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Narration in International Human Rights Law

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Abstract: In his paper, "Narration in International Human Rights Law," Joseph R. Slaughter argues that the prohibitions and entitlements articulated in international human rights law presume and promote an image of the human being as a self-narrating subject. He proposes that human rights law enshrines commitments to the human voice and to the ability of the individual to construct narratives of identity. In this sense, human rights violations can be understood as assaults on the human voice and on the socio-cultural structures that make certain kinds of narratives and narration possible. This narratological reading of the law offers a way to recast, or complicate, the tension between the two poles of universalism and relativism that have dominated the human rights debate for a few decades. To demonstrate the centrality of narration to the human rights regime, Slaughter examines a particularly troublesome historical event that has renewed resonance today: the French practice of torture during the Algerian Revolution. Under torture, the voice is a primary site of repression, but, he suggests, torture is only an extreme example of the ways in which human rights violations generally attempt to disarticulate a free speaking, or narrating, subject.

Joseph R. SLAUGHTER

Narration in International Human Rights Law

"The question of identification is never the affirmation of a pregiven identity, never a *self*-fulfilling prophecy -- it is always the production of an image of identity and the transformation of the subject in assuming that image" (Bhabha 45); "International human rights law codifies the rights of the individual in increasingly concrete and justiciable form, and reflects international consensus on the inviolability of the individual and on the urgency of enforcement of human rights that flow from that consensus" (Maran 3): the two epigraphs that thus preface this article (the first taken from the field of contemporary literary and philosophical theory and the second from that of the international human rights law community) point to a central, but often underexamined, conception of human rights in contemporary society. Where Homi Bhabha identifies the production of human subjectivity as a psycho-metaphysical process of "assuming" an image of identity, Rita Maran suggests that international consensus, as codified in international human rights law, constructs a juridical subjectivity based on the premise of human dignity, "the inviolability of the individual." Examining the nature of the conflict between these two points of view, this paper will attempt to demonstrate the fruitfulness of a cross-disciplinary approach to understanding and formulating contemporary human rights policy and law. From its inception, human rights law has relied on both philosophical inquiry into, and sociological understanding of, the nature of human subjectivity, whether explicitly expressed or implicitly referenced. The nature of our understanding of human subjectivity is central to any thorough discussion of human rights (recent debates over universality and cultural relativism have focused specifically on the nature of human subjectivity, see, e.g., An-Na'im).

I treat these competing conceptions of human subjectivity -- a subjectivity based in inherent human traits and one that resides in a determinative process -- as they influence, reflect, and respond to international consensus in the development of human rights law. Specifically, I analyze a particularly troublesome, yet resonant, historical event in order to contribute to the ongoing discussion of international human rights conceptions. A rough sketch of contemporary legal theorizations as they construct and reflect current conceptions of subjectivity will introduce a number of arguments about human rights, and how they should be understood in a post Cold War, post-colonial era. This discussion will lead to the proposition that human rights in general, and human rights law in particular, can be productively formulated in terms of narrative genres and narrative voices.

Offering a detailed example of how human rights function as narrative constructions, this article will analyze the specific human rights violation of torture as practiced by the French in the historical context of the Algerian Revolution (1954-1962; there is numerous documentation on the pervasiveness of torture during the Algerian War, see, e.g., Mellor; Vidal-Naquet; Horne). The decision to examine torture is not completely arbitrary. As a human rights violation, torture is paradigmatic in its implementation as a tool to destroy a speaking subject. Human rights violations target the voice, and therefore, the voice should be the focus of international human rights instruments. This can be demonstrated by examining the details of other violations: the repression against Rigoberta Menchú by the Guatemalan Army in the late 1980s; the illegal detention of Jacobo Timerman in Argentina during the late 1970s; or the recent execution of Kenule Saro-Wiwa by the Nigerian government. However, the details of the torture of civilians in Algeria by the French military and the colonial administration allow for a particularly dynamic investigation of the narrative of human rights because the torture occurred concurrently with UN General Assembly calls to end colonialism. Additionally, the state that was practicing torture was influential in the codification of international human rights norms and publicly prided itself on its dedication to those norms.

In contemporary human rights discussions, many individuals in the international community have offered rubrics of rights that attempt to account for the evolving nature of international norms protecting human rights. These rubrications evidence the desire of the international community to develop a coherent, consistent justification for and definition of the "rights of man." The recent works

of three theorists have been influential in this endeavor: Burns Weston, Richard Falk, and Adeno Addis. While the three thinkers differ in their approaches to understanding human rights, their rubrics all rely, to some degree, on conceptions of human subjectivity and dignity as universal and fundamental. Burns Weston, outlining current human rights thought, argues that "regardless of their ultimate origin or justification, human rights are understood to represent individual and group demands for the shaping and sharing of power, wealth, enlightenment, and other cherished values" (17). Weston elaborates by adding four points of clarification to his schema; "reflecting varying environmental circumstances, differing worldviews, and inescapable interdependencies within and between value processes, human rights refer to a wide continuum of value claims ranging from the most justiciable to the most aspirational." Also, characterizing contemporary human rights theories, he adds that "if a right is determined to be a human right it is quintessentially general or universal in character, in some sense equally possessed by all human beings everywhere." Contemporary human rights are, Weston notes, generally "qualified by the limitation that the rights of any particular individual or group in any particular instance are restricted as much as is necessary to secure the comparable rights of others and the aggregate common interest" (18). And finally, he claims that "human rights are commonly assumed to refer, in some vague sense, to 'fundamental' as distinct from 'nonessential' claims or 'goods'" (18). Weston's arguments, while not completely without prescriptive value, certainly tend to bear out as descriptive of the process by which an international consensus forms on the nature of contemporary human rights. That is, Weston's schema describes the process that results in contemporary conceptions of human rights. Weston does not, in this article, account for the very real possibility that his five observations may only be true because the West has been instrumental in the articulation of human rights norms. Adopting the Czech-French jurist Karel Vasak's schema of the "three generations of human rights," Weston proceeds to rubricate the rights elaborated in international law under the "three normative themes of the French Revolution … [which] are the first generation of civil and political rights (*liberté*); the second generation of economic, social, and cultural rights (*égalité*); and the third generation of newly called solidarity rights (*fraternité*)" (Vasak qtd. in Weston 18). The advantage of this descriptive schema, Weston tells us, is that it accounts for the various synchronic international declarations of human rights. The generational nature of these rights is not meant to advance one set over another. Rather, the generational schema offers an heuristic to explain the historical evolution of Western commitments to individual and to group rights, even when that evolution occurs synchronically and appears as competing relativist conceptions.

