

What Do We Need To Know About Human Rights? And How Do We Get To Know It?¹

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What do we need to know about human rights? And how do we get to know it? I believe that we rarely ask these questions. We normally allocate the study of human rights to ‘disciplines’, and let them determine what we need to know about human rights and how we get to know it. We situate these ‘disciplines’ in university departments. So departments of law tell us that we need to know what human rights law is. Philosophers ponder the meaning of human rights; propose reasons for ‘believing in’, or being sceptical about, human rights, and explore various conceptual and normative problems that the idea of human rights raises. Social scientists investigate the *empirical* relations between respect for, or violation of, human rights and various political, social and economic variables. Each discipline generally *takes for granted* what we need to know about human rights and how we get to know it.

Disciplines have the virtue that they require *discipline*. They consist of rules that are created by experts who teach them to their ‘disciples’, some of whom, in turn, become experts themselves. Disciplinary experts generally agree about what counts as following, and what counts as violating, the relevant rules. Experts sometimes disagree on the interpretation of the rules, but there is a high level of agreement about what the controversial areas of the discipline are, and the appropriate methods for resolving disagreements. Thus, disciplines consist of bodies of accepted knowledge and agreed methods of investigation, even though there are some areas of uncertainty and controversy.

¹ This is a revised version of the 20th Anniversary Lecture in celebration of the MA in the Theory and Practice of Human Rights delivered at the University of Essex on 17 January 2013.

Disciplines are exclusionary. Since they are constituted by a community of experts and their disciples, those who are neither experts nor disciples are excluded from the disciplinary community. A particular individual can be a member of more than one disciplinary community: a legal philosopher, for example, can be an expert in law and philosophy. The boundaries of disciplinary communities are therefore flexible and imprecise. Disciplinary experts are, however, elites and most people are excluded from the disciplinary community because they lack the relevant expertise. The claim that disciplinary communities are exclusionary and elitist may seem paradoxical because some disciplinary communities are committed to inclusionary and egalitarian values. The exclusiveness and elitism of disciplinary communities are nevertheless inherent in their commitment to technical expertise and command of the relevant knowledge. To say that a particular individual is an outstanding lawyer is to imply not only that most people are not outstanding lawyers, but also that most people cannot realistically hope to become outstanding lawyers.

The exclusionary nature of disciplines is aggravated by the fact that they are usually located in departments, for departments are *bureaucratic* as well as *epistemic* or *intellectual* institutions. Departments determine such matters as the allocation of teaching and administrative duties, finance, and promotions. They are characterised both by bureaucratic *routines* (for example, timetabling) and the *stresses* of competition among departments for scarce resources. These institutional features of academic departments tend to create *solidarity* within departments. Departmental members have a common interest in subscribing to the famous admonition that Benjamin Franklin issued on signing the American Declaration of Independence: ‘we must all hang together, or assuredly we shall all hang separately’. This departmental solidarity is, of course, compatible with tensions and conflicts among individuals and factions within departments. Nevertheless, departments can be somewhat ‘tribal’, and this can generate

suspicion of, or even hostility to, other departments. It can also lead to suspicion and hostility among *disciplines*. Thus, social scientists sometimes believe that lawyers underestimate the importance of *empirical* knowledge, while some lawyers think that some philosophers ‘pontificate’ about human rights with an inadequate knowledge of the law.

The limitations of ‘disciplines’ have been recognised for a long time. ‘Interdisciplinary research’ is common in the physical sciences. ‘Interdisciplinary studies’ of various kinds are common in many universities in many countries. The University of Essex has a Centre for Interdisciplinary Studies in the Humanities that, according to its website, brings together ‘academics from across the university’.² Similarly, the Human Rights Centre also brings together ‘academics from across the university’. This surely solves the problem created by the fact that ‘disciplines’ are at the same time rigorous and exclusionary.

