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Citation for published version:

Kelly, T 2018, 'Two Cheers for Ritual: The UN Committee Against Torture' *Humanity*, vol. 9, no. 1, pp. 93-105. DOI: 10.1353/hum.2018.0005

Digital Object Identifier (DOI):

[10.1353/hum.2018.0005](https://doi.org/10.1353/hum.2018.0005)

Link:

[Link to publication record in Edinburgh Research Explorer](#)

Document Version:

Publisher's PDF, also known as Version of record

Published In:

Humanity

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Two Cheers for Ritual: The UN Committee Against Torture

Tobias Kelly

Humanity: An International Journal of Human Rights, Humanitarianism,
and Development, Volume 9, Number 1, Spring 2018, pp. 93-105 (Article)

Published by University of Pennsylvania Press

DOI: <https://doi.org/10.1353/hum.2018.0005>



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Two Cheers for Ritual: The UN Committee Against Torture

United Nations human rights monitoring can be very boring. Civil servants fly into Geneva, produce piles of paper, read out much of that paperwork in a monotone voice, are asked a few seemingly innocuous questions, and provide a few technical answers. The officials thank the Committee members for their time, and the Committee thanks the officials for all their hard work. The polite and formal tone of international diplomacy dominates. Everyone then flies home. It all seems a long way from the visceral issues of life and death about which so much of the human rights movement is concerned. Indeed, after one particularly dull session of the UN Committee Against Torture (CAT), a lawyer for a non-governmental organization told me that she felt that the meetings often felt like a “ritualized blessing,” with little to do with the “situation on the ground.”

This essay asks what might it mean to take seriously the claim that human rights processes are a form of ritual? The affinity between ritual and law, and human rights law in particular, seems powerful. For one, both law and ritual appear rule bound.¹ Indeed, following the correct procedures and principles is central to both of their self-definitions. Without following the rules, both rituals and law can be said to be “invalid.” Furthermore, both law and ritual can be seen to prioritize means over ends. It is not where you end up that is important, but how you get there.² In this sense, law and ritual are both profoundly self-referential. They create their own worlds and frames of reference, closing off the outside world. What counts is what goes on inside the legal or ritual arena, and if the outside world is let in, it is viewed through legal or ritual lenses. Finally, both ritual and human rights law can produce, for some at least, a sense of the transcendent, that there is more going on than the here and now.³

If the parallels between law and ritual hold true, they seem particularly so in the case of human rights. The apparent self-referentiality of human rights regimes has led some critics to argue that they have become an increasingly calcified, corrupted, and irrelevant process.⁴ Stephen Hopgood, for example, has argued that Human Rights (with a capital H and a capital R), namely, “the structures of law, courts . . . and organizations that raise money, write reports, run international campaigns,” is on the point of demise, robbed of all moral authority.⁵ For Hopgood, Human Rights are a form of secular post-Christian religion, Human Rights institutions are a church, and Human Rights actors are its high priests. Hopgood is clearly not a believer. David Kennedy similarly claims that human rights are fixated on legal bureaucratic forms.⁶ The focus of human rights practice is all too often on getting the rules and documents in order rather than looking at the concrete outcomes of such processes. Any critique of human rights therefore ultimately fails to hit home, as practitioners become caught

up in what Riles calls the “iron cage of instrumentalism.”⁷ For such critics, actually existing Human Rights are in danger of becoming, if they have not already done so, a technocratic and morally empty discipline. Ritual seems exactly the right word.

A focus on human rights as a form of ritual can foreground conventions grown stale through unthinking overuse. Indeed, in some classic social theory, ritual works precisely because it creates an unthinking adherence to norms and values.⁸ In popular usage, to call something a ritual is usually to pass a negatively charged judgment. In this essay, though, I want to begin to recuperate the ritual elements of human rights from their association with superfluous and unreflective forms of action. There is another way of looking at ritual, which does not see ritual processes as inherently empty or lacking in imagination. Such an approach focuses on the doubts that rituals produce and claims that doubts about the “effectiveness” or appropriateness of ritual process can be their most salient and productive feature.⁹ Ritual is not mere convention but an imaginative engagement that stakes the ground for shared hopes in the face of messy and contradictory forms of experience.