Richard Falk takes a more polemical approach in his attempt to organize the "logic of human rights." Falk divides his "schools of logic" into six categories: statist, hegemonial, naturalist, supranationalist, transnational, and populist. Statist logic, according to Falk, privileges the sovereignty of international borders over the rights of the individual (32). Statist logic makes human rights properly the concern of the sovereign state. Hegemonial logic supports "the supposition that there is some implicit correlation between power and virtue giving powerful states a mandate to impose their will on weaker states and that, on balance, this works out positively" (35). Naturalist logic, according to Falk, provides support for human rights because it validates "in the most fundamental way certain minimum standards of behavior" (37). He regards naturalist logic as "the essential ground for claiming that human rights are universally valid" (35). Falk identifies the General Assembly of the United Nations as the "main global arena of supranationalist logic," which appeals to an international moral authority above the interests of individual states (37). According to Falk's schema, transnational logic orders the world into various groups of independent, unaffiliated nongovernmental organizations whose human rights work is predicated on the "initiation of a stimulus in one state so as to have an impact elsewhere" (38). Finally, populist logic, the most potentially subversive and powerful in his formulation, provides the justification for individuals acting alone, or in transnational, cross-cultural collectives, to prevent and redress human rights abuses (39).

Falk's divisions of human rights logic move beyond Weston's model in that they account for the process by which human rights instruments are produced. Where Weston provides a taxonomy that

acknowledges the evolutionary nature of human rights, Falk's schema stresses that "the protection of human rights … is an outcome of struggle between opposed social forces and cannot be understood primarily as an exercise in law-creation or rational persuasion" (32). Falk's approach to "the protection of human rights" seems to hold true for the normative instruments of international law that prohibit certain abuses and protect certain rights. However, his polemic moves towards a more problematized, contentious definition of human rights than Weston's schema; hence, Falk offers the possibility that human rights may develop out of competing individual, state, and corporate interests. Falk's recognition of the competitive process by which contemporary human rights are produced begins to recognize the complex subject of human rights, the individual human being. Adeno Addis goes further in treating the complexities of individual subjectivity by analyzing the arguments arising from competing communitarian and individualist ideological approaches to human rights. Addis shows the limitations inherent in restrictive ideologies and offers an alternative with what he calls a "post-modern" approach to human rights (1252). Addis locates individual subjectivity in a complex web of communal and traditional influences and pressures. He argues that contemporary individualism, which either contends that the individual is the only moral agent, or that the "notion of group rights" is a different category of rights, "embraces the Enlightenment's assumption of a universal, stable, and to a large extent, pre-social, individual identity" (1237). This conception of the individual is, for Addis, too rigidly grounded in a conception of the subject that "is at variance with what social life teaches us" (1244). Addis' comments recognize the complexity of current theories of human subjectivity; the subject's identity is bound up in an extremely complex relationship with the community, with tradition, and with history. The subject of human rights law is a subject that is ephemerally caught up in what Bhabha calls "the production of an image of identity" (45).

Addis continues his critique of individualism, noting that "the narrative of the presocial and autonomous self, the heroic individual, who stands against the threat of society, and whose confrontation with society is to be assisted with the notion of rights is a misleading one" (1244). The notion of the "heroic individual" pits that individual against society without recognizing her as both a product of and a participant in that society. The narrative of the individual hero invested with inherent dignity who overcomes restrictions and obstacles through sheer force of dignified will is, in Addis's formulation, archaic and naive. "The cultures and tradition that surround the individual are ones that enable her to continue to tell stories about herself, and make it possible for her to continue to make choices and define her life" (1246). In Addis's conception, only the existence of a collective makes individual narrative possible. In light of Addis's critiques of individualism, the subject addressed in human rights law is arguably a modern subject (by "modern," I am referring to the historical period from the Enlightenment to the present in which a "new" human was conceived from the philosophical works of Jean-Jacques Rousseau and René Descartes). International human rights law describes and promotes a universal, stable, unified, and knowable subject who has clearly delimited boundaries and interests. According to this conception of the individual, the subject knows what she wants, knows how to get it, and only human rights abuses stand in her way. More explicitly, this subject is the hero of her own personal narrative of human dignity, enlightenment, and liberation. Addis argues that this conception of the juridical subject contradicts reality because "once the individual is seen to be at least partially constituted by the tradition to which she belongs, those narratives the group tells about itself, both to itself and others, then the fate of the individual is tied to the fate of the group and tradition" (1246). Further, "one cannot have a right as an abstract individual. Rather, one has a right as a member of a particular group and tradition, and within a given context" (1246). Addis's formulation of the individual more adequately describes the post-modern condition of human subjectivity and human narrative capacity that Fredric Jameson, François Lyotard, and Jean Baudrillard have theorized. Addis's identification of the individual's complex relationship to the world, by way of the community and tradition, can be redeployed to offer a different descriptive formulation of human rights, one that focuses on the voice of the juridical subject and the possibility of narration. That is, stressing the voice of the subject, positing the voice as an emblem of subjectivity, allows for a conception of human rights that does not rely upon some essential, inherent human quality. Reconceiving notions of human rights