Here we encounter a problem that may be trivially semantic or importantly substantive. The problem is this: do we get to know what we need to know about human rights by a *multidisciplinary* or an *interdisciplinary* approach? The website of the MA in The Theory and Practice of Human Rights refers to the ‘interdisciplinary’ Human Rights Centre. However, in the very next paragraph it says that the Centre is ‘one of the world’s oldest and most highly respected environments for the ‘multi-disciplinary’ study of human rights’.³ The terms ‘interdisciplinary’ and ‘multidisciplinary’ are often used as if they were synonymous, but sometimes the terms are *contrasted* with each other, although the significance of the contrast is rarely made clear. To shed light on this problem I will tell a story.

² University of Essex website. Available at: <http://www.essex.ac.uk/cish>. Last accessed 13 December 2014.

³ University of Essex website. Available at: http://www.essex.ac.uk/coursefinder/course_details.aspx?course=MA++L3MV12. Last accessed 13 December 2014.

The story is told in the book, *Human Rights and Gender Violence: translating international law into local justice* by Sally Merry.⁴ It comes from Hong Kong. When Britain leased the New Territories of Hong Kong from China in 1899, it promised to respect Chinese customary law. Part of this customary law was the rule that only men could inherit property.

Lai-Sheung Cheng was an indigenous woman who lived in the New Territories with her father in the family home. When her father died, her two brothers inherited the family house. In May 1991 they decided to sell the house to a private developer. Ms Cheng refused to leave unless she was given a share of the proceeds, citing a Qing dynasty custom that allowed unmarried women to reside indefinitely in the family home after the father's death. For the next two years Ms Cheng was severely harassed by the buyer of the house to force her to leave.

Fed-up with the harassment, Ms Cheng wrote a letter to the Chinese newspaper, *Oriental Daily*, explaining her situation. *Oriental Daily* did not publish the letter, but someone at the paper put Ms Cheng in touch with Linda Wong, a social worker at the Hong Kong Federation of Women's Centres. Ms Cheng told Ms Wong that she knew several other indigenous women in similar situations. Ms Wong asked Ms Cheng to contact these women and bring them to a meeting. Several indigenous women met Ms Wong in 1992.

After this meeting, the women held informal meetings with various government officials and members of the Hong Kong Legislative Council. When Hong Kong submitted its report to the UN Human Rights Committee in 1991, the Hong Kong Council of Women prepared a

⁴ Sally Engle Merry, *Human Rights & Gender Violence: translating international law into local justice* (Chicago, The University of Chicago Press, 2006).

'shadow' report in which they claimed that the inheritance law was a form of gender discrimination that contravened the Hong Kong Bill of Rights, the UN Convention on the Elimination of Discrimination Against Women and the International Covenant on Civil and Political Rights. The authors of this report were well-educated Western women. During the preparation of the report one of its authors discovered that the inheritance law applied not only to *indigenous* women of the New Territories, but to *all its inhabitants*. Thus, *non-indigenous* women in the New Territories – who were not accustomed to being governed by Chinese customary law – would be unable to inherit property, while *all* women in the rest of Hong Kong could do so.

In November 1993 the Hong Kong government introduced the New Territories Land (Exemption) Ordinance that exempted *urban* land in the New Territories from the inheritance law. A legislator, Christine Loh, proposed an amendment extending the Bill to *all* women. This move led to the creation of the Anti-Discrimination Female Indigenous Residents Committee. This committee included indigenous women, Ms Wong, a representative from the Association for the Advancement of Feminism, a reporter from Radio Television Hong Kong, an anthropology graduate student, and a trade union organiser.

At first the indigenous women expressed their claims in terms of *kinship obligations*, emphasising that they had been dutiful daughters, and tried to persuade their male relatives to fulfil their familial obligations. When that approach failed, they learned through the Anti-Discrimination Committee to *translate* their *kinship grievances* into the language of *rights* and *equality*. This was necessary to secure a hearing from the Legislative Council and the media, who were not interested in family quarrels but were interested in gender equality and human

rights. In June 1994 the Legislative Council passed the Bill, including Christine Loh's amendment, by thirty-six votes to two.

