Book Review

Aryeh Neier
The International Human Rights Movement: A History
Princeton: Princeton University Press, 2012

Reviewed by Howard A. Doughty

Each morning, after I've consumed my quota of coffee and browsed through the comforting paper-and-ink version of the local newspaper, I attend to the collection of electronic journals and related matter that has amassed overnight in my computer's inbox. There I find *The New York Times*, *The Washington Post*, *The Guardian* and about a dozen "alternative" Internet-based news and public affairs websites. In the mix are notices from another dozen advocacy groups urging me to sign a petition, make a donation or merely learn about an alleged calumny on the part of the authorities or an impending disaster (animal, vegetable, mineral or meteorological—any or all of which have been ignored, marginalized or rationalized by the mainstream print and broadcast media. Among these groups are Human Rights Watch (HRW) and Amnesty International (AI), which are probably the most easily identified and influential non-governmental organizations engaged in the promotion of human rights or, more often, the struggle against violations of human rights. They operate world-wide and subject offending nations (which are almost all of them) to critical scrutiny. The stories they tell are compelling. The issues they raise are often awkward and sometimes embarrassing (especially to the leaders of liberal democracies who prefer to believe that human rights abuses occur somewhere else). They are also tricky because they rely on a fundamental concept that is ill-defined, philosophically problematic and practically difficult to assess and address.

Human rights are strange conceptual beasts. There is, for example, no consensus on what they are. Some people think that they are absolute moral imperatives; some think that they are procedural norms related more to "fairness" in process than to "justice" in outcomes; some think that they are legal or political fictions ("conceits of the human imagination," which does deny that they are important, useful and valuable); and some say that they are nothing more than rhetorical tropes deployed to justify disputes over the exercise of political power. There is also no consensus on where they come from: some people insist that they are divinely ordained; some think they are the product of natural law; some say that they are social constructions that are culturally relative, historically contingent and endlessly negotiable (we just make them up ourselves); and, others, of course, deny that they even exist as meaningful objects of rational discussion.

Of practical importance are certain obvious and highly disputed issues. If, for example, we accept the existence and agree on at least a basic list of human rights, how are we to define their limits—if any? Does my right to free speech entail my ability to make libelous statements, to employ what is now fashionably known as "hate speech" or, emblematically, to call out "Fire!" in a crowded theatre (unless I detect smoke and flames

and reasonably conclude that the audience is in immediate peril)? Are these rights to be construed as "universal," so that local populations lose the "right" (so to speak) to determine which rights should apply in their community? Is there a right to opt out of someone else's charter of rights and to voluntarily surrender certain rights if they do not win the consent of a particular society or group within a society? How, in addition, are we to resolve matters when two sorts of rights seem to be in conflict? So, the right to practice this or that religion is sometimes viewed as a means to deny some people the rights normally given to others: the example of women's rights in certain versions of Christianity and Islam immediately comes to mind.

How to explain, how to define, how to apply and how to prioritize rights are questions with which philosophers, political theorists and politicians have struggled at least since Thomas Hobbes spoke of unlimited rights (and unlimited risk) in "the state of nature."

However much sages and savants have grappled with the question of human rights, the issues has never been exclusively theoretical. Human rights were the subject of great debate at the formation of the United States of America, and remain a greatly contested today. Specific results in judicial interpretation have had immediate and profound consequences for individual fates (think *Dred Scott v. Stanford*, 1857) and for social relations (think *Roe v. Wade*, 1973). The first ten American constitutional amendments (collectively known as the *Bill of Rights*, 1791) affirmed a number of individual liberties such as freedom of speech and of assembly, the right of protection against unreasonable search and seizure by the authorities, and speedy and public trials in which citizens are afforded due process of law. These and other incontestable benefits have, in one way or another, also found their way into the fundamental law of most practicing liberal democracies and not a few authoritarian societies as well. Their historical and global influence has been formidable. They have also been a subject of tremendous controversy.

