful governmental transition and prosecution of a former dictator, who makes the choice? After a shocking loss in the 1989 elections, one of Pinochet's major conditions for granting a peaceful transition of power was a guarantee against prosecution for his regime. He had already partially secured such a guarantee by passing an amnesty law, exempting from prosecution any crimes occurring between his ascension to power and 1978, though the regime's crimes did not stop in 1978. After the election, Pinochet still wielded enormous power in Chile, including through his position as head of the Army. In such circumstances, the new government did not act entirely freely in agreeing not to prosecute members of Pinochet's government. Burbach argues that the new government viewed the compromise as necessary to effect the transfer of power and take office without challenge by Pinochet and his substantial remaining forces. If an international prosecution of Pinochet had begun at this point, it could have destabilized the fragile compromise that had facilitated the ouster of Pinochet's government. Though many in Chile would have undoubtedly liked to see Pinochet prosecuted for his abuses in the early 1990s, according to Burbach, the new government did not have a secure enough hold on power to repel a challenge if a threatened Pinochet summoned the army for another coup. If Pinochet had traveled abroad in the early 1990s and had been prosecuted by Spain or Britain, Chile might have descended into civil war, precipitated by the international judicial intervention into the non-prosecution compromise. Burbach touts the virtues of the international prosecution, but does not address its potentially destabilizing effects.

A second question is whether, if the people of a country have legitimately decided that prosecution of a former dictator is not in the best interests of their country, can or should that decision be overruled by an international judge attempting to enforce human rights? With his seemingly unreflective embrace of universal jurisdiction, Burbach does not

address this scenario. In Chile, the non-prosecution compromise was reached amongst the political elites, not as a result of a democratic referendum. But it is possible that a country could democratically decide that truth and reconciliation commissions or merely general immunity are more important for the country than prosecution of former rulers who committed crimes against the people. Burbach seems to put words in the mouth of the Chileans when describing their response to Pinochet's arrest in London. He writes, "[t]hey knew that the institutional arrangements of the country had ensured that Pinochet, the symbol of repression, would not be tried at home. If justice came from Spain via England, so be it."[2] International prosecution of Pinochet was arguably very appropriate because he had manipulated the legal system and retained sufficient power to make Chilean prosecution unlikely, but if the Chilean situation had been one where the people supported foregoing prosecution, then the legitimacy of intervention by an international judge becomes questionable. It is unclear whether or why a foreign judge should be allowed to insert himself into the politically-charged legal processes of another state if the population of that state has democratically decided not to prosecute former abusers.

This second question is instructive in the Chilean case despite the fact that the initial decision not to prosecute Pinochet and members of his regime was politically motivated. Upon Pinochet's return from London after being released on the order of Britain's foreign secretary for "humanitarian reasons,"[3] Burbach claims that seventy percent of Chileans wanted Pinochet to stand trial,[4] and cases had already been brought against Pinochet in the Appeals Court of Santiago starting in January 1998. With Pinochet's return from London, cases against the former dictator multiplied and were permitted to proceed thanks to Chilean Appeals Court Judge Juan Guzmán Tapía who allowed the argument, later upheld by the Chilean Supreme Court, that the charges were exempt from the Amnesty Law of 1978 because the cases of those who were "disappeared" were continuing crimes as long as the fate of the "disappeared" was unknown. Judge Guzmán pursued Pinochet's prosecution as it moved up and down the Chilean court system, with appeals on various issues reaching the Chilean Supreme Court. Pinochet ultimately evaded prosecution with claims of ill health because Chile's leaders continued to fear that the military would side with Pinochet if he were convicted.

Though Pinochet himself escaped prosecution, other members of his regime did not. On the day that Pinochet was exempted from further proceedings because of his health, Judge Guzmán began prosecutions of five military officials for torture committed in the 1970s.[5] Prosecutions of lower level officials have continued along with investigations of military abuses, including disappearances.

2. *Id.* at 204.
3. *Id.* at 122.
4. *Id.* at 125.
5. *Id.* at 141.