Seven features of this campaign are particularly worth noting.

Firstly, indigenous women originally conceptualised their grievances in terms of traditional culture, but were willing and able to 'translate' them into the language of human rights when they had learned that this would be *politically more effective*. A cautionary word is in order here. It is common to contrast traditional, local cultures with those that are modern and national or cosmopolitan. However, this dichotomy often oversimplifies the relations between the local and the wider world. Ms Cheng's *first* step in seeking to remedy her grievance was to write to Chris Patten, then governor of Hong Kong. This move produced no result, but it shows that those who are 'traditional' and 'local' may be able to connect themselves with the 'modern', international world. Local, traditional cultures often overlap and interact with the worlds of modern politics and law.

Secondly, 'modern', cosmopolitan Hong Kong professionals helped the indigenous women to make the translation from the discourse of traditional family values to that of human rights.

Thirdly, resistance by conservative men of the New Territories was also articulated in terms both of traditional culture and the international discourse of *indigenous rights*. This shows that, although human rights and indigenous rights may be mutually supportive, they may come into conflict when indigenous cultures include the endorsement of practices forbidden by human rights.

Fourthly, while the indigenous women were willing to use the human rights discourse to promote their cause, they were reluctant to abandon the traditional ‘family values’ framework. This suggests that, in the context of debates about the ‘universalism’ of human rights and the ‘relativism’ of culture, whatever lawyers and philosophers think, the anthropological reality may be that local cultures retain a strong appeal for many people *even when they find it pragmatically useful to employ the discourse of human rights*.

Fifthly, *timing* was important. This struggle took place during the run-up to the British hand-over of Hong Kong to China when ideas of democracy and human rights were salient and popular in Hong Kong. Thus, any account of these events that did not include its *historical specificity* would be incomplete.

Sixthly, the Chinese government did not intervene. Human rights campaigns take place in an *international context*. Explanations of the success or failure of such campaigns that did not take the international context into account might be incomplete.

Seventhly, the coincidence of the inheritance campaign with Hong Kong’s submission of a report under the terms of an international human rights treaty shows that international human rights law can play a part in a successful, *local* human rights campaign on behalf of people to whom the concept of human rights is at the same time alien and attractive. It is not possible to assign a causal weight to the part played by human rights law in the success of this campaign, but the anomaly that traditional law applied to non-traditional residents of the New Territories was discovered only during preparation for Hong Kong’s submission to the Human Rights Committee.

This is a human rights story, but it is difficult to assign it to one academic discipline or to a specific set of disciplines. The author of the book from which it is taken, Sally Merry, is a Professor of Anthropology, Institute for Law and Society, Faculty of Arts and Science, New York University School of Law. Her narration of the Hong Kong inheritance dispute is ‘interdisciplinary’, not ‘multidisciplinary’ in that she does not explicitly employ a number of disciplines, but tells a story into which disciplinary perspectives enter according to the demands of the story. It exemplifies well the distinction between interdisciplinary and multidisciplinary approaches made by Simon Goldhill, Director of the Centre for Research in the Arts, Social Sciences and Humanities at Cambridge University:

‘We’re interested in thinking about the space between departments. Take something like climate change. If you ignore the social and historical context of the problem, it would be a disaster. In the same way, you can’t consider it on a purely historical and sociological basis and hope to avoid the science. *If you don’t do interdisciplinarity in these sorts of areas, you actually damage the field. You’re not only not answering the whole question; you’re actually making a destructive intervention in the world.*’

Professor Goldhill makes two excellent points. The first is that *multidisciplinarity* isn’t good enough, because it ignores ‘the spaces between departments’. The second is that the failure to be interdisciplinary not only results in *incomplete* solutions to problems, but also may result in the *wrong* solutions.

