Foreword: Representing Culture, Translating Human Rights

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On November 3–4, 2005, the Bernard and Audre Rapoport Center for Human Rights and Justice and the Texas International Law Journal jointly hosted a conference at The University of Texas School of Law entitled Representing Culture, Translating Human Rights.† This multidisciplinary and international symposium continued the Rapoport Center’s exploration of the mutual constitution of the local and the global by considering how international human rights law and discourse migrate, and how, in the process, issues of culture emerge. Speakers considered invocations of both rights and culture in the North as well as the South, in the West as well as the East. Through panel discussions on translation, sovereignty and asylum, as well as book-end keynote addresses considering differing conceptions of the roles and reception of international law in the United Kingdom and the United States, on one hand, and contemporary challenges to global security on the other, speakers considered questions about what is meant by human rights and culture, and how those meanings change as human rights law and advocacy travel.

Those who spoke at the conference are the contributors to this published symposium. Beyond having published on the areas discussed in the symposium, many of the participants have long been in conversation with each other. Such conversations have taken place on a variety of multidisciplinary, national, and global terrains—from meetings of the postcolonial reading group that Antony Anghie, Srinivas Aravamudan, Ranjana Khanna and I all participated in a decade ago at the University of Utah to a conference this past summer in Melbourne on the “cultures of human rights” that I attended with Gregor Noll and Florian Hoffman. Many of us, including most of those already mentioned as well as Philippe Sands and Balakrishnan Rajagopal, have also participated together in a number of David Kennedy’s conferences on “New Approaches to International Law” and even the “fin” of such approaches over the years. In addition, the relationship between culture and human rights has been an ongoing topic of discussion at the Rapoport Center, where Shannon Speed, Gerald Torres and now Derek Jinks are among the primary participants. Finally, several of the contributors have been engaged in discussions with Gaurav Desai and Charles Piot on human rights and postcolonialisms, while others have collaborated with Surakiart Sathirathai on topics ranging from United Nations reform to the role of microenterprises in the developing world.

That interpersonal narrative was meant to do more than fit everyone in the symposium into the foreword, although it did that. I could fill it in with juicy details, and it might offer some of the intrigue of a David Lodge novel. With a lot more detail and consideration, it might even suggest an account of how “schools of thought” are formed and challenged, how thought is transmitted across generations and changes and develops (and in some ways stays the same) over time, and how different formations of people suggest different

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1. The symposium was also co-sponsored by the Lozano Long Institute for Latin American Studies, the South Asian Institute, the Humanities Institute and the American Constitution Society.
questions at different times.\textsuperscript{3} That many of us have long been in conversation with each other in fact provided the opportunity for us to push the contours of the conversation a bit. Indeed, the symposium was partly designed to prompt those of us who often see ourselves as more or less on the same page to see where our differences might lie. And I think it was successful in that aim.

As discussion got underway, we began to identify some of the ways in which we often operate with different conceptions of culture and human rights, as well as of their relationship to each other. We began to see how we are both products and producers of different cultures—in ways that we might not normally recognize—and how our understandings of our own and other cultures affected our approaches to the topics we discussed.

The symposium thus provided as much a laboratory as a forum for considering the questions of how international human rights law and discourse migrate, and how, in the process, issues of culture emerge. Some parts of the symposium entailed an explicit discussion of culture. The asylum panel, for example, largely considered how “culture” is represented in asylum cases. But other times culture was discussed as something that might play a more subtle, if equally powerful, role. The translation and sovereignty panels, for example, at least in part explored the implicit understanding(s) of culture that influence approaches to human rights and to international legal concepts such as sovereignty. The translation panel specifically considered what lawyers, politicians, activists, and ordinary citizens and noncitizens mean when they use the term “human rights,” and whether and how geography might affect those meanings.

The questions posed for the panelists by the symposium were meant to be different from those of the traditional cultural relativist/universalist debate that continues to dominate—directly and indirectly—much of the discourse around human rights and culture. In this sense, we self-consciously situated the symposium “after” the debate between relativism and universalism. It was also meant to be after the debate about essentialism, and even after the observations about the situation of the “West” and the “rest.” As such, we attempted to resist the temptation to locate “culture” only outside of the West, and began the symposium with an inward gaze. How, we asked, does the United States see itself and its culture?\textsuperscript{4} Or, perhaps more specifically, how do others perceive that those in the United States see themselves and their culture?

Of course, being after is not the same as being beyond. I suspect that we are forever marked by those debates, although in ways that we might not even anticipate or recognize. While the published symposium undoubtedly bears such marks, the ways in which it does so are themselves instructive of the possibilities and limits of translating human rights.

\textsuperscript{3} For such a detailed account of “New Approaches to International,” see David Kennedy, \textit{When Renewal Repeats: Thinking Against the Box}, 32 NYU J. INT’L L. & POL. 335 (2000).

\textsuperscript{4} Particularly since 9/11, official United States discourse has tended to deploy simultaneously universal human rights rhetoric to justify actions outside the United States and an idea about U.S. sovereignty as uniquely (culturally) democratic or particular in its constitutional structure to deny the legitimacy of international scrutiny of the actions of the United States. For a discussion of one way in which this operates, see Karen Engle, \textit{Liberal Internationalism, Feminism and the Suppression of Critique: Contemporary Approaches to Global Order in the United States}, 45 HARV. INT’L L.J. 427 (2005). For an argument that invocations of constitutional arguments made in opposition to the United States’ ratification of the Convention on the Elimination of All Forms of Discrimination Against Women are actually culture claims, see Catherine Powell, \textit{Lifting Our Veil of Ignorance: Culture, Constitutionalism, and Women’s Human Rights in Post-September 11 America}, 57 HASTINGS L.J. 331 (2005).