in terms of narratability offers some departure from the double bind of universalism and fundamentalism. While this reformulation is intended to be descriptive, it could also serve as a benchmark to determine the value of a human right in any historically, culturally, spatially specific context. As conceptions of the speaking subject change, whether over time or across cultures, so too must conceptions of human rights that guarantee the subject's ability to narrate herself.

International human rights norms, even as they cling to Enlightenment ideals of bourgeois individuality, have evolved in tandem with changing sociological and philosophical conceptions of individuality and human subjectivity. The early, albeit extended, period of codification of civil and political rights -- from the French Declaration of the Rights of Man and of the Citizen (DRMC) in 1789 to the United Nation's Universal Declaration of Human Rights (Universal Declaration) in 1948 -- also saw the rise of the realist modern novel and the modern hero. Mikhael Bakhtin, the Russian literary theorist, identifies the primary elements of most modernist novels: "given all the possible differences in construction, in the image of the hero itself there is neither movement nor emergence. The hero is that immobile and fixed point around which all movement in the novel takes place" (10). The treatment of the novel's hero, the fixed point around which all movement occurs, makes the individual the measure of all things. Against all odds and in all circumstances, the individual naturally perseveres in maintaining its structural and psychical integrity. However, seen from a legal perspective, it could be argued that in the modern *Bildungsroman* (the coming-of-age novel, or the novel of formation; see Abrams 119-20), restrictions to "liberty, property, security, and resistance to oppression" (DRMC art. 2) severely limit an individual's ability to remain "fixed." In accordance with the subjectivity reflected in international human rights norms, the fixity of the modern hero depends on his/her ability to narrate his/her story. In this formulation, a human rights abuse is characterized as an infringement on the modern subject's ability to narrate her story. To support this proposition, this article examines specifically the destruction of the voice and individual subjectivity under the application of torture. The "negative rights," those for which the state needs to prohibit certain actions such as torture and disappearance, qualify as human rights because they attempt to guarantee the liberty of the subject to speak and, more specifically, to speak freely. ("Negative rights" have been defined by the perception that some rights merely require a government to prohibit certain destructive abuses. "Positive rights" generally require active promotion. Thus, prohibitions against torture are negative rights, and programs of social welfare are positive rights.) If human rights abuses exist on a continuum of narratability, with oppressive voicelessness on one end and bellicose vociferousness on the other, human rights instruments and norms can be evaluated and promoted for their effectiveness in addressing that continuum and providing a public, international space that empowers all human beings to speak.

Before examining the French situation in Algeria and the role of the voice in contemporary human rights, we must understand the philosophical grounding of the French and international human rights traditions. Many contemporary philosophers and human rights experts have noted that "the French doctrine of rights was a heritage from the philosophers of the Enlightenment; they enunciated the doctrine of the 'rights of man' that became embodied in French law as well as in French culture" (Maran 3). The DRMC embodies the philosophical conception of the human subject as inherently invested with dignity. The 1789 "rights of man," while referring only to men, declared the universality of the dignity of man. This conception of man, codified after the French Revolution, directly confronted the authority of the sovereign. Whereas previously the Monarch, or President, retained the power to grant status to individual human beings, the DRMC conferred upon each individual the special "dignity" of being human. Therefore, in the preamble to the DRMC, the "representatives of the French people . . . consider[ ] that ignorance, forgetfulness, or contempt of the rights of man are the sole causes of public misfortunes and of the corruption of governments."

The DRMC proceeds to guarantee the universality of human dignity, at least within the boundaries of the French state. In Article 1, the national assembly declares: "men are born and remain free and equal in rights; social distinctions can be established only for the common benefit." Article 2 declares that the duty of every "political association is the conservation of the natural and imprescriptible rights

of man; these rights are liberty, property, security, and resistance to oppression." Further, the DRMC elaborates specific protections for the assurance of individual actualization of these rights. It prohibits arbitrary arrest in Article 7, and penalties that are not "strictly and clearly necessary" in Article 8. It supports due process in Article 9, and freedom of thought, religion, and speech in Articles 10 and 11. The fundamental prohibitions and guarantees established in the DRMC became the basis for French domestic law and for French participation in the creation of international human rights law. In her analysis of the influence of the French DRMC on the UN's Universal Declaration of Human Rights, Maran explains that "the notion of universality within the [Universal Declaration] … owes a debt to France's notion of universality which, conversely, France considered uniquely its own, concerned with French values and culture, and not adaptable for international usage" (142). Despite this proprietary notion of universality, the French were instrumental in shaping both the Charter of the United Nations and the Universal Declaration.