Merry gives us a complex, interdisciplinary account, rooted in anthropology, of a successful human rights campaign. Samuel Moyn, in his recent book, *The Last Utopia: human rights in history*, shows how one discipline, history, can challenge our understanding of another, in this

case: international human rights law.⁵ Moyn argues that the human rights movement, based on international human rights law, dates, not (as is commonly assumed) from the Universal Declaration of Human Rights in 1948, but from the 1970s. Most international lawyers in the period following the Second World War saw the human rights provisions of the UN Charter as ineffectual moral decoration for a grimly realist framework for international peace. Some saw the Universal Declaration, not as laying the foundations for the splendid architecture of international human rights law, but as the final nail in its coffin. The Declaration was, of course, not legally binding. It was, many would have said, not *law*. It was a *declaration*, a sop to the idealists in a realist world. Moyn's thesis is supported by the fact that the International Covenant on Economic, Social, and Cultural Rights and the International Covenant on Civil and Political Rights entered into force only in 1976 – twenty-eight years after the adoption of the Universal Declaration.

The website of the University of Essex Human Rights Centre proclaims that it is 'one of the oldest academic human rights centres in the world'.⁶ The LLM in International Human Rights Law, 'the oldest established human rights law course in Europe',⁷ was first taught in 1983 – thirty-five years after the adoption of the Universal Declaration. Moyn is right to point out that the mid-1970s produced a remarkable surge in the salience of human rights: the Helsinki Final Act 1975; hearings on human rights in the US House of Representatives initiated by Congressman Donald Fraser 1973-1975; the creation of a human rights bureau in the US Department of State in 1975; the inauguration of Jimmy Carter as President of the USA with a

⁵ Samuel Moyn, *The Last Utopia: human rights in history* (Cambridge, MA, The Belknap Press of Harvard University Press, 2010).

⁶ University of Essex website. Available at: <http://www.essex.ac.uk/hrc>. Last accessed 13 December 2014.

⁷ University of Essex website. Available at: http://www.essex.ac.uk/coursefinder/course_details.aspx?course=LLM+M10112. Last accessed 13 December 2014.

commitment to human rights in January 1977; the award of the Nobel Peace Prize to Amnesty International also in 1977. Moyn interprets this surge as ‘the god that did not fail’.⁸ Soviet Communism was finally discredited by the invasion of Czechoslovakia in 1968; Western social democracy entered into the ‘fiscal crisis of the state’ in the 1970s;⁹ the youth radicalism of the 1960s was doused by the youth unemployment of the 1970s. Human rights became, in Moyn’s phrase, ‘the last utopia’. Whether or not the human rights movement is utopian may be questioned, but, for some, it provided a purer cause than the political ideologies inherited from the nineteenth century.

If international law was slow to take human rights seriously, the social sciences were even slower. Again, the 1970s were a crucial decade. A lonely pioneer was Richard Claude, who, in 1976, edited a volume entitled *Comparative Human Rights*.¹⁰ In 1979 he founded *Human Rights Quarterly*, which describes itself as ‘a comparative and international journal of the social sciences, humanities, and law’. Claude’s remarkable contribution to the interdisciplinary study of human rights is illustrated by the fact that one of his last publications (he, sadly, died in 2011) was entitled *Science in the Service of Human Rights*.¹¹ Other early works on human rights in the social sciences were: *Human Rights and World Politics* (1983) by the American political scientist, David Forsythe;¹² *Human Rights and International Relations* (1986) by the British international relations scholar, R. J. Vincent;¹³ and *Human*

⁸ This reference (mine) is to Richard Crossman (ed.), *The God That Failed* (New York, Harper, 1950), a collection of essays by intellectuals disillusioned with Communism.

⁹ James O’Connor, *The Fiscal Crisis of the State* (New York, St. Martin’s Press, 1973).

¹⁰ Richard P. Claude (ed.), *Comparative Human Rights* (Baltimore, Johns Hopkins University Press, 1976).

¹¹ Richard Pierre Claude, *Science in the Service of Human Rights* (Philadelphia, University of Pennsylvania Press, 2002).