Barely ten years after Pinochet left power, the Chilean courts were confident enough and the country was stable enough for the former dictator to be prosecuted. Even though the prosecution ultimately did not result in trial, it opened the door for further prosecutions of others who committed atrocities. Pinochet manipulated the legal system by packing the Supreme Court with his appointees and by issuing the Amnesty Law. But by 2001, most of his appointees were retired and the sitting courts found a way around the Amnesty Law. The proliferation of prosecutions for Pinochet-era abuses demonstrates that although the Chilean courts could not prosecute Pinochet and others in the immediate aftermath of their rule, a few years of distance from the regime did allow the Chilean domestic courts to function in this capacity. Burbach's analysis of this trend is perplexing because though he provides examples of lower-level officials who were prosecuted and convicted for human rights abuses in Chilean courts, his wholesale embrace of universal jurisdiction seems to reject the idea that national courts could ever prosecute their former leaders in the same way. Burbach does not consider the possibility that with sufficient time national court systems might evolve and gain enough power to try their former leaders effectively.

By failing to question the wisdom of universal jurisdiction, Burbach avoids the deeper moral of "the Pinochet affair:" foreign prosecution of former dictators may not be universally desirable. The International Criminal Court at least provides a neutral international forum for human rights prosecutions, but exercises of universal jurisdiction by individual countries, though possible after the Pinochet case, may be neither wise nor desirable in some instances. Decisions about whether or not to prosecute former leaders may be more properly made by the dictators' countrymen, and for reasons of domestic stability and in the name of transitioning from dictatorship, the decision may sometimes be not to prosecute. Before calling for international prosecution, the international community should carefully examine why the former dictator has not been prosecuted in his own country and ensure that foreign intervention would not have deleterious effects on the country's transition from dictatorship. Patience may also be a virtue in international decisions to intervene to prosecute a foreign dictator. As Chile shows, within a few years a country may become stable enough and willing to challenge a former dictator in court. Ultimately, a domestic prosecution is likely to have more legitimacy in the eyes of the world and the victims than a foreign intervention, however well-intentioned and legally permissible.

Book Review

The Ethics and Politics of Asylum, *by* Matthew Gibney

Publisher: Cambridge University Press (2004)
Price: £17.99
Reviewed by: Nicole Hallett

In *The Ethics and Politics of Asylum,* Matthew Gibney explores the ethical and political dimensions of the international refugee regime and uses this analysis to propose a new regime that would more adequately account for the flaws he sees in the current system. In determining which rights belong to both refugees and to countries of asylum, Gibney divides theorists into two main camps: impartialists, who advocate for open borders based on either rights-based or utilitarian principles, and partialists, who assert that "states, in their role as representatives of communities of citizens, are morally justified in enacting entrance policies that privilege the interests of their members."[1] In the end, Gibney finds neither theory convincing and thus proposes that refugee policy should be guided by a new blended model he calls "humanitarianism." Unfortunately for his readers, this model, which is presented with much fanfare at the end of the book, falls short of providing a workable alternative. In the end, Gibney's proposed solution both fails to advance a regime that is substantially different from the one already in place and fails to account for the complex ethical dilemmas that plague the other theories he considers and then ultimately discards. Although Gibney himself may disagree, the book is best seen as a primer of the ethical and political facets of the international refugee regime, a role that it fulfills admirably.

Gibney's greatest strength is convincingly advocating for and then against each argument he presents. This strength is on display most prominently in his treatment of partialism. Traditionally, human rights advocates have viewed such a position as a way for states to shirk their

1. MATTHEW GIBNEY, THE ETHICS AND POLITICS OF ASYLUM 23 (Cambridge University Press 2004).

responsibilities to the world's most vulnerable people. Gibney obviously shares many of these suspicions himself, and yet, he argues effectively that a community should have a right to self-determination. Human rights advocates who work tirelessly to defend the right of indigenous groups to preserve their culture are often the first to dismiss similar claims of nation-states. Yet, clearly if such a right to cultural self-determination exists, then all cultural communities, however large or small, should be able to protect that right, which may mean excluding outsiders that threaten the cultural composition of the community.