The eminent French jurist René Cassin played a major role in drafting the Universal Declaration. Cassin revealed the importance of the French philosophical conception of universality in the codification of human rights when, in 1972, he credited the DRMC with heralding and declaring a new understanding of humanity: "the Declaration of the Rights of the Man and of the Citizen, the essence of which the French Revolution caused to permeate most other civilized countries, truly marked a new era in the history of humanity" (qtd. in Maran 61). While Cassin's statement gives credit to the French for basic international notions of human rights, it also implicitly, and rather benignly, acknowledges the process by which the "new era" came to "civilized countries." His statement leaves room for an interpretation of human rights that places the "burden" of the dissemination of a new concept of man on those societies that consider themselves civilized. The burden of that universality appears in the language of the Universal Declaration. Recalling the words of the DRMC, the second preambular paragraph of the Universal Declaration considers the continued dangers of not codifying human rights and stresses human aspirations: "Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people." In adopting the Universal Declaration, the UN General Assembly agreed that the first benefit from the protection of human rights is a "world in which human beings shall enjoy freedom of speech." The freedom of speech, the liberty to tell one's story, is precisely what the following thirty articles of the Universal Declaration attempt to ensure through prohibitions of abuses that tend to destroy the human voice -- "negative rights" -- and through promotions of social welfare that tend both to encourage and to foster the human voice speaking itself -- "positive rights." Besides prohibiting torture, arbitrary arrest, and slavery, the Universal Declaration evidences its commitment to Addis' conception of the individual subject when, acknowledging the individual's responsibilities to the community and to respect other's individual rights, it declares that the community is where "the free and full development of his personality is possible" (Art. 29). Article 29 commits the member states of the United Nations to a narrative of the development of the individual, to a narrative of becoming against the backdrop of the community.

In her book *Barred: Women, Writing and Political Detention*, Barbara Harlow argues that the thirty articles of the Universal Declaration "translate[] the standard literary paradigm of individual versus society … recharting the trajectory and peripeties of the classic *Bildungsroman*" (252-53). The classic narrative of becoming pits the individual against her immediate society, but the Universal Declaration places the individual "within a specifically international construction of rights and responsibilities." Along with this new international setting, the General Assembly, in the third preambular paragraph to the Universal Declaration, recognizes the promotion of the voice in an international context as a constructive alternative to the narrative of the individual physically compelled "to rebellion against tyranny and oppression."

Given France's historical and international commitments to human rights, its domestic practices during the colonization of Algeria and the Algerian Revolution would seem to be an aberration. However, Maran argues that the same ideology and philosophy that produced the "rights

of man" led to French human rights abuses. According to Maran, the United Nation's philosophical concept of universality in the Universal Declaration was "a by-product of France's proprietary sense of 'universality'" (142). Maran's insightful identification of France's sense of universality as proprietary underpins her argument that both the contemporary notion of human rights and the French justification for the *mission civilisatrice* -- France's process of "domestication" and "pacification" of other peoples in other cultures -- arose from the Enlightenment's conception of the individual, of human subjectivity. In the context of human rights, the application of universality was, at least originally, peculiarly limited to the French male citizen. More recently, legal and literary theorists have extended and elaborated the notions of proprietary universality that France used to justify colonialism to itself. Abdullahi Ahmed Ah-Na'im, in his article analyzing the differences between Western and non-Western conceptions of human dignity, argues that states which routinely violate human rights, "[e]ven when motivated by selfish ends," rationalize their conduct as "consistent with, or conducive to, some morally sanctioned purpose" (19). This process of rationalization often supplies the initial justification for human rights abuses and the subsequent defense of those abuses.

The French relied upon the concept of universality, as a preparatory rationalization for their "civilizing mission," to argue that the Arab Algerians needed to be assimilated as beneficiaries of the French cultural legacy of Enlightenment ideals. Thus, the benefits of French culture justified the crimes of colonialism through the *mission civilisatrice*. While a complete listing of the crimes associated with colonialism would be impossible, Frantz Fanon, a psychiatrist from Martinique assigned to an Algerian hospital during the revolution, gives a sweeping description: "colonialism is not satisfied merely with holding a people in its grip and emptying the native's brain of all form and content. By a kind of perverted logic, it turns to the past of the oppressed people, and distorts, disfigures, and destroys it" (210). In his examination of the destruction of the colonized's past, Fanon's formulation explains a colonial process that attempts to destroy the speaking subject, both as an individual and in community. But, more insidiously, colonialism targets the entire complex matrix of subject construction, leaving the individual without content and context.

French intellectual Jules Roy, in a memoir of his return visit to Algeria, attests to the power of the ideology of the civilizing mission when he remarks of his childhood as a colonist that "one thing I knew because it was told to me so often, was that the Arabs belonged to a different race, one inferior to my own. We had come to clear their land and bring them civilization" (17). Many other inhabitants and participants in colonial Algeria have similarly attested to this French attitude towards the Arab Algerians. Important in the conception of inferiority is the idea that Arab Algerians, according to the propriety of the French definition of universal human dignity, were not yet ready fully to claim their "rights of man" because they were "subhuman," and therefore universality did not apply to them. The "civilizing mission" was, in part, conceived as an attempt to bring Arab Algerians philosophically, sociologically, and socially "up" to the level of French civilization. Thus, when Jules Roy questioned one of the commanders of the French forces in 1960 about the brutal repression conducted in the colonial war, the commander responded: "we're after nobler things than oil . . . we're fighting for a certain notion of what man is. We're fighting to raise the standard of living of the people here, to distribute the land in their interests, to keep them linked to us materially and spiritually, so that our influence will endure" (84). This "influence" must be understood, in light of the "civilizing mission," as part and parcel of an education in the philosophical grounding of human rights; remnants of this colonial educational process persists in the language of the Universal Declaration itself, the opening paragraph proclaiming that "every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms . . . both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction" (preamble). Maran formulates the colonial process of education in terms of the individual's maturation. She argues that "the colonized could not reach adulthood under colonialism, despite the fact that to make him into 'man' was a key legitimizing doctrine of colonialism -- its 'educational' mission" (5). Her formulation relies on an understanding of the narrative process by which one becomes "man," by which the hero moves through the plot of the *Bildungsroman*. Both in

Maran's argument and in French theoretical approaches to human rights, a subject "becomes man" when he/she has the ability and the freedom to express her individual subjectivity, to tell his/her story.