¹² David P. Forsythe, *Human Rights and World Politics* (Lincoln, NE: University of Nebraska Press, 1989).

¹³ R. J. Vincent, *Human Rights and International Relations* (Cambridge, Cambridge University Press, 1986).

Rights in Commonwealth Africa (1986) by the Canadian sociologist, Rhoda Howard.¹⁴ In the twenty years or so since the MA in The Theory and Practice of Human Rights was established at the University of Essex there has been a growing body of work on human rights in political science, international relations, sociology and anthropology. During this period the American Political Science Association, the UK Political Studies Association and the British Sociological Association have set up human rights sections. The American Anthropological Association, once sceptical about human rights on grounds of ‘cultural relativism’, now has a Committee for Human Rights. The American Association for the Advancement of Science has established a Science and Human Rights Coalition, which it describes as ‘a network of more than 45 scientific and engineering organisations that recognise that scientists and engineers are vital to the realisation of human rights’. Thus, over the lifetime of the MA, teaching and research in human rights by non-legal disciplines has increased significantly, although the dominance of law has not been seriously challenged.

Do we now know what we need to know about human rights? And do we know how to get it? In particular, does the MA in The Theory and Practice of Human Rights tell us what we need to know about human rights, and how to get it? To answer these questions, I will explore further the differences between ‘multidisciplinary’ and ‘interdisciplinary’ approaches to human rights, and argue for the superiority of the latter.

The MA in The Theory and Practice of Human Rights was originally created primarily by a combination of two disciplines: law and philosophy. What is the relation between the law and philosophy of human rights? One view is that law tells us what human rights are, and

¹⁴ Rhoda E. Howard, *Human Rights in Commonwealth Africa* (Totowa, NJ, Rowman & Littlefield, 1986).

philosophy gives us reasons to support them. On this view, philosophy ‘backs up’ human rights law. There is, however, an alternative view of the relationship. On the alternative view, the task of philosophy is not to *support* human rights law, but to *evaluate* it *critically*. To philosophers, no laws are *self-justifying*. To place human rights law beyond critical evaluation is to indulge in the very dogmatism that human rights are intended to challenge. To say that the philosophy of human rights should take a *critical* attitude to human rights law is *not* to say that its conclusions must necessarily be *hostile* to human rights. It is, however, to say that the *validity* of human rights is an open question. There is, thus, an inherent *tension* between human rights law and human rights philosophy.

This tension between the law and philosophy of human rights is reflected in the website of the MA in The Theory and Practice of Human Rights, which reads, in part, as follows:

‘Beyond the practical problems of human rights lie many *unresolved* theoretical and philosophical issues. *These form the basis of our MA in the Theory and Practice of Human Rights*, which provides you with a *solid grounding* in fundamental matters of the law, politics, philosophy and sociology of human rights.’¹⁵

The *problem* that forms the basis of the MA is that of ‘unresolved theoretical and philosophical issues’. The *solution* is ‘a solid grounding in fundamental matters of the law, politics, philosophy and sociology of human rights’. There are two noteworthy features of this ‘solution’. The first is that it is *multidisciplinary*: it lists the disciplines of law, politics, philosophy and sociology without indicating how they might *interact*. The second is the fact

¹⁵ University of Essex website. Available at: http://www.essex.ac.uk/coursefinder/course_details.aspx?course=MA++L3MV12. Last accessed 13 December 2014. My emphasis.

that we are taken from ‘unresolved issues’ to ‘solid grounding’ without a clear indication of whether or not this ‘solid grounding’ does or does not resolve the unresolved issues. In other words, the multidisciplinary approach raises, but fails to say how it might solve, the philosophical issues that lie beyond the practical problems of human rights.