It is precisely because Gibney presents partialism in the most favorable light that his later critique of the theory is so gratifying. The place where the partialist analysis breaks down, he argues, is with the assumption that the nation-state is solely a cultural community. Nation-states are also territorial entities with dominion over land as well as resources. Gibney argues that "partialists are backed into justifying the results of a historical process of carving up the world's territory between states that primarily has been achieved through the force of arms, and has (accordingly) resulted in a gross mismatch between human need and natural resources."[2] Furthermore, it is unclear which cultural community partialists aim to protect. Very few modern nation-states have a homogenous cultural community; in fact, most encompass multiple ethnic and cultural groups. In these cases, who decides which cultural community to protect? Partialists often work under the unspoken assumption that it is the dominant cultural community that needs protecting, which is the reason that this viewpoint smacks of racism in the current political debate. However, Gibney is cautious about making such an accusation, and instead focuses on the legitimate state interests at stake.

At all times, Gibney is careful to balance the ethical and the practical. In his discussion of impartialism, he lays the foundation by using both a rights-based and a utilitarian approach. If we recognize a human right to free movement within states, then a logical corollary is that there exists a fundamental right to free movement between states. An open borders policy can also be justified on utilitarian grounds. As long as migration will increase the efficiency by which the world's resources are utilized, then states have a moral obligation to allow people in, even at the detriment of their own citizens. Gibney is simultaneously drawn to and uncomfortable with both the rights-based and utilitarian approaches to an open border policy. He is seduced by the simplicity of reasoning and yet cannot fully embrace the potential consequences of implementing such a system, including the likely demise of the welfare state and the potential destabilization of many of the world's liberal democracies.

The reader is left with a keen sense for the ethical conflict at stake. The refugee has an acute interest in obtaining asylum. Yet, liberal democracies have an obligation to their own citizens that may necessitate the closing of

2. *Id.* at 39.

their borders and the rejection of legitimate asylum-seekers. Gibney concedes that both sides are motivated by legitimate moral values, which allows him to go further in both exploring the conflict and explaining the political quagmire that results.

Gibney defines the problem in such an insightful way that the reader is left anxious to hear his proposed solution. It is perhaps because of such high expectations that his attempt seems disappointing. Part of the problem lies with the fact that Gibney has prefaced the entire discussion on the belief that the current asylum system is not working. Yet, it is unclear whether his idea differs in any substantial way. Gibney proposes a system called "humanitarianism," which he defines as "the principle. . .that states have an obligation to assist refugees when the costs of doing so are low,"[3] i.e. without threatening the civil, political and social rights of liberal democratic states.

However, in teasing out the practical implications of adhering to this principle, Gibney seems relatively satisfied with the system as it stands, or at least unable to recommend how it should be changed. For instance, he discusses the possibility that humanitarianism may require states to dismantle non-arrival measures used to prevent asylum-seekers from seeking refuge. However, he stops short of making this a recommendation, citing an inability to predict the consequences of such a move as a reason for caution. He instead suggests that states need to make these decisions based on a subjective analysis of their own capacities. Yet the reason that asylum is such a politically charged issue is because states feel that their capacities have already been reached. Gibney's system would allow states to maintain the status quo, or worse, would give them justification for implementing even more restrictive entrance policies because of prohibitive costs.

Gibney seems less than enamored with non-refoulement as the cornerstone of refugee policy, but non-refoulement works precisely because it allows for no exceptions. Although Gibney is right that more emphasis should be placed on resettlement, his suggestion that it could one day replace non-refoulement is naïve. Resettlement must exist in tandem with non-refoulement in order to provide effective protection of refugees, and Gibney admits as much in his subsequent analysis. Again, the application of "humanitarianism" to the asylum problem seems to yield no better results than the theories that have dominated the book up to this point.

His most useful insights concern the interplay between politics and asylum. It is important for anyone working in the field of human rights to understand the pressures politicians face and the motivations that compel them towards certain actions. Gibney understands the contradictions inherent in representative democracies. The populace can be both the biggest defender of human rights and their worst enemy. Asylum presents

3. *Id.* at 231.

a particular problem because the people most affected by a country's asylum policies are by definition not part of the political community. Politicians by necessity must listen to the wishes of their constituents and must react to the tides of public opinion if they wish to stay in office. Additionally, assuming a leadership role on the issue poses special risks that may or may not be possible to overcome. Although none of these observations appear particularly novel, they are rarely recognized by human rights advocates, who often expect politicians to disregard political realities. Not surprisingly, when they approach the problem with this attitude, they rarely get the results they want.