Jean-Paul Sartre, in his introduction to Frantz Fanon's *The Wretched of the Earth*, stresses the importance of the voice in the modern narrative of the individual as hero: "we only become what we are by the radical and deep-seated refusal of that which others have made us" ("Preface" 17). To refuse radically "that which others have made us," certain guarantees are necessary, guarantees that ensure the right to speak. Sartre's "refusal" suggests that the voice is the primary tool of subject construction, and he says about Fanon that "in short, the Third World finds *itself* and speaks to *itself* through his voice" (10). The "Third World," having had its other organs of speech brutally suppressed, according to Sartre, narrates its oppositional existence to the "First World" through the voice of Fanon. Fanon himself explains that one of the characteristic psychological disorders that he dealt with regularly in Algeria, and that he attributes to colonial crimes, was the loss of narrative ability in his patients (262). The destruction of the voice that finds itself and speaks itself, the voice that offers the counter-narrative of the "Third World" subject, is precisely the homogenizing project of colonialism. Addis reformulates the "civilizing mission" in terms of assimilation, where a voice, even if a relatively foreign one, is available to the subject: "philosophically, assimilation is seen to be desirable, for once the assimilation process is completed, then, so the argument goes, it will be easier to treat every one as an individual rather than as a member of a group" (1238).

Because of the French colonial commitment to the story of "becoming man," France considered its civilization one of the most enlightened and universal. Jules Roy shows how representatives of the international community felt about "the Algerian Question." Speaking with an unnamed Swedish man while visiting Algerian refugees in Tunisia, Jules Roy found himself insufficiently capable of responding to the man's astonishment: "But France is the symbol of an intelligent nation . . . and up till now your prestige has been based on the fact that the French were the first to defend the rights of man" (106). Roy concurred and had to admit that because of the Algerian situation, France had lost its role of leadership in the United Nations. French problems at the United Nations started because France considered its troubles with Algeria to be domestic problems. The assimilation of Algeria was in fact a French domestic legal question for more than a hundred years. Algeria was successively proclaimed "to be part of the French possessions" in 1834, divided into "Three French Departments" in 1870, and declared part of Metropolitan France in 1946 (Alwan 4; see also Kiss 130). Therefore, the United Nations, according to French arguments relying on Article 2(7) of the UN Charter, had no business interfering in the affairs of a sovereign nation. Despite René Cassin's commitment to the rights he helped draft in the Universal Declaration, in a speech before the General Assembly in 1950, he argued that colonial questions could not involve France's interests in Algeria because they could not involve "certain elements of the French Union that are under the same regime as the metropole" (qtd. in Kiss 395). However, as Harlow has noted of the Universal Declaration, the setting for the Algerian story of "becoming" had shifted to an international stage in 1960.

In 1961, the French legal scholar Maurice Flory, in his yearly recap of important international legal events, identified the successful adoption of UN Resolution 1514(XV), the Declaration on the Granting of Independence to Colonial Countries and Peoples, as the result of Algeria's work in the international forum: "The French Army continue to fight against the rebellion, while the Army of National Liberation (ALN) conducts an international war" (Flory 836; the Declaration on the Granting of Independence to Colonial Countries and Peoples passed in the context of the Cold War. The Soviet Union proposed the matter for inclusion, and the United States responded by directing attention to the Soviet Union's incorporation of the world's "three newest colonies"—Lithuania, Estonia, and Latvia. In the end, the major colonial powers and their empathizers, including France, the United Kingdom, and the United States, abstained from the vote.). While the ALN cannot claim victory for the passage of Resolution 1514, the Algerians were fairly successful at using the new setting laid out in the Universal Declaration to change the plot of their story. Soon after the beginning of the "Algerian War" in 1954, twenty-nine Asian and African nations at the Bandung Conference declared "support for the rights of

the peoples of Algeria, Morocco, and Tunisia to self-determination and independence" (Alwan 95). In 1955, at the United Nations 10th General Assembly, a number of States unsuccessfully pushed for "the Algeria Question" to be included on the agenda. These nations gathered support for the inclusion of "the Algeria Question" over the next few years. Finally, in 1957, the General Assembly took up the question and passed Resolution 1012(XI), which expressed "the hope that, in the spirit of co-operation, a peaceful, democratic and just solution would be found, through appropriate means, in conformity with the principles of the Charter of the United Nations" (88).