This essay argues that the formal ritual of the UN human rights monitoring process can create space for the moral imagination. The apparently “hollow promise” of human rights produces its own political and moral energies. Human rights at the UN takes place in what Seligman et al. have called the “subjunctive mode.”¹⁰ This allows us to live in an imperfect world and imagine that things could be otherwise. The ritual of events in Geneva can create an “as if” of commitment to human rights, which takes shape despite, or even because of, the problems and absences in existing human rights practices.¹¹ This is a form of action “as if” human rights matters, that gains its force through the stark contrast between aspiration and experience. None of this is to deny that the procedures at the UN can be full of empty statements and frustrated hopes. Nor is it to deny that any dissent has to take place within the narrow bounds of UN procedure. This is why I give two rather than three cheers for ritual.¹² But two cheers is more than none. The two cheers for ritual are that it helps make room for critique, and that it requires all participants to at least recognize the criteria of human rights as framing debates about the collective good. The third cheer is missing, as on their own the two are not quite enough to fulfill the promises of human rights. But if we are to take human rights seriously, we need to act, at some point, “as if” we do and to recognize the problems in doing so.

This essay is based on fieldwork at seven sessions of the CAT between 2004 and 2011.¹³ The fieldwork included attending the sessions of the Committee, interviewing Committee members, NGO representatives, members of the UN secretariat, and an analysis of the documents produced for and by the Committee.

The Sessions of the Committee Against Torture

I begin by describing a typical session of the CAT. It is early May in Geneva, and spring is well established. Approximately thirty men and women, all in dark suits, are seated around tables in a paneled room. Above the hum of simultaneous translation, hushed conversations are taking place in different corners of the room. Earnest young international civil servants, fluent in multiple languages, make their way around the room, restocking the piles of paper. A senior functionary from the ministry of justice

of a South American state is reading out his country's report, setting out article by article its compliance with the convention. His junior colleagues stare into the middle distance or at the folders in front of them. The descriptions of arrest procedures, prison ombudsmen, and changes in the law of assault stretch over an hour and well into a second. Another official then gives a detailed statistical breakdown, by age, gender, and region, of the number of police officers who have received human rights training, as well as a fine-grained description of the curriculum. The general atmosphere is of quiet conventionality and formality, as if this is all in a day's work.

So what is going on here? The CAT is formally responsible for monitoring compliance with the UN Convention Against Torture. States that have signed the Convention are required to submit an initial report one year after ratifying it and a periodic report every four years thereafter. During the time of my fieldwork, state parties have been given lists of specific issues that the Committee wants to look at, and states are expected to address these explicitly. Reporting states are then scrutinized by the Committee over a number of sessions, where they read out their reports and are asked follow-up questions.¹⁴ After receiving all the reports and listening to the presentations, the Committee issues "Conclusions and Recommendations," detailing the steps each state should take in order to strengthen compliance with the Convention.

One of the most striking aspects of the sessions is just how polite they are. The Committee chair warmly welcomes delegations from even the most authoritarian and brutal states. One by one, members express thanks to the delegation for coming and say that they are grateful for the delegation's efforts in preparing their reports and the responses to questions. This is all before the day has even begun. Once oral procedures start, questions are never posed in a challenging manner. Rather they are made as suggestions, or as requests for responses to allegations that other people have made. Time after time it is stressed that the Committee is not a court. The task, everyone is told, is to promote human rights through a friendly exchange. The sessions often conclude with the Committee pointing out the issues they have been particularly impressed with or thanking reporting states for "moving in the right direction" and providing full and detailed answers. State delegates are equally respectful in their answers. It is always "an honor" to be in Geneva. The questions have always been "useful" and "insightful." The time given by the Committee is always acknowledged and appreciated. State delegations praise the "civility" of the tone, and the "constructive" nature of the conversation. On occasion the delegations will also praise their own work, saying that they are proud of their achievements since they last appeared in Geneva. The whole conversation takes place in a restrained, respectful monotone.

It is not just the use of language that can seem ritualized. The structure of the day at the CAT is filled with formal expectations. Although state parties will have submitted a written version of their report before the oral sessions, they are still expected to read it out and allow the simultaneous translation to do its work. The use of simultaneous translation adds another layer of disembodiment to proceedings. Although the affect of the translators can differ, they often speak in an unvaried tone, stopping only to ask the speaker to slow down. Individual translators often switch

backward and forward between one another, even if the original speaker remains the same. The result can be a profound sense of dissonance.