In the end, Gibney's greatest contribution to the debate on asylum is to illustrate exactly how complex the problem actually is. In doing so, he has provided a set of criteria by which to evaluate asylum policies, and these criteria may ultimately be an even more valuable contribution than his own proposed policies.

Book Review

Torture: A Collection, *edited by* Sanford Levinson

Publisher: Oxford University Press (2004)
Price: $29.95
Reviewed by: Mihailis E. Diamantis

"Pandora's box is open."[1] While we may at first shirk at the possibility of openly discussing the brutal practices signified by the word "torture," either out of revulsion for the topic itself or out of a fear that doing so opens the conceptual possibility of its being legitimated, torture is a fact of life. Despite absolute prohibitions in international law on state use of torture, "torture is practiced on a regular basis in more countries than ever."[2] It is in this present shroud of secretive decisions to violate some of our most fundamental human rights that Sanford Levinson has sought to play a part in the rightfully public debate and in the resolution of the difficult questions that the practice of torture raises. In his *Torture: A Collection,* Levinson has assembled contributions from some of the most influential thinkers dealing with torture. The resulting panoply is engaging if only for its diversity of approaches—from the strictly historical to the strictly legal, from the abstractly philosophical to the brutally pragmatic. Believing that "[i]t is vitally important that we discuss what is being done in our name,"[3] Levinson has attempted to bring essays that engage in the "increasingly important debate over the possibility that torture, at least in some carefully specified circumstances, might be a 'lesser evil' than some other 'greater evil' that menaces society."[4]

Oren Gross asserts in his contribution that "[t]he debate about the moral and legal nature of the prohibition on torture is often conducted as if

1. Henry Shue, *Torture, in* TORTURE: A COLLECTION 47, 47 (Sanford Levinson ed., 2004).
2. Ariel Dorfman, *Foreword to* TORTURE , *supra* note 1, at 3, 5.
3. Sanford Levinson, *Contemplating Torture: An Introduction,* TORTURE , *supra* note 1, at 23, 38.
4. *Id.* at 24.

there is no middle ground."[5] That is to say, the contending positions in the debate most often are those of the absolutist, who asserts that torture can never be justified—e.g. Ariel Dorfman's impassioned proclamation: "[N]o torture anytime, anywhere, no to torturing anyone; no to torture"[6]—and those who believe that there are moral, and that there should consequentially be legal, exceptions to the general prohibition against torture. Gross's "middle ground" proposes that there be an "absolute legal ban" on torture,[7] but that we "call[] on public officials having to deal with the catastrophic case to consider the possibility of acting outside the legal order while openly acknowledging their actions and the extralegal nature of such actions. Those officials must assume the risks involved in acting extralegally."[8]

Gross has indeed found a middle ground; the only problem though, at least for Levinson's purported public debate, is that it is nearly the same middle ground found and supported by the majority of the authors in *Torture*. Thus, Richard A. Posner believes that that it is best "to leave in place the customary legal prohibitions, but with the understanding that of course they will not be enforced in extreme circumstances."[9] Henry Shue similarly writes: "An act of torture ought to remain illegal so that anyone who sincerely believes such an act to be the least available evil is placed in the position of needing to justify his or her act morally in order to defend himself or herself legally."[10] Michael Walzer, Jean Bethke Elshtain, John T. Parry, the Israeli Supreme Court, and Miriam Gur-Arye all take similar views: there ought to be broad and absolute legal prohibitions on torture, with extra-legal exceptions in certain extreme cases. Of course they reach their conclusions via somewhat differing lines of reasoning—e.g. Posner conducts cost-benefit analyses while Elshtain utilizes more philosophical/theological modes of argument. Similarly, there are sometimes slight variations in characterizing which extralegal uses of torture may be appropriate—e.g. the Israeli Supreme Court says that "necessity" ought to be the bar while Gur-Arye believes it should be "self-defense."[11]

Thus, the debate as presented in *Torture* takes place almost entirely on Gross's "middle ground." To be fair, Dorfman explicitly and Richard H. Weisberg implicitly represent some part of the absolutist position, but their essays occupy the beginning and cap the end of the collection, bypassing what could have been a vigorous debate in the middle bulk of the volume;

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5. Oren Gross, *The Prohibition on Torture and the Limits of the Law, in* TORTURE , *supra* note 1, at 229, 229.