In 1958, the General Assembly expressed its desire for France and Algeria to enter into *pourparlers*. In 1960, the Soviet Union pushed for a resolution granting broad independence to colonial peoples. Even though the lines of debate were drawn in the Cold War East-West tradition, Resolution 1514(XV) passed, with most of the colonial powers abstaining. Resolution 1514(XV) committed the international community to the promotion of self-determination and the right to narration as an oppressed nation when the General Assembly declared in Article 5 that immediate action shall be undertaken "to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire . . . in order to enable them to enjoy complete independence and freedom" (art. 5). Further, the United Nations recognized the need to undermine the logic of the civilizing mission, declaring in Article 3 that "inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence." Mohammed Bedjaoui, citing other legal arguments, claims that the Algerian War had a crucial influence on Resolution 1514(XV) and independence movements in general. (11): "the revolutionary liberation movement of Algeria has acted as a bloodstained lever for the consistent advancement of the anticolonial cause throughout Africa." On 19 December 1960, addressing specifically "the Question of Algeria" just five days after the approval of Resolution 1514, the General Assembly adopted Resolution 1573(XV), recognizing in Article 1 "the right of the Algerian people to self-determination and independence." The following year, the General Assembly pushed France "to redress the legitimate grievances of the Algerian prisoners in recognizing their status as political prisoners" (UN "Status of Algerians").

While the exact meaning of the codification of the notion of self-determination in international human rights instruments may be arguable, the international promotion of self-determination for the peoples of Algeria should be understood as expressing a commitment to a new genre of narration in an international setting. Peoples, as collectives, were granted the ability to narrate their own stories, in contrast to the imposition of the traditional individual versus society/state genres. This commitment to self-determination as narrative appears first in Article 1(2) of the UN Charter. The United Nations declared its commitment to narratability over violence specifically in the preamble to the Universal Declaration, where the General Assembly recognized the dangers of suppressing the voice of both the individual and collectives: "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law." While Algeria was taking advantage of this new international setting, the French were parochially ignoring even their own domestic law regarding the minimum rights of individuals. The 1946 French Constitution, as well as the 1958 French Constitution, relied on and referenced the DRMC as the basis for their codes of governance. Bedjaoui, presenting a legal analysis arguing that France had already implicitly recognized the independence of Algeria, explains that the 1946 French Constitution "gave all international conventions duly ratified by the French Parliament precedence over French municipal laws and regulations" (212). France had codified the authority of the Universal Declaration in its domestic law. Ironically, Maran notes that "the government, acted for by its legal advisers and diplomats, did not refer to this [international] body of law. Nor indeed, with odd exceptions, did the intellectuals who opposed the government's actions on torture" (43). In fact, because of the silencing nature of the crimes of colonialism, specifically torture and summary executions, the French Penal Code was rarely invoked by victims of those crimes even though the *Code Penal*, *Crimes et Delits* clearly outlawed torture and arbitrary arrest in those cases (39). The law also prescribed the death penalty for those committing torture). In order to foster a more thorough

understanding of how the indifference to the French law, and to the international law ratified by parliament, promoted human rights abuses and effectively silenced both the French and the French Algerian populations, this analysis turns to an examination of one of the rare cases where a tortured Algerian pressed the domestic French law into service.

During the Algerian War, the French-Algerian police and the French military began systematically employing torture in their attempt to retain the Algerian colony. In 1957, during the Battle of Algiers, the military abducted and tortured two French journalists, Maurice Audin and Henri Alleg (Audin was killed while "attempting to escape" and Alleg was later released). Leftist French intellectuals (including Sartre, Simone de Beauvoir, Maurice Merleau-Ponty, and François Mauriac) immediately decried the use of torture against one of their own in major newspapers and, notably, in Sartre's journal, *Les temps modernes*. In 1958, General de Gaulle responded to public pressure by announcing that torture would end with the establishment of the Fifth Republic. The outcry was intense but short-lived as André Malraux, then French Minister of Culture, added his voice to de Gaulle's, rather blindly proclaiming that "torture is no longer employed in Algeria" (de Beauvoir and Halimi 61). Those in the business of publishing episodes from the war, however, had evidence that the tortures had not ceased. Despite government attempts to censor his voice by banning his book, Alleg published a best-selling account of his torture under the title *The Question*. In the introduction to the book, Sartre stresses the importance of the voice at the scene of torture (29). The role of the victim's voice was later recognized in official UN instruments when, in the 1975 Declaration on the Protection From Torture, the General Assembly clarified its use of the term "torture": "For the purpose of this Declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons" (art. 1). However, during the period of colonization, public revelations of torture were fairly rare in metropolitan France, and even rarer were legal cases charging the military with the crime of torture. The public was, therefore, relatively silent on the issue of torture. After the initial outcry over Alleg's torture, general outrage did not resurface until 1960 with the revelation in *Le Monde* that the French military had tortured a twenty-two year old Algerian woman named Djamila Boupacha in El Biar, the same prison where Audin and Alleg had been detained three years earlier (see Crouzet 47; de Beauvoir 6).

On the night of 10 February 1960, Algerian security forces burst into the home of the Boupacha family. They arrested Djamila, her sister Nefissa, her brother-in-law Abdelli Ahmed, and her father Abdelaziz. The arresting officers took the family to the military barracks at El Biar. That night, separated from the other members of her family, Djamila Boupacha was interrogated. A captain in the French military asked her repeatedly for information about various Algerian nationalists, striking her across the face and slamming her head into a wall when she provided no response. She was taken to another room and subjected to three hours of torture by electricity. By morning, she had "admitted" that she received Front de Libération Nationale (FLN) agents in her house, but she said she had no idea about their present location (see de Beauvoir and Halimi 116). For the next few days, Boupacha was pulled repeatedly from her cell to respond to questioning. She admitted freely that she was a militant member of the FLN and had participated in medical relief for the agents of the independence movement. When asked to express regret for her actions, she refused and was violently beaten. On 17 February, she was moved to the Centre at Hussein Dey where she was again subjected to torture by electric shock treatment. More than nine torturers were present (some colonial police, some French military) when she was stripped and lashed into a dentist chair. The questions about her brother's whereabouts were repeated while the officers drank beer, "which they spat over her in mouthfuls till her body was all dripping wet" (39). Continuing the questions, a few of the men attached electrical wires to her nipples, her anus, and her vagina. They shouted that they would make her talk. Despite not having provided answers to their questions, the torture finally ceased and she was returned to her cell, covered with electrical and cigarette burns. Three days later, she was awakened in the middle of