Rather than asking substantive questions about particular events, the CAT usually requests information about formal processes and procedures. Statistics about who has been trained or prosecuted are highly popular with Committee members, as are requests for clarification on particular points of law. A Committee member might ask, for example, about the number of compulsory medical examinations, or calls to a hotline, or further details on the exact rules of arrest and detention. The blood and guts, fear and pain, suffering and cruelty on which the Convention Against Torture focuses could not be further away.

Sometimes, though, all this formality breaks down. This is especially the case when NGOs are given the chance to present their shadow reports to the Committee. Occasionally, NGOs will bring survivors of torture to speak to the Committee. As you might expect, survivors and their families can speak very emotionally about their experiences. I have sat in several NGO briefing sessions when relatives of survivors and victims have spoken with quavering voices. The response from the Committee to this is usually a slightly embarrassed silence, and a gentle reminder that “this is not the right space for survivors to talk.” All that emotion seems to be out of place. NGOs can also try to carry out informal lobbying of Committee members, holding extra briefing sessions or simply approaching them over lunch in the UN cafeteria. If things go too far off track the UN secretariat staff, or members of the Committee themselves, can gently, and with the civility that you would expect, guide the procedures back in line. These apparent breakdowns in formality therefore tend to reinforce the sense that there are “correct” ways of doing things.

Politics, Diplomacy, and Civility

There are, of course, good structural reasons for the nonconfrontational tone in Geneva. It is important to remember that the UN human rights system is the creation of states, and they are unlikely to agree to a system that produces aggressive cross-examination or humiliation. UN mechanisms are famously without sharp teeth and must rely on dialogue. As a result, the Committee has been given limited or no investigatory powers and is therefore not in a position to challenge anyone on points of fact. The recommendations of the Committee also have no direct means of enforcement. When the Committee makes recommendations, it can follow up and monitor responses, as it increasingly does, but it has no coercive capacity to impose compliance. If reporting states have a dislike of or lack of interest in the work of the Committee they can simply refuse to turn up, as many of them do. The general rule is that nearly all reporting states are several years behind in their reporting obligations. In this sense, the Committee is little different from the rest of the UN human rights monitoring system and is caught up in exactly the same constraints and limitations.¹⁵ In the absence of any hard power, the CAT must rely on the gentle power of persuasion. It must cajole and carefully point in the right direction, all in the voice of extreme politeness.

Whether or not there are good political reasons for the civil tone, however, all this diplomatic politeness is deeply significant. It affects the ways in which work is done

in Geneva, and therefore the content and nature of human rights monitoring. Speaking more broadly, it is important to recognize the deep structures of inequality within which human rights takes place. Inequities in the resources that are available to states, the narrow focus on the UN system, and the absence of any effective mechanism of enforcement are all of crucial importance for the ways in which human rights work plays out. But it is also important to pay attention the day-to-day social interactions through which these structures take effect and are played out on the ground. They cannot simply be analytically brushed aside as a formal gloss obscuring more important issues. The everyday civility of human rights monitoring has implications for the ways in which human rights work is carried out in practice, the forms of conviction it can accommodate, the emotional energies it can direct, and the moral frames through which it is assessed, among other things.

The Committee meetings of the UN are shot through with civility—in the shape of stylized politeness, restraint, and shows of respect. Indeed, it has been persuasively argued that the mechanisms of international law—among which we can include human rights—are an attempt at the “gentle civilization of nations,” to bring the norms of constraint and mutual respect to the violence and dissension of global politics.¹⁶ In its classic liberal formulations, civility allows us to deal with difference.¹⁷ A commitment to show formal respect allows even the most bitter opponents to engage with one another. It enables us to agree to differ without violence. Civility creates a basis for communication across cultural, as well as political, boundaries.¹⁸ In such a vision, though, civility is more than polite speech. It also creates space for participation in a political community. Civility does not involve adopting a political and moral position but agreeing as to how such issues can be dealt with.¹⁹

Yet at the same time there is a dark side to civility. While creating room for dialogue, civility is also a privileged discourse that favors the status quo and excludes those who are unwilling or unable to act in a civil manner. Civility might make a political community possible, but it severely limits the shape of that community. Civility can also be seen as a thin form of social encounter.²⁰ Indeed, the emphasis on form and decorum means that civility is often considered a form of empty ritual.²¹ It can seem like an inauthentic and deceitful way of dealing with difference, constraining the possibility of coming to terms with hard political and moral problems. Terms of respect and politeness can empty social interaction of thick moral meaning. Perhaps most important, civility can also be a form of “aggressive tolerance,” one that ignores forms of violence that happen elsewhere and hampers the ability to change current inequities.²² We therefore need to ask what forms of political action do claims of civility make possible, what forms of critique do they allow, and what forms of commitment do they help produce?