6. Dorfman, *supra* note 2 at 17.

7. Gross, *supra* note 5, at 234.

8. *Id.* at 241.

9. Richard A. Posner, *Torture, Terrorism, and Interrogation, in* TORTURE , *supra* note 1, at 291, 296.

10. Henry Shue, *Torture,* TORTURE , *supra* note 1, at 47, 58.

11. Miriam Gur-Arye, *Can the War Against Terror Justify the Use of Force in Interrogations?: Reflections in Light of the Israeli Experience, in* TORTURE , *supra* note 1, at 183, 192-94.

indeed, they cite to none of the other authors. Posner does criticize Dorfman for his being "overwrought in tone [and] irresponsible in content,"[12] but this hardly constitutes the debate Levinson promises. Alan Dershowitz offers once again his famous proposal that the best way to reduce the amount of torture, given that we know officials presently practice it behind closed doors, is to legalize torture if the official obtains a judicially awarded warrant. These remarks prompt some mutually engaging comments from other authors, but nevertheless fail to grapple with the central issue of when, if ever, torture should justified legally or morally. Where are the "brazen Kantians"[13] whom all authors reference or those officials who believe that "'[i]f you don't violate someone's human rights some of the time, you probably aren't doing your job?'"[14] Without their voices, we have not a debate but a mutually supportive discussion, albeit, one which, if credited, has important implications for both national and international human rights policy.

Some of the most interesting articles are those which occur outside the context of the "middle ground" discussion, indeed, outside of the debate entirely. John H. Langbein offers an early legal history of torture and concludes that "[h]istory's most important lesson is that it has not been possible to make coercion compatible with truth."[15] If this is the case, though, he must answer the further question of why, if it is fully inefficacious, torture is so routinely practiced in the present day with the specific intent of obtaining information. Might it be that all means of proof, including torture, utilized in medieval Europe and England were less effective than their modern counterparts at reaching truth? Oona A. Hathaway, in an entirely different vein, presents empirical evidence that counter-intuitively suggests that the widely celebrated Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment may "not always have the intended effect of reducing torture in countries that ratify, but, in some cases, the opposite might even be true."[16] She explains these results by drawing on the importance of domestic enforcement mechanisms of international norms and the significant role reputational effects play in countries' decisions to ratify international human rights treaties. Hathaway thus offers important lessons for those who would seek to proscribe torture, and human rights violations generally, using international law. Fionnaula Ní Aoláin also discuses the failures (and successes) of international legal efforts to eliminate torture in the European context. Finally, Mark Osiel contributes an extremely provocative piece to the collection. Analyzing stories from Argentina's recent past with torture, he humanizes not only the victims of

12. Posner, *supra* note 9, at 295.
13. Gross, *supra* note 5, at 238.
14. Levinson, *supra* note 3, at 27.
15. John H. Langbein, *The Legal History of Torture, in* TORTURE , *supra* note 1, at 93, 101.
16. Oona H. Hathaway, *The Promise and Limits of the International Law of Torture, in* TORTURE , *supra* note 1, at 199, 199, 201.

torture, but also the *torturers*.

> Whatever criticism (considerable) should rightly be leveled at these men, however, they are in no way 'banal,' in Arendt's sense. They are not unthinking automatons .... Yet neither is it easy to characterize their evil as satanic or 'radical,' in Kant's sense, for they do not willfully embrace the opposite of what they know to be the right or good.[17]

He then unpacks the significance of his argument for international criminal institutions that would hold torturers accountable for their actions.