the night and ushered into a nearby courtyard. After being stripped, Boupacha's ankles and wrists were tied together, and a wooden pole was passed between her knees and elbows. The French paratroopers then placed the pole across a bathtub, leaving Boupacha hanging face down in the water. "[The inspectors] upbraided her for planting bombs in cafés and causing the deaths of women and children … Her torturers now started dragging in all the most recent outrages committed in public places in Algiers. She confessed to them all" (40). Not satisfied with her multiple confessions (her torturers knew that the "perpetrators" of some of the crimes had already been tried and convicted), the soldiers renewed their efforts with increased ferocity. "the inspector who had beaten her . . . tipped her over in the bath, forced her legs apart and pushed the handle of a tooth-brush into her vagina. This done, they took one of the beer-bottles they had emptied, and crammed it up her, neck first" (40). Boupacha later told her lawyer, Gisèle Halimi, that "they wanted me to say I had planted a bomb in Algiers" (40).

Halimi, restricted from appearing at the Algiers courts by the Algerian authorities' manipulations of visa laws, contacted Simone de Beauvoir, one of her domestic clients, and asked her to write an article detailing the ordeal. De Beauvoir's story, "Pour Djamila Boupacha," appeared in *Le Monde* on 2 June 1960. The entire edition was confiscated by military authorities in Algeria and caused such a stir in France that letters poured in for weeks. The ordeal brought the discussion of the use of torture to the editorial pages of all major publications. In June 1960, France was so thoroughly immersed in Boupacha's situation that Halimi was able to declare that "Djamila Boupacha has become a familiar figure … We talk about her as a little sister who testifies to the future about a system that functions only through dishonor and ferocity" (Halimi, "D'Henri Alleg" 15). In the metropolitan French mind, torture became intrinsically linked with the colonizing mission. Boupacha's ordeal can be examined by analyzing the ways in which torture attempts to destroy a voice, to force a human being to attest to the power of the state. Sartre attempts to explain the political conditions and the philosophical conceptions that brought about the state's reliance on torture: "the 'forces of order,' hindered by their own might, have no defense against guerrillas except punitive expeditions and reprisals, no defense against terrorism but terror. Everybody, everywhere, is hiding something. They must be made to talk" (Sartre, "Introduction" 29). The torture, while directed most manifestly at Boupacha's body, was also clearly an attempt to employ her voice against herself.

In the service of clarifying the relationship between torture and the production of narrative as it participates in subject construction, Elaine Scarry provides an important analysis of the function of torture. While Michel Foucault claims that by the end of the eighteenth century changes in the penal codes brought about the "disappearance of punishment as spectacle" (7), Scarry's analysis of contemporary torture argues that torture, even as an ostensibly secret practice, is still used as a means of public control in many areas of the world. In the *Body in Pain: The Making and Unmaking of the World*, she offers a definition, or formulation, of torture: "while torture contains language, specific human words and sounds, it is itself a language, an objectification, an acting out" (27). To understand her formulation, one must examine the nature of language and objectification as Scarry herself figures their relationship to the human creative processes.

Ñacuñán Sáez, in an article entitled "Torture: A Discourse on Practice" argues that the expressive language of the torture victim "comes from a body which is still (or already) controlled by the laws of language. … The pain inflicted by contemporary torture does not break down a pre-existing subject. … It produces the subject as already (or still) absent" (138). Torture fashions a nonentity out of the tortured's subjectivity. It destroys memory by numbing the mind with pain, denying the victim the possibility of reconstructing an integral self through thought. More insidiously, however, torture destroys the victim's linguistic systems, undermining any direct correlation between the signifier and the signified. Sáez calls torture the "realm of the pure signifier," and argues that once the distinction between truth and falsity has been destroyed, "anything is equal to anything," and therefore, only pure signifiers with no relation to a signified remain (133). Sáez's astute assessment of torture's destructive capacity implies that torture directly attacks the victims' ability to narrate (or even think) a coherent self image. Torture targets the subject's ability to narrate her experience by fracturing

integrating linguistic structures through "the question" and confession. When torturers are attempting to fragment their victims' subjectivity, they resort to a violent destruction of the signifier-signified relationship. For the victim of torture, language fails to function; the tortured often has little or no access to the information that the torturers earnestly claim to need. Instead, the torture victim can only provide irrational responses (e.g., Boupacha's confession to all the major crimes of her day) to the torturers' questions. Yet, even in the performativity of her response, the victim cannot be certain that any response will bring about the cessation of pain.