In these pages in 1997, I had the opportunity to discuss and recommend a book entitled *The Human Rights Reader*. It was edited by Micheline R. Ishay, and it was composed of eighty-three documents and fragments of documents that traced the history of human rights back to the ancient sacred texts of four world religions and to the writings of Plato and Aristotle, St. Augustine and St. Thomas Aquinas. It included some of the thought of classical liberals, democratic socialists, Marxists and an occasional anarchist. It culminated in an inventory of international agreements and declarations that offered a stunning catalogue of human rights and freedoms which have, of course, not been achieved perfectly, but have at least provided a standard according to which progress could be measured.

What Ishay's compendium lacked was a thematic narrative or, indeed, any attempt to analyze, explain, criticize or even contextualize the various views that were on display. She was satisfied to produce a reasonably comprehensive anthology; still, it begged a series of questions. Not the least of these was how and under what circumstances had women and men of courage, compassion and conceptual clarity managed to take apparently abstract concepts and find ways to bring them into the real world of politics. Aryeh Neier succeeds in bringing an interpretive and analytical perspective to the subject.

Neier is something of a legend in the late-twentieth-century story of human rights, and therefore an example of why activism is no bar to first-rate analysis. Personal involvement, by these lights, may be a legitimate precursor if not an actual precondition for excellence in producing truthful (if not entirely "objective") accounts of controversial social phenomena.

Aryeh Neier, now passing through his seventy-fifth year, has consummate credentials. He joined the American Civil Liberties Union in 1963, and became its national Director from 1970 to1978. In 1980, he joined the newly formed HRW and subsequently became its Executive Director until he left in 1993 to become President of billionaire financier-philanthropist George Soros's Open Society Institute, a position from which he retired just this year. He has devoted much of his adult working life to promoting human rights at home and abroad. His career, of course, was not uncontroversial, even within the human rights community. Perhaps his most contentious position was his (and the ACLU's) support for freedom of speech in the defense of neo-Nazis who wished to march in a largely Jewish suburb of Chicago (Neier, 1979).

Moreover, apart from the obvious cases of cruel tyrants and totalitarian dictators who might be mildly embarrassed (or possibly perversely proud) of the publicity generated by hideous tales of tortute, critics from the left have pounced on what might be called the hidden agenda of human rights. In *The Riddle of Human Rights* (2004), for instance, Gary Teeple labelled HRW "an American child of the last stages of the Cold War." While acknowledging that it took some principled positions against, for example, the exploitation of child soldiers and joined in the attempt to hold heads of state accountable for crimes against humanity—particularly against their own citizens—Teeple maintained that, on balance, HRW's record has been skewed toward exposing the wickedness done by governments to which the United States bears some ill-will. Its support for human rights seemed oddly biased.

Such criticisms do not, of course, wholly undermine Neier's project. He presents a revealing assessment of the human rights movement in terms of its modern origins in such struggles as the English quest for religious freedom in the rancorous seventheenth-century and the movement for the abolition of slavery two hundred years later. He connects historical roots to emerging international human rights and humanitarian law. He does not back down from Teeple's comment that HRW was "originally created to use human rights as a means to of helping to destabilize state-capitalist regimes in Eastern Europe"; in fact, he speaks with some satisfaction of the role of human rights organizations in "defying" Soviet Communism.

Perhaps the most telling part of Neier's story concerns contemporary human rights issues and, especially, the connection of the human rights movement to the current Western debate about "terrorism" and the balancing global debate about what counts as cultural, never mind economic and military, imperialism.

If, as Clausewitz said, "war is politics by other means," then it might be added that "terrorism is war by other means." Since the implosion of the Soviet Union almost a

quarter-century ago and the transformation of China into a fully fledged and semi-flying capitalist autocracy over roughly the same period, it has no longer been plausible to use "communism" as an adequate rhetorical justification for foreign policy initiatives and military adventures. Instead, what Mitt Romney incessantly called "turmoil" in his presidential race now sets the stage for human rights discussions.