Torture: A Collection, then, certainly deserves the attention of both human rights advocates and theorists, as well as that of the general reader. The general public interested in the issues torture presents will find in Levinson's collection a preeminently accessible resource, touching many facets of the issue. The theorist, while perhaps not finding a "debate" as such, will encounter nuanced presentations of a "middle ground" in torture theory which has until now received too little attention. Lastly, the advocate, in his search to abolish the practice of all (unjustified) torture, will discover historical lessons, practical advice on international law, and a survey of the present state of the world on the matter. "We are staring into an abyss, and no one can escape the necessity of a response."[18] The public, the theorist, and the advocate must offer the world a response to the practice of torture, and Levinson's collection has assured that that response, when it comes, will be one which has been more thoroughly considered.

17. Mark Osiel, *The Mental State of Torturers: Argentina's Dirty War, in* TORTURE , *supra* note 1, at 129, 139-40.

18. Levinson, *supra* note 3, at 39.

Book Review

Human Rights, the Rule of Law, and Development in Africa, *edited by* Paul Tiyambe Zeleza and Philip J. McConnaughay

Publisher: University of Pennsylvania Press (2004)
Price: $49.95
Reviewed by: Margaret Hellerstein

The 1990s saw a wave of democratization across Africa that transformed the political landscape of the continent. Before 1990, all but a very few states were ruled by one-party or one-man regimes, and (with the exception of apartheid leaders), no African leader had ever left office due to an electoral defeat. By the end of the 1990s, however, virtually all the sub-Saharan African states had begun, or attempted to begin, the process of democratization. Yet many of these regimes are democracies only in name. Although the political systems have changed, human rights abuses are rampant and, in many countries, the pretense of multiparty elections is just that. *Human Rights, the Rule of Law, and Development in Africa*, edited by Paul Tiyambe Zeleza and Philip J. McConnaughay, explores in detail the issues these nascent democracies face, asking how states with unstable and corrupt regimes can move from the first phase of democratization to the implementation of the rule of law. Through essays contributed by scholars and human rights activists, the book presents different perspectives on the issues arising from Africa's democratization in the 1990s. The collection addresses a series of questions about this period of democratization. What went wrong? What went right? What can we learn from the successes and failures of the 1990s about how to tackle current problems? In collecting these essays, Zeleza and McConnaughay seek to address the underlying phenomena and historical events that have influenced, and will continue to influence, the degree of democratic success in establishing rule of law.

The essays cohere into three sections. The first examines Western and African discourses on human rights, asking how universalism and relativism may be balanced to achieve justice as well as respect for cross-

cultural norms. The second section examines more practical dimensions of the protection and subversion of human rights on the African continent with respect to development and politics, asking whether the language of human rights translates into actual changes for the populations. The final section looks at the role of NGOs in contributing to development and human rights in Africa.

The first section, "Universalism and Relativism in Human Rights Discourse," asks whether the benchmarks used to judge a state's protection of its citizens' rights should be determined by Western or other norms. While this debate is important, it is not new, and neither are the perspectives introduced in these essays. This section would be a good read for a beginning student in cultural studies or African history, but not for a reader with any familiarity with these issues. In addition, this section leaves two important problems unaddressed. First, relativists focus on the argument that civil and political rights are less important to African countries than economic and social rights, taking issue with the Western concept of the individual rather than the family as the atomic unit. However, civil and political rights are often necessary to secure economic and social rights. A functioning democracy that embraces equal rights is usually better at building a solid infrastructure because all citizens are involved in its construction. Second, even if privileging individual rights over collective rights could do violence to cherished African norms, the fact remains that in some societies, individuals often make decisions for the family unit. Focusing on collective rights does not always protect the integrity of the family unit, but rather the socially superior member's power to make decisions for other individuals in the family unit. The views and needs of the family, village, or group are not necessarily represented by those who purport to speak for all of them. This is particularly true with respect not only to women but also to children, especially girls, who cannot speak for themselves in any political discourse and may be denied the right to bodily integrity in practices such as child marriage and female genital mutilation.