I now propose to strengthen two of my arguments: 1) that the relation of philosophy to human rights law is *critical*, not *supportive*; 2) that a *multidisciplinary* approach to human rights is not only intellectually less satisfactory than an *interdisciplinary* approach, but, as Professor Goldhill maintained, it is *dangerous*. My evidence comes from the 2002 BBC Reith Lectures that were given by Onora O’Neill, an eminent philosopher, who played a leading role in creating the interdepartmental Human Rights Centre at the University of Essex. Her thoughts on the philosophy of human rights are therefore important in themselves and in throwing light on the ‘unresolved theoretical and philosophical issues’ that form the basis of the MA. The title of O’Neill’s lectures was *A Question of Trust*. In the course of these lectures, she had this to say about human rights:

‘We may not have evidence for a crisis of trust; but we have massive evidence of a culture of suspicion. Let me briefly join that culture of suspicion . . . by voicing some suspicions of my own. . . . My first suspicion falls on one of our most sacred cows: the human rights movement. We fantasise irresponsibly that we can promulgate rights without thinking carefully about the counterpart obligations, and without checking whether the rights we favour are consistent, let alone set feasible demands on those who have to secure them for others. . . . Human rights are more often gestured at than they are seriously argued for. The list of rights proclaimed in the Universal Declaration of Human Rights of 1948 is often seen as canonical. But the list is untidy and unargued. It includes some rights of high importance that may be universal rights. It also includes culturally narrow rights, such as the “right to holidays with pay”: this supposed right was an aspiration of the labour movement in the developed world in the mid-twentieth century; it has

little relevance for the billions of human beings who are not employees. The Declaration defines rights poorly, and says almost nothing about the corresponding duties. No inspection of the Universal Declaration, or of later UN or European documents, shows *who* is required to do *what* for *whom*, or *why* they are required to do it.¹⁶

O'Neill criticises 'the human rights movement' on the following grounds: 1) it *promulgates rights* without thinking carefully about *the counterpart obligations*; 2) it promulgates a set of rights without checking that they are *consistent*; 3) it promulgates rights without checking that they set *feasible* demands on those who have to secure them for others; 4) it 'gestures at' human rights more often than it *argues* for them; 5) it claims that some rights are 'universal' when they are *irrelevant* to billions of human beings; 6) it treats the list of rights in the Universal Declaration as 'canonical', but the Declaration defines rights poorly, and does not show *who* is required to do *what* for *whom*, or *why* they are required to do it. These are some of the 'unresolved theoretical and philosophical issues' that form the basis of the MA in The Theory and Practice of Human Rights. O'Neill does not pull her punches: the human rights movement, she says, is 'one of our most sacred cows'.

I will not offer a point-by-point response to O'Neill's criticisms of the human rights movement here. I will instead criticise her approach to human rights on the basis of my distinction between *interdisciplinarity* and *multidisciplinarity*. O'Neill's approach is multidisciplinary rather than interdisciplinary in that it is distinctively *philosophical*. Its central complaint is that the Universal Declaration is *under-argued* and consequently leaves some important philosophical issues unresolved. As a *philosophical* critique it is powerful, but *incomplete* in a way that is typical of the discipline of philosophy. O'Neill treats the Universal

¹⁶ Onora O'Neill, *A Question of Trust: the BBC Reith Lectures 2002* (Cambridge, Cambridge University Press, 2002), at 18 and 27-28.

Declaration and the human rights movement as if they were *incompetent philosophy*. But they are not *philosophy* at all. O'Neill's critique is *unhistorical* and *apolitical*. The Declaration and the movement based on it are *politico-legal* responses to historically specific problems. The historical context of the Declaration, of course, was the aftermath of the Second World War and of Nazi and other fascist atrocities. The preamble says that 'disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind'.¹⁷ O'Neill does allow that the Declaration 'includes some rights of high importance that *may* be universal rights', but the *only* 'culturally narrow' right she identifies is the right to holidays with pay. O'Neill criticises the Universal Declaration for not being what it was never intended to be.

