

BOOK REVIEW: Ben Golder (2015) *Foucault and the Politics of Rights*. Stanford California: Stanford University Press.

In this book Ben Golder provides perhaps the most comprehensive engagement with Foucault's thought in relation to human rights. Focusing on the late Foucault – the philosopher's increased attention to the concept of rights, his writings on ethics and his political activism - Golder convincingly counters critics who have seen a certain about face in Foucault's work: an apparent return to the humanist subject he so devastatingly dismantles in his earlier work. This should not, Golder argues, be read as a chastened return to liberalism. Nor does he see Foucault's explicit use of the language of rights in his political activism as an example of the disillusioned abandonment of more radical political projects by the Left (leading, in Sam Moyn's (2010) reading, to human rights emerging as 'the last utopia'). Instead we should see it as a more complex and subtle engagement with the language and politics of rights: one that exemplifies Foucault's unique perspectives on power and the practice of critique. In elaborating on and adding to these aspects of Foucault's work, Golder provides an indispensable set of analytical tools for those of us who are sceptical about human rights but nonetheless continue to engage with them.

In Chapter One Golder begins by clarifying Foucault's approach to critique. He demonstrates that rather than this being an act of negation, it is, 'a kind of contrary excavation and interrogation': an approach that seeks to always question the apparently self-evident and in the process creates the possibility that things may be otherwise. By reminding us of the productive and creative potential of critique Golder offers a way out of the current impasse that too often pits critical scholarship on human rights against those claiming to be doing 'the real work of human rights' of naming violations and assisting victims (Afshari 2012). It allows us to reaffirm our commitment to responding to violence and injustice but in a way that does not require us to unquestioningly accept the normative universe of human rights orthodoxy.

It should also be impossible for those of us working in the field of human rights not to acknowledge that, while human rights are asserted in the name of the world's disenfranchised and oppressed, they are entwined with processes of global governance that rely on power and privilege. In speaking 'truth to power', it remains a reality that only some

can really speak and be heard (to recall Gayatri Spivak's (1988) famous question). How to recognise and address this reality without being paralysed into inaction? Golder offers a couple of responses, again drawing on examples from Foucault's writings and political practice.

The first, and a recurring theme throughout the book, is that of the 'critical counter-conduct' of rights. As we know, a key contribution of Foucault's work has been his theory of power: its fluid nature and the immanent possibility for resistance contained within its very operation. Drawing on this, Golder argues that Foucault's use of the language of rights is in fact an example of a critical counter-conduct: 'something which resists, works against, subverts, avoids the operation of the attempt to govern conduct' and in the process demonstrates that 'the meaning and operation of forms of governing are not set in stone but rather available for contestation, appropriation and reversal (p154). He gives the example of Foucault's engagement in the 1980s with the gay and lesbian rights movement (Chapter Three).

This leads Golder to conclude that a more appropriate reading of Foucault's decision to use the language of rights in his later life and writing – one that is more faithful to the philosopher's complete body of work – is that it is tactical, critical and subversive. For Golder, Foucault is seeking 'to access the political possibilities that this emergent political repertoire discloses' while at the same time trying to, 'semantically undo [hegemonic] rights talk and make it mean differently' (p156). In this, Golder argues: 'Foucault... is in fact one of the first to develop a critical, subversive, appropriatory praxis of rights which, far from denying their value or utility, actually celebrates the ways in which they can be put to different, and contrary, uses' (p159). At the same time, he demonstrates that this decision to use rights talk is also made strategically and contingently with regard to the particular costs of and benefits in a given situation. For example, he describes Foucault's use of the language of rights in relation to suicide while simultaneously rejecting it in relation to his opposition to the death penalty (Chapter Four).

Drawing on Foucault but ultimately presenting his own highly original and intellectually stimulating perspective, Golder's analysis is compelling and insightful. It also provides a much-needed and highly productive provocation to the field of human rights. In his conclusion he

leaves us with a series of thought-provoking questions which I see as crucial for all of us to seriously consider. 'Can all claims be made in the language of human rights?', he asks, 'Or are some claims less intelligible than others? What are the strategic limits of human rights? What are the limits of their contingent reappropriation?' (p161).

Claiming he will defer to answer these questions, Golder's scepticism about the productive and emancipatory possibilities of human rights is palpable. And unsurprisingly so given his engagement with the vast body of critical literature that now exists on human rights. These critics powerfully demonstrate the failure of the rights regime to seriously respond (whether intentionally or unintentionally) to the material and structural conditions that give rise to inequality and oppression. This leads Golder to ask whether many of those seeking to make use of the language of human rights, including perhaps Foucault himself, might have underemphasised the, 'false contingency' contained within the rights discourse (p87): the 'operative and material dynamics' (drawing on Susan Marks), that 'prevent[] certain figures of humanity, being, relation, and community from signifying within the texts of human rights' (p88). '[M]ight it be the case', he muses, 'that while the "human" emerges from this account as an empty signifier whose meaning stands to be remade anew with every fresh political claim and counterclaim, a "right" is itself a particular modality which works to contour and circumscribe the definitional possibilities of the human'(p88).

The question is an important and provocative one. I think Golder is absolutely correct in emphasising the co-existing factors of indeterminacy and materiality that shape whose humanity can be recognised and on what terms. It has made me reflect long and hard on the ways in which human rights claimants are disciplined into conforming to particular identities and discourses in order to first make their claims and then have them recognised. However I think he is also a little too hasty in his reduction of contemporary human rights to their dominant articulations and texts.

By engaging with the operation and enactment of human rights language in different lived contexts we see that in fact this is only one facet of the life of human rights. I agree that this is an important facet and often one that serves to narrow and frame the possibilities, maintain the status quo and reinforce existing social, cultural and economic hierarchies. Yet when we

look closely at particular situations, I have argued that this is often not where the story ends. Whether through the active misreading of the texts, subversive engagement with institutions or lay articulations of rights that may or may not conform to their dominant meaning, human rights has a life that extends beyond those of elite institutions and the formal language of law (Grewal 2017). Furthermore, while I agree with Golder that we need to pay attention to the very real possibility that the structure of the rights discourse may make certain subjects more appropriate or visible than others, I have also seen at least a few examples that suggest the possibility of subjects transcending the hegemonic framework of what constitute legitimate rights, legitimate rights claims and indeed legitimate subjects. This is perhaps why it is not only international institutions and elites that choose to use the language of human rights but also peasant movements, sex worker's associations, women's groups, indigenous peoples and so on. It is a demonstration of the type of resistance and possibilities for agency that Foucault leaves open the possibility for, but never himself fully articulates. I would therefore urge Golder to have regard not only to the hegemonic but also marginal practices and articulations of human rights continuing all over the world today.

In making this point I do not think this is a criticism of Golder's book. On the contrary, I think it demonstrates the relevance of his argument as a theoretical intervention that can be placed in productive dialogue with those of us seeking to study the practice of human rights in particular times and places. In expressing his scepticism, Golder provokes those of us working in the field of human rights to ask ourselves difficult questions, reflect on why we continue to engage with this often problematic framework and discourse and to articulate for ourselves where we see the positive possibilities and why. Golder poses the questions we need to ask and I am appreciative of his intervention for both forcing and providing a useful frame for critical self-reflection.

In conclusion, I think this is an immensely readable book that is a must for human rights scholars. For someone only superficially versed in Foucault I found Golder's account accessible, informative, provocative and compelling. It is an extremely useful resource for thinking through the tensions that many of us working in the field of human rights face regularly and deserves to be a key text for anyone studying this area.

References:

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