International uncertainly now seems at least as daunting as the presence of an obvious and unambiguous ideological enemy. Some human rights advocates saw as a great flowering of opportunity (what Neier already calls "the golden age" of human rights") when the Soviet Empire collapsed, Latin American dictatorships were overthrown, and apartheid was ended in South Africa. But these events have failed to produce unequivocally positive results. As Andrew Janco (2012) has recently written, "new international norms of democracy and human rights [are] blended with existing cultural and political practices." Thus, we see the proliferation of "hybrid regimes that exhibit a mixture of democratic and authoritarian forms of government." Each failure or merely partial success to usher in a dramatic era of universal human rights presents both a theoretical and a practical problem. First, how were human rights misconceived? Second, how were attempts to universalize them ineptly executed?

While the outcome of rebellious and populist movements around the world challenge the sincerity of Westerners when they applaud democracy in principle, but fall silent, sullen and suspicious when elected governments show an unwelcome interest in economic reform that threatens the domination of global corporations, nowhere is it more difficult for human rights watchers to find their footing than in the ongoing contests that can be found under the rubric of "Arab Spring." The problem with democracy, it seems, is that when allowed free elections, people have an annoying tendency to vote for governments which do not unreservedly wish to sign on to the entire Western agenda.

What's more, sometimes forces of "liberation" bring decidedly illiberal forces to bear on other aspects of human rights and maintain connections with groups whose avowed interest is in keeping the West at bay—sometimes using violent tactics that their putative benefactors find more repulsive than drone air strikes. So, the blowback from North Africa and the Middle East has produced a monstrous conundrum for human rights advocates in Europe and North America, as well as for North American and European governments which are ostensibly interested in encouraging democratic practices and terminating or at least minimizing the power of dictatorships. The conundrum concerns the degree to which such Western powers are willing to sacrifice the political rights of their own citizens who choose to dissent from their leaders' choices in the so-called "war on terror."

Neier is quite open about the fact that the current human rights movement was a product of the Cold War, but he urges us to remember that, despite apparent set-backs, it has had an impact that no one can responsibly gainsay. Whether in lobbying efforts in support of political prisoners, attempting to strengthen international law and institutions or building the basis of civil societies, the movement has had some irrefutable successes. Neier is, moreover, sensitive to the current enigma, which is to say the threat to human rights

posed by and within the Western democracies by their own leaders. Claims, for instance, that the balance of civil rights and national security strategies must tilt measurably toward "keeping us safe" regardless of the violations of the freedoms that were articulated and developed by Western democracies in the first place are everywhere in evidence.

The balancing act has put many a Western intellectual in a bit of a quandary. For instance, Michael Ignatieff (2006), the former leader of the Liberal Party of Canada leader and longtime Director of the Kennedy School of Government's Carr Center for Human Rights Policy at Harvard University, has openly mused about torture as a regrettable but legitimate weapon against terrorists. Alan Dershowitz (2002), Harvard Law Professor and vigorous civil libertarian, has advocated the adoption of protocols for the acceptable of torture, justifying his position by saying that at least such a policy innovation would impose judicial control over what is euphemistically called "enhanced interrogation." Similarly, a wide array of people have supported various limitations on civil liberties (especially invasive, unwarranted surveillance and ethno-religious profiling) and have agreed that modifications of rights to due process for suspected terrorists should be permitted. Even Barack Obama, who had promised to close the infamous Guantánamo facility, managed to complete four years in office without taking steps to do so, in part because some countries of origin or prisons would not accept the Guantánamo prisoners.

On such matters, Aryeh Neier is prepared to defend and support citizens of liberal democracies who are incarcerated for blatantly political reasons. HRW and others have, for example, even demanded that the United States government explain itself over the imprisonment and arguable torture of Bradley Manning, who remains at the centre of the "Wikileaks" controversy. Neier is also unapologetic about the high moral standards that HRW, AI and other independent human rights groups demand.