In Scarry's understanding, torture is employed by an institution as a form of "analogical substantiation" of its power when the establishment perceives a crisis in society and its beliefs (13-14). Analogical substantiation converts the pain of the body undergoing torture into "the fiction of absolute power" (27). Torture accomplishes this substantiation by destroying the individual's ability to produce language with her voice. More insidiously, the system of torture replaces the tortured's voice with a voice supplied by the torturer that, read by the torturing institution, confirms and produces the power of that institution. Because the body is "the locus of pain" and the voice "the locus of power" (51), Scarry argues that the production of power is possible because the torturer makes the body "emphatically and crushingly present by destroying it" and the voice "absent by destroying it" (49). In this formulation, the fictitious nature of this power comes from the ability to objectify and distance one's self from the body in pain, or rather the inability *not* to objectify and *not* to distance one's self from the body in pain. This torturing-as-production does something more than "make everyone aware, through the body of the criminal, of the unrestrained presence of the sovereign" (Foucault 49). Torture also produces a voice that makes claims about the power of the torturer and the torturing state. Many analysts who have attempted to detail the functioning of torture have noted that the pervasiveness of the silence produced goes beyond the destroyed subjectivity of the immediate victim. Rather, the torturers and the establishment which supports them are also forced into oppressive silence. In 1970, Andrée Bruyère, a French author who interviewed Boupacha, publicly praised her for this insight concerning the torturer's human dignity: "Djamila didn't ignore the fact that torture doesn't strike just the victims. Its effects are even more pernicious on the spirit, the comportment of those who participate … destroyed in what should be held the most noble, their sense of human dignity" (Brunel, Bruyère, Dominique, and Riffaud 103). Bruyère elaborates by quoting the core of Boupacha's insight: "the best are lost in an abyss of regrets, the others look for more radical ways to forget" (qtd. in Brunel, Bruyère, Dominique, and Riffaud 104). The effects of torture not only silence the victim, but in addition, according to Boupacha, Scarry, and many others, participation in torture typically relegates the torturer to the realm of voiceless silence. It is against both of these silences that the narrative of human rights attempts to provide public, international space for a voice.

In 1985, the international human rights community recognized the linguistic devastation caused by torture when the United Nations drafted the Convention Against Torture and Other Cruel and Unusual Punishments. In Article 15, the Convention requires that "each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." The United Nations codified the importance of the voice in a new context, investing the empty linguistic systems of the torture victim with a redefined power to narrate. That is, the tortured voice can legally narrate the destruction of that voice as evidence against the torturer.

Many French supporters of self-determination for Algeria, and of the rights of the individual in the face of torture, continued after the war to describe "the question of Algeria" in terms reflecting the rationalization for the colonial mission. French legal expert Pierre Cot, in his preface to Bedjaoui's book, explained his understanding of France's beneficial influence on Algeria: "It is not only by having aided men like Dr. Bedjaoui to find themselves, or even for having taught Algerian children a Declaration of the Human Rights of men and citizens … that France has made a contribution to the movement for liberation among the Algerian people. It is more directly by the development of colonialism and by the abuses inherent in colonial domination; by its opposition first of all to any affirmation of Algerian personality and then to even the shadow of independence" (3-4). Recalling

Sartre's statement that we become what we are only through the radical refusal of what others impose, Cot identifies awkwardly the narrative of becoming against the worst of odds as an ultimately beneficial product of the colonial legacy. It is unlikely that the narrative of becoming was a gift from the French to the Algerians. That notion merely replicates the logic of the civilizing mission. Rather, it is important to understand that the narrative of becoming, despite cultural differences and subtleties in various contexts, is a global genre.

I have argued that international human rights law can be understood as a commitment to the voice, as the tool to guarantee recourse to individual narration. Human rights law implicitly, although often explicitly as well, commits contemporary states to an ideological understanding of human subjectivity that privileges the power of speaking oneself. However, as Neil Stammers has pointed out in a recent critique of contemporary human rights theory, the current bases for human rights "must be superseded by a reconstructed notion of human rights, systematically grounded and understood to challenge existing power relations" (508). He identifies the current theoretical justifications with continued global abuses of human rights and calls for a notion of human rights "that enables, not disables, those whose voices are currently stifled by the dominant western discourses on human rights." While postmodern theory posits the unknowability of the self, because subjectivity is a nexus of complex relationships, the testimony offered by victims of human rights abuses tends to suggest that, even if the subject is ultimately unknowable, the individual, through self-narration, experiences herself as a distinct spatio-historical being. Fanon attempted to reassure his shell-shocked Algerian patients by explaining that "the consciousness of the self is not the closing of a door to communication. Philosophic thought teaches us, on the contrary, that it is its guarantee" (247). This sense of distinctness, of being conscious of the self, is precisely what human rights law should promote. Understanding international human rights law as a commitment to narratability allows the individual, in the international community, to challenge the oppressive power dynamics confronting her. It accounts for the evolving nature of human rights in our contemporary, international society. As we better understand what a subject needs to be able to tell her story, we can evaluate entitlements and prohibitions for their effectiveness in guaranteeing the ability to self-narrate. Thus, while civil and political rights might be the first guarantees for the right to narration, economic and social rights become important for understanding that an individual requires fair wages and safe working conditions to tell her story. The right to narration is not merely the right to tell one's story, it is the right to control representation. According to Seyla Benhabib, Hannah Arendt identified the process of narration as intrinsically caught up in the active dynamism of self-representation. Benhabib concludes from her reading of Arendt's *The Human Condition* that the "narrative structure of action determines the identity of the self" (187). She argues that Arendt's narrative evolves into "political theory as story telling" (196). Thus, the dynamic nature of human subjectivity requires an equally dynamic process of narration for representation. When the torturer destroys the voice and then forces the voice to acknowledge its own destruction, the torturer is, perhaps unwittingly, attesting to the importance of narration. So too, a United Nations that codifies the plot of an international *Bildungsroman* in its conventions, declarations, and resolutions.

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