The fact that O'Neill's analysis is unhistorical, apolitical and consequently *incomplete* does not mean that the philosophical issues she raises are unimportant or easily resolved. The legal philosopher, Virginia Leary, has, however, pointed out that the human rights legal regime resembles a constitution and that constitutional provisions are often vague but become potent through interpretation.¹⁸ For example, the fourteenth amendment to the US Constitution says that no state shall 'deny to any person within its jurisdiction *the equal protection of the laws*'.¹⁹ This is as vague as anything in the Universal Declaration of Human Rights, but has had an enormous impact on US law and politics. It was used by the US Supreme Court, for example, in the famous case of *Brown v. Board of Education*, to decide that racial *segregation*

¹⁷ The Universal Declaration of Human Rights (1948), Preamble. Available at: <http://www.un.org/en/documents/udhr>. Last accessed 13 December 2014.

¹⁸ Virginia A. Leary, 'The Right to Health in International Human Rights Law', *Health and Human Rights: an international journal*, 1 (1), 1994, 24-56 at 30.

¹⁹ U.S. Constitution, Amendment 14. Available at: <http://usconstitution.com/documents/amendments-11-27/>. Last accessed 13 December 2014.

in education was an illegal violation of the Constitution because it was inherently *unequal*.²⁰

What is philosophically defective in the Declaration, therefore, may nevertheless have potential legal and political benefits.

I will now indicate, briefly, how the empirical social sciences can supplement the contributions of law and philosophy to our understanding of human rights. I shall restrict myself to three social sciences: political science, anthropology, and development economics. Again, I will argue that *interdisciplinarity* is superior to *multidisciplinarity*.

Empirical political scientists criticise international human rights lawyers for *assuming* that international human rights law and institutions are *effective* without studying what their effects actually are. Early empirical studies of the effects of the ratification of human rights treaties concluded that they had no effect at all. Later studies, using more sophisticated methods, suggested that they might have a small, but significant, positive effect on the human rights behaviour of ratifying governments.²¹ A recent study by Beth Simmons found that the effects of human rights treaty ratification vary according to the type of political system and the type of human rights. Ratification improves the human rights behaviour of governments that are neither very democratic nor very undemocratic, and ratification has a much stronger positive effect on women's rights than on the practice of torture.²² Political scientists have also found strong associations between democracy, wealth and peace with respect for human rights.²³

²⁰ *Brown et al. v. Board of Education of Topeka et al.*, 347 U.S. 483 (1954).

²¹ The complex findings of empirical studies are briefly summarised in Michael Freeman, *Human Rights: an interdisciplinary approach* (Cambridge, Polity Press, second edition, 2011), at 91-93.

²² Beth A. Simmons, *Mobilizing for Human Rights: international law in domestic politics* (New York, Cambridge University Press, 2009).

²³ Todd Landman, *Protecting Human Rights: a comparative study* (Washington, DC, Georgetown University Press, 2005).

The policy implications of these studies are not straightforward, but they suggest that treaty ratification may have been over-emphasised, but is sometimes fruitful, and that human rights are most likely to be improved where there is space for political mobilisation *and* a constituency to take advantage of it. Women and religious minorities can benefit from treaty ratifications; torture victims, it seems, do not. Lawyers may overestimate the importance of treaty ratification and underestimate the importance of political and economic approaches to improving respect for human rights. There is, however, evidence that the *combination* of political mobilisation and the implementation of human rights law by an independent judiciary provides the most favourable basis for human rights advances. Thus, it is the *interaction* between politics and law that best protects human rights.²⁴

Human rights anthropologists have enriched our understanding of human rights by introducing two illuminating concepts: *tracking* and *translation*. Anthropologists treat the international human rights regime as a *process of the production and distribution of cultural (specifically, legal) norms*. They ask the following questions: Who ‘produces’ human rights? Where are they produced? How and why are they produced? And, once produced, how are they *distributed*? Anthropologists ‘track’ the production and distribution of human rights from what one anthropologist has called ‘the committee rooms of Geneva and Manhattan’ to the remotest parts of the world. In tracking this process of the production and distribution of human rights norms, they have identified the importance of ‘translators’, who transform the technical and