The second group of essays, entitled "The Economic and Political Dimensions of Human Rights," makes a more substantial contribution to the discourse. This section critically addresses the progress of human rights and reform in Africa after the transformative 1990s, examining the extent to which the new democratic regimes and political upheaval have genuinely changed the status of human rights in the region. The essays include case studies of Egypt and Tanzania that examine how progressive reform and commitment to the rule of law or, alternatively, curtailing of human rights in the wake of September 11, have strengthened or weakened the human rights movements in these countries. A comparison between these two essays lends an interesting framework for the discussion on how countries have followed the course they set out for themselves in the tumultuous preceding decade, as well as the influence of global politics and foreign unrest on the policies of Islamic states. Along those lines, the final essay by

Cassandra Veney examines the ways in which U.S. policy toward Africa has promoted or hindered human rights and development. Veney offers the argument, currently embraced by many other advocates, that the key to securing human rights in the region is business development; aid is a non-renewable resource that will inevitably provide only a stopgap solution to the ongoing problems of poverty and political disempowerment. This section is timely and useful in reexamining the specific problems Africa now faces fifteen years after the wave of democratization began.

The final section also adds a very useful angle to the debate, following the second section in addressing the failures of our current instruments and suggesting possibilities for reform. For a generation that has begun to wonder whether multilateral treaties and international legal instruments really carry any weight in securing human rights, NGOs have become the focus in terms of development and aid. "NGOs and Struggles for Human Rights" addresses the ways in which NGOs have contributed and can contribute to the development of adequate and enforceable human rights policy. Fifteen or twenty years ago, NGOs were an afterthought in the struggle for human rights; today, the incapacity of major international organizations like the UN and the WHO fully to address problems on the ground - and the global proliferation of small NGOs dedicated to a vast and growing number of concerns - have placed NGOs front and center in the fight for human rights, both as career paths for potential advocates and in discussions on foreign policy and aid. Smaller NGOs have an advantage over larger international organizations in that they are in better touch with the true situation on the ground and are generally run by members of the group they aim to help, thus inspiring more confidence and faith in the population. This is certainly true of many women's groups across the globe, especially in Muslim countries where the Western goals for women's rights contrast so sharply with Islamic feminism.

In fact, it was the local finger-on-the-pulse aspect of the smaller African NGOs that eventually catapulted them into the spotlight. During the massive wave of democratization, African and international NGOs fought tirelessly for human rights reform, educating the public and promoting the cause of human rights to populations that had been deliberately or incidentally kept in the dark about their potential power to resist oppressive regimes. These NGOs not only promoted awareness among African populations but also informed the world at large of the atrocities suffered by vulnerable groups, thus drawing international attention and aid to groups that had previously been silenced.

This selection of essays is practical, timely, and forward-looking. Welch and others address the use of NGOs as an ideological instrument: that is, while they cannot necessarily rid their countries of human rights abuses, they create an environment that fosters discussion of the situation, in which vulnerable groups feel more comfortable speaking out and authorities are more likely to listen. One criticism of this section is that these essays do not adequately address the problem of legitimacy and

accountability of the various NGOs attempting to effect change. To put it simply, anyone with funding can form an NGO. NGOs, because they do not answer to government authority, may squander their resources or simply fall into inefficiency. Even apart from the fact that some NGOs may work for ideals that human rights advocates would not necessarily support, they are just as vulnerable to corruption as any other type of organization. It would have been useful to if this section had considered how, in the age of the NGO, a global community can work to improve this generally effective and crucial strategy for the promotion of human rights and development. Ultimately, this section is quite useful and timely, although it is covers less new ground than the preceding one.

In sum, this volume would benefit from less emphasis on ideas already explored elsewhere in the human rights debates with respect to Africa and other states, as well as a few more truly progressive ideas that introduce new perspectives into the debate. Ultimately, this volume will prove most useful to advocates wishing to acquaint themselves with the issues at hand in African post-millennial human rights and development problems. However, there is a lot to be said for a reader that asks (and variously answers) a range of important questions with respect to this critical topic. To the extent that the book surveys the (admittedly vast and uneven) terrain of human rights and development in Africa, it does an admirable job both in compiling a representative group of advocates as contributors and also in covering the most essential topics. Additionally, the volume does contain several stand-out essays that explore new and timely themes. Ultimately, it is a useful tool in educating the reader on the challenges Africa will face in turning the promise of human rights and democracy, for which it fought in the 1990s, into a reality.