At times all the civility in Geneva can come close to seeming like hypocrisy, a façade that hides what people think and feel, preventing the real issues of state-led violence from being dealt with head on. I once sat through a presentation from the U.S. delegation before the Committee, at the height of the controversies over Abu Ghraib and Guantánamo, as a State Department lawyer claimed that the interrogation techniques used in Guantánamo could not be defined as torture. The Committee members all nodded, thanked him for his answers, and proceeded to the next

question. Afterward, I asked one of the representatives from Human Rights Watch whether the man from the State Department could “really believe” what he was saying. I was given a slightly confused look before being told “I am not sure that is relevant. He is simply a lawyer, making an argument for his client.” From such a perspective, the procedures of the Committee are all about surface presentation. Committee members themselves at times reinforce the sense that the politeness in the Committee rooms is just a thin veneer, hiding what people really think and feel. Despite their constant praise for reporting states, once they are away from the formal sessions, members can be highly critical. Several of the Committee members were visibly angry with the U.S. response, for example, but did not feel able to articulate this emotion in the Committee room. More generally, in the cafes of the UN and Geneva, complaints from Committee members often include claims that the reporting states are not taking the process seriously, or that they are taking it far too seriously altogether. Authoritarian states are criticized for simply not providing enough information or for hiding behind formalities. Other states, perhaps new to the process, are gently ridiculed for not knowing how to do things properly. Some states from Western Europe are criticized for demanding too much time, when there is nothing really to talk about. Why bother with Luxembourg, as one Committee member put it.

If the formality of the encounters in Geneva creates a dissonance between public politeness and private ridicule, what should be made of this? Is this where we can find the ritualistic ethical void at the heart of the human rights regimes? Some may object to all this civility on moral grounds, arguing that the formalism of human rights procedures forces people to be inauthentic and hide what they really think and know, robbing the human rights system of any moral authority. But it seems to me that even if the charge of inauthenticity is true, mendacity and hypocrisy are low down on a list of vices, especially when compared to the life and death issues that are being dealt with at the CAT. To say that the UN human rights monitoring system forces people to say things they do not really believe does not seem a particularly powerful criticism. There can be perfectly good reasons for dissimulating and “not telling the whole truth.” Hypocrisy has its virtues.²³ A strict emphasis on the cultivation of sincere selves in the Committee rooms of Geneva only makes sense if we think that authentic personalities acting in “good faith” is the principal aim of human rights interventions. The key question is what can be said and by whom, not whether they “really mean it.”

In defense of diplomatic niceties, it might be argued that that the civility of the CAT is what enables it to exist in the first place. As I argued above, it is highly likely that states would simply refuse a more aggressive and intrusive setup. Formal civility is a condition of their participation and for the existence of the UN. The UN human rights monitoring system might not be a passionate and charged forum, but it is this very formality that allows it to function, as it means that participants’ deepest convictions are not at stake. Without the formal politeness of the CAT, the Committee simply could not do its work. If the meetings were full of visceral emotion and excitement it would be much more difficult to discuss the issues of life and death, pain and suffering that are at stake. Nor would it be possible for conflicting and sometimes violently opposed groups and states to come together. If people could say

what they really feel, nothing would get done. There would be no space for engagement and dialogue. It would be much more difficult for conversations to take place about interrogation practices, for example, or antiterrorism laws. NGOs and civil servants would find it more difficult to exchange information. States would not be scrutinized, in however limited a way. The hard work of improving human rights situations requires compromises; it requires talk about complex and sometimes troubling matters as if they were straightforward. Strategic disingenuousness, dressed up in the language of civility, can be an effective means to an end.