²⁴ Gerald J. Blasi and David Louis Cingranelli, ‘Do Constitutions and Institutions Help Protect Human Rights?’, in David Louis Cingranelli (ed.), *Human Rights and Developing Countries* (Greenwich, CT, JAI Press, volume 4, 1996), at 223-237; Roberto Gargarella, Pilar Domingo and Theunix Roux (eds), *Courts and Social Transformation in New Democracies: an institutional voice for the poor?* (Aldershot, Ashgate, 2006); Katharine G. Young, *Constituting Economic and Social Rights* (Oxford, Oxford University Press, 2012).

alien language of international human rights law into discourses which are familiar and acceptable to local people. These translators may be lawyers, priests, journalists and other intellectuals who can mediate between international human rights law and local cultures. Several such translators played important roles in the successful Hong Kong inheritance-law story that I recounted earlier. Anthropology illuminates the *real meaning and effects* of human rights for the human beings whose rights they are, and shows us who determines what those meanings and effects are to be. Human rights anthropology links international human rights law with everyday life. It thereby adds a dimension to our understanding of human rights that is missing from law, philosophy, and political science.²⁵

The third social science I wish to briefly discuss is development economics. Human rights academics and activists have neglected economics, perhaps because they are scared of its highly technical nature, or perhaps because they suspect (rightly) that the discipline of economics is based on philosophical premises that are different from, and incompatible with, those of human rights. Few economists have taken an interest in human rights *as economists*. *Yet economics is an empirical science that can help to fill the gap between human rights and philosophy identified by Onora O'Neill*. The International Covenant on Economic, Social, and Cultural Rights imposes certain obligations on states parties to realise the Covenant rights 'progressively'. O'Neill poses the *philosophical* challenge that no UN document shows who is required to do what for whom, or why they are required to do it. Lawyers might respond that *states* are required to fulfil their treaty obligations for their citizens (and, under certain conditions, for non-citizens) because they have ratified the relevant treaties. O'Neill is sceptical as to whether international law has identified what she calls the appropriate 'agents

²⁵ Merry, n.4 above.

of justice', that is, those who have the obligation, the capacity and the will to realise the rights.²⁶

However, O'Neill's philosophical objection to international human rights law raises an important *empirical* question: who *can* realise human rights? This question is commonly thought to be more difficult to answer when we consider economic and social human rights. Development economists are better placed than lawyers or philosophers to identify the best means to realise these rights. Unfortunately, development economists take little interest in human rights and disagree greatly on economic policy. Development economics, therefore, has so far proved to be disappointing in providing solutions to the problems of realising economic and social human rights. If we are to solve these problems, however, we must surely start by encouraging economists and human rights academics to take each other's disciplines seriously.

What do we need to know about human rights? We need to know many different things and a lot more than human rights law. How do we get to know it? It is a commonplace to assert that we need the methods of different disciplines. I have argued, however, that this commonplace is inadequate because it rests on a confusion and a mistake. The confusion is that between multidisciplinary and interdisciplinarity. The mistake is not to recognise the superiority of interdisciplinarity. It is not enough to bring several disciplines to bear on the study of human rights. It is necessary to study carefully how they can best *interact* with each other. This is insufficiently understood *theoretically*, but is sometimes understood *practically*. Those concerned with the practical implementation of the human right to health, for example, have

²⁶ Onora O'Neill, 'Agents of Justice', in Andrew Kuper (ed.), *Global Responsibilities: who must deliver on human rights?* (New York, Routledge, 2005), at 37-52.

recognised that this requires the close co-operation of human rights lawyers, medical scientists, health economists, health sociologists and philosophers. In the course of the history of the MA in The Theory and Practice of Human Rights at the University of Essex, the multidisciplinary study of human rights has advanced considerably. I end with the hope that, in the next 20 years, and sooner rather than later, we will take seriously the questions as to what we need to know about human rights and how we get to know it, and come to the realisation that the answers require sustained and systematic attention to what is demanded by the interdisciplinary study of human rights.