Over the past half-century, the "new politics" of human rights advocacy has narrowed the range of human rights abuses to the legal and political, expressly refusing to deal with social and economic issues. Advocacy and investigative groups have also eschewed any conceptions of human rights that arose from notions of anti-colonial and anti-imperial movements. When it came to dramatic achievements, the negotiation of the Helsinki Accords which sought to extend civil rights to the Soviet satellites in Eastern Europe was deemed a great triumph, though sceptics might wonder about its authenticity in light of the fact that the highly controversial Henry Kissinger was its chief author.

Operating wholly within the liberal tradition, Aryeh Neier and his associates also raised a high standard for purity. They insisted that a condition for receiving assistance from human rights organizations would be the renunciation of violence against tyrannical regimes. So, Nelson Mandela was refused help from AI. To quote Ignatieff on the matter: "Amnesty held firm: to be a human rights activist was not to take sides, even against evil regimes, but to defend the victims of their murderous certainties," unless those victims fought back.

A final and perhaps the most important point: Aryeh Neier and most of his associates are what I choose to call incrementalists, which is to say that they believe that gradual improvement in conditions is not merely possible, but that it may be the only possible strategy to accomplish honourable change. Advocates of revolutionary change have predicted and promised by any number of radical human rights initiatives. Sponsors of political transformation have incorporated liberty (and occasionally equality and solidarity) into their radical programs. Unfortunately, successful revolutions have too often regressed into the form of the regimes they bravely overthrew. As we are constantly reminded, the French Revolution begat Napoleon, the Russian Revolution begat Stalin, and so on.

AI founder Peter Benenson therefore argued that there is no value in freeing victims of tyranny merely in order to allow former victims to become tyrants themselves. So did Albert Camus (1951) who exhorted us to oppose evil, while not recommending some transcendent political template for good. And so did Sir Karl Popper (1945), who railed against "absolutism" and "historicism" in his objections to Plato, Hegel and Marx. Neier's final commitment was to Boros's Open Society Institute, which gained its main inspiration from Popper; in heading up the new group, Neier was nothing if not consistent.

The concept of human rights requires that we think deeply about a set of normative questions. These include what those rights mean, how they relate to other concepts such as justice and equity, whether they are instrumental and procedural or universal and teleological values, and how they may be reconciled within a coherent philosophy and not just laid out like sugary treats in a political candy store from which we can pick and choose at will (and fight over who got the most and best of the goodies). There are, however, also pragmatic and empirical questions.

Neier provides some tentative answers. According to Jeanne Curran and Susan R. Takada (2003) "…Neier's most important innovation at Human Rights Watch was to concentrate on violations of the laws of war and to find ways of holding the guilty and their supporters accountable." Under his leadership, in 1983 "HRW launched a campaign to hold accountable those guilty of human rights violations and crimes against humanity. This," they add, "became the dominant theme of the human rights movement throughout the world. It was the basis for… the doctrine of 'universal jurisdiction' as claimed in the arrest of Pinochet, ad hoc UN criminal tribunals (former Yugoslavia, Rwanda, Sierra Leone), and finally the recently established International Criminal Court…"

Criticisms of Aryeth Neier, whether at HRW or the Open Societies Institute may be fair insofar as they demonstrate the limited objectives and achievements of human rights advocates who remain almost willfully blind to the "big picture." They ought not, however, to discount the immediate achievements that have surely been given added energy by Neier's dogged persistence and personal commitment to witnessing and leading investigations—sometimes at considerable personal risk and in the face of active opposition by the United States government—particularly in Central America during the

Reagan administration. They also ought not to ignore the sometimes unpopular stands that Neier took with regard to NATO activity in the former Yugoslavia in the 1990s.

In matters as diverse as campaigning for the banning of land mines to initiating Truth and Reconciliation Commissions and from exposing both their ideological foes' and their own governments' collusion in vicious repression, Neier and his associates have pioneered new strategies and achieved measurable benefits. Aryeth Neier has earned respect—even if, or perhaps precisely because, he has limited the range of interest in order to ensure effective results, and thereby to bring at least an arithmetical reduction of human suffering. The cumulative consequences await fulfillment, analysis and assessment. The story that Neier tells is far from complete.

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