It is crucial, however, to recognize that while the relative civility of the UN system sets the grounds for possible dialogue, it simultaneously places limits on what can be said and by whom. The emphasis on civility is a way of regulating, even domesticating, human rights. At one level, it privileges some states over others. Only those that can prove competency in its rules can successfully play the game. Large, powerful states, with relatively efficient bureaucracies conversant in the languages of human rights and international diplomacy, have a strong advantage here. Relatively weaker states are always playing catch up, risking being caught out, fumbling or misunderstanding the implicit and explicit assumptions of human rights monitoring. The cards are stacked in favor of the United States and Sweden, for example, over Togo and Guatemala. At another level, the civility of human rights monitoring governs what individuals at the UN can say. Participants have to tread carefully around the rules of etiquette. Rather than denouncing a country for widespread and systematic abuses, Committee members have to make gentle suggestions, damn with faint praise, or request further information. Reporting states can engage with formal issues, read out the number of people who have attended training sessions, or explain the structure of the prison ombudsman's office, rather than deal with the hard issues at the heart of abuse and ill treatment. The diplomatic civility of human rights monitoring therefore inclines toward the conservative, allowing the status quo to remain largely undisturbed. The ability to speak calmly about difficult things can come at the cost of radical contestation and thereby help perpetuate inequality and injustice. It might well be argued that shouting and screaming in Geneva, telling it like it really is, would not get anything done either. But is it still necessary to acknowledge that there is a price attached to all this politeness.

Boredom, Doubt, and the Moral Imagination

I do not want to end the analysis, however, by simply pointing to the apparent dead hand of human rights diplomacy. Despite the fixation on procedures, human rights monitoring does not always lack a moral charge. Indeed, precisely the opposite is often the case. The doubts seen and heard in the corridors of the Palais Wilson can be understood as a form of deeply held conviction, and rituals of civility can create a space for moral and political engagement. To understand how and why this happens, let us now return to the boredom exhibited by many of the people in the Committee room.

In many of the sessions of the CAT there is a sense that no one is really interested in what is going on. Committee members may be in the room, but they are not paying any attention or engaging with the procedures. Even the NGO delegates can,

on occasion, seem as if they are only there for appearance's sake. It is important to turn up, to have your say, to be seen by your state representatives, but that is all. At times, all this civility can tip over into what appears to be apathy. Committee members, state representatives, and NGOs constantly enter and leave the meeting room. They talk on their mobile phones. They check their emails. They flick through the piles of documents in front of them. In the complete absence of drama, people yawn, shuffle, and look around them. While doing fieldwork, when I told people that I was sitting in on every meeting of a particular session, they would often roll their eyes or ask me how I managed to keep sane. One NGO representative, a middle-aged lawyer representing an American prison reform organization, said that she found it almost impossible to follow the meetings for their entire duration, some of which lasted up to three hours without a break. She was more often than not daydreaming or thinking of all the things that she had to do when she got back to New York. Boredom is the name of the day at the CAT.

How should we understand this apparent lack of interest? Although most meetings and bureaucracies are certainly boring, boredom is not the necessary outcome of seemingly stale rules and procedures. Repetition can create its own forms of enchantment. Going to church and sitting through long sermons might, for example, be very dull, but it can also produce a sense of wonder and the sublime. So what is the difference between apparently dull and exciting rituals? There is nothing intrinsic to any event or action that makes it boring. Instead, boredom, as Lars Svendsen argues, should be understood as a product of intentional action.²⁴ It is created by expectations that are not met and produced by an anticipation that something else is possible. As such, the claim to be bored is rooted not just in a private interior state of an individual but in a wider social and environmental context. Describing something as boring, or indicating that you are bored, is passing a negatively charged judgment on a particular situation, saying that it is an impediment to more important goals or actions. In this sense boredom is crucially different from something like ennui, as the experience of ennui is precisely a product of the sense that there is nothing to do, and no reason to do it. In contrast, you are bored because you think there is something *better* to do. From this perspective, then, the apparent boredom exhibited by so many people at the CAT can be understood as an evaluative stance. The Committee is seen as a frustrating impediment to other goals and activities. It is a boredom marked by frustration. It is not a lack of interest; it is rather impatience.

At the time I did my fieldwork, a few of the NGOs, and even some of the UN civil servants present in Geneva, had many good words to say about the Committee, accusing it of being inefficient, incompetent, or confused. The practices of the Committee were routinely described as flawed and inadequate by almost all those who took part in its work. The jurisprudence of the Committee was notoriously underdeveloped. There are also basic institutional capacity problems facing the Committee. Committee members have problems verifying or checking whether the information given to them by states is true. The general consensus among NGOs, and many others, was that the Committee was "weak" and unable to effectively challenge states.²⁵ Although the UN human rights system generally is often seen as being problematic,

the CAT was widely singled out for particular criticism. People are bored in Geneva because they feel that the Committee is an impediment to effective human rights work. The CAT was often experienced as an obstacle to other human rights commitments.

If boredom is more than simple apathy, it can be said to reveal the aspirations, hopes, and fears of those who profess to be bored. With this in mind, let us now return to the moral structure of ritual, in order to think through the moral charge of human rights monitoring at the UN. In popular usage, to describe something as ritualistic is to imply an excessive and unthinking conventionality, an obsession with form over function, and perhaps most important a failure of moral and political imagination. However, and crucially for our purposes, rather than rituals creating an unthinking acceptance, or a form of mystification, participants in rituals can also be seen as conscious and reflexive agents.²⁶ One implication of this is that rituals do not necessarily hide what is going on but create spaces for reflection on the most important social, political, and economic processes. Rituals do not necessarily restrict debate and contestation; instead they can produce it. We should not assume that the participants or audience to a ritual are convinced by all its claims. Rituals can become malleable avenues for dissent as much as acquiescence. As such, instead of closing down criticism, rituals can open up space for doubt. In practice, the corridors of the UN building are marked by a distinct lack of persuasion about the UN human rights monitoring process. These doubts are formed and shaped by the rituals of the UN system, as people constantly criticize and lament its procedural forms and practical lack of impact.

But rituals can do more than simply create a space for doubt. Rituals can also produce “criteria for judgment.”²⁷ People still participate in rituals even if they seem skeptical about them. Human rights practitioners still return to the corridors of the UN even if they are deeply critical about the process. And this is of crucial importance, as in doing so they accept the categories of the UN human rights system as setting the grounds for debate. For the anthropologist Roy Rappaport, to undergo a ritual is to commit in some way to the criteria it produces.²⁸ This does not mean that you cannot question the criteria, or more probably their application, but it does mean that you accept that they set the frame for debate. In Rappaport’s account, participants in ritual demonstrate to others and to themselves their submission to the criteria that the ritual establishes. They do so, whether they “believe” in the ritual or not. In his gloss on Rappaport’s work, Michael Lambek illustrates this point by arguing that the ritual of marriage, for example, does not determine whether people are faithful or in love, but it does allow their actions to “fall under such descriptions.”²⁹ Whether we “believe in marriage” or think that it makes any practical difference, once we are married we allow others to judge our actions by that criteria. As Lambek points out, the lived experience of having been married can fall short of its description in the marriage ceremony, revealing the inadequacy of its terms, and opening up space for doubt. But this is a doubt that uses the criteria of marriage as its starting point, even if it ends up rejecting it. Crucially, a doubt about the ritual of marriage can either mean changing our behavior or trying to redefine what marriage means and how it is enforced. Very rarely does it result in the total irrelevance of the category of marriage for the ways in

which we judge relationships. It is because we have doubts about marriage rituals, or funerals, for example, because we question what they really mean and whether they matter, that we are forced to grapple with marriage and death as transcendent moral issues, and to take their meanings and implications seriously.

Something very similar can be said about human rights rituals. Despite, or even because of, all the doubts about the UN human rights system, human rights norms and institutions are still widely accepted. No one says the CAT is totally irrelevant, even if they doubt its current forms. Doubts about human rights monitoring should therefore not be mistaken for complete skepticism. The Latin root of the word doubt, *duo*, implies a doubling. To doubt therefore means to be of two minds.³⁰ Human rights practitioners maintain a residual faith. The UN human rights system is accepted as setting the criteria within which dissent and doubt arise. NGOs may or may not think human rights monitoring works, and states may or may not be committed to the principles, but once reports are sent to the UN, once people turn up in Geneva, everything they do can be assessed according to human rights principles.

In order to elucidate the significance of formal ritual criteria for human rights work, I now want to turn to the work of Martti Koskenniemi. For Koskenniemi, the formalism of international law creates a “social practice of accountability, openness, and equality whose status cannot be reduced to the political positions of any one of the political parties whose claims are treated within it.”³¹ Koskenniemi recognizes that the institutions of international law can reinforce privilege.³² He also remains deeply critical of the turn to technical expertise in international law, which can allow people to make claims “without doing the dirty work of political confrontation.”³³ At its best, however, he sees international law as a form of argument that holds out the teleological aspiration of a common good, which moves us toward treating everyone as equals, even if it never gets us there.³⁴ Such a perspective helps explain the importance of the formal and ritualized aspects of human rights monitoring. The fact that all states, whether the United States or Togo, have to fill in the same forms and answer the same questions in the same way, formally at least, is of great significance. States have to present their reports in the same way—whether they are France or Fiji—and the Committee issues its recommendations in the same form—whether to Germany or Gabon. They have all accepted the criteria of human rights work.

In a world of human rights practices marked by contradictions, disappointments, opposition, and a lack of capacity, the rituals of Geneva can help create a sense “as if” all those involved really take human rights seriously. This is human rights operating in the subjunctive, a world of “could be” potential and hope, where it is possible to imagine that human rights apply equally to the powerful and the powerless and speak a common language of the collective good. The “as if” aspects of human rights practice are given tangible form through the rituals of the CAT. In Maurice Bloch’s classic account, rituals can help to dramatize the relationship between the transcendental and the immediate, helping people to understand the ways in which “ordinary life” might be part of something larger or more permanent.³⁵ Even if human rights often lack a sense of the sublime, and it is not entirely clear on what basis they claim a universal significance, one of the central attractions of human rights to many people is that they speak of a world of moral and political possibility that is greater than the mundane or

brutal lived experience of the everyday. Human rights practitioners—at the UN and elsewhere—face questions about how their seemingly low-key and mundane activities relate to wider projects of political and social transformation in other times and other places. But Geneva is one key place where the claims of human rights come down to earth.³⁶ And if human rights did not come down to earth, they would remain a disembodied form, a promise never fulfilled, always delayed for another place and another time. The bureaucratic and ritual forms of human rights monitoring can give a material presence to otherwise disparate and intangible aspirations.

Conclusion

Human rights monitoring is imbued with ritual. This is not usually seen as a good thing. In his influential genealogy of human rights thinking, Costas Douzinas, for example, has argued for a recuperation of the radical hope that he sees as once being central to the human rights project.³⁷ For Douzinas, such radical potential has been tamed by the deadening hand of bureaucracy and institutionalization. The procedural obsessions of human rights paperwork—its focus on means rather than ends—can certainly limit what can be said in the name of human rights and who can say it. Yet, as this essay has also argued, hope and bureaucracy do not necessarily stand opposed. Ritual can enhance the moral energies of human rights practices. It can create forms of critique and dissent. It can also produce spaces of civil engagement on issues that might otherwise be too controversial to discuss. Ritual can help produce a sense that there is more to human rights struggles than individualized local conflicts. Finally, ritual can force states and others to act “as if” human rights matter.

None of the above is to deny that there are very serious problems with the UN rights monitoring system in general, or the CAT in particular. The monitoring process is replete with real and serious quandaries, obstacles, and inadequacies. States are able to sign up to human rights treaties and then ignore them or interpret them well outside the spirit with which they were drafted. States can also sign up to human rights treaties and then refuse, or simply forget, to fulfill their reporting obligations. Reporting states can ignore the recommendations of the Committee, and the UN is powerless to do anything about it. The shaming strategies that lie at the heart of the UN can produce spaces for the deflection of responsibility, as human rights indicators can become confused with human rights.³⁸

It is not because the UN human rights monitoring system is shot through with ritual, however, that it has limitations when it comes to making a concrete difference on substantive human rights issues. There is no necessary connection, for example, between the ritual nature of the events in Geneva and the wider, substantive “enforcement deficit.” It is possible to imagine a monitoring process marked by a lack of form and ceremony that is equally ignored. The problems of the UN human rights system seem to me to be a fundamentally political issue, linked to the relative sovereignty of states. They cannot simply be reduced to the ritual nature of human rights monitoring. This is not to say that there are no other ways of making the human rights struggle more effective, without the document-shuffling bureaucracy of the CAT. There is surely more to human rights than a transcendent bureaucracy. I am convinced, however, that whatever form it takes, it will involve a fair amount of ritual.

NOTES

Research for this article was made possible by the support of ESRC grant RES-063-27-0137 (2008-2011). I would also like to thank Ben Authers, Hilary Charlesworth, Emma Larking, and the participants at the Rituals of Human Rights workshop, as well as the editors and anonymous reviewers at *Humanity*.

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