

## The Situation of Human Rights

### *Debating Governance and Freedom*

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A Malawian human rights activist resisted my interest in the national language of his country by asking a sarcastic question. “Where will you go with it?” (*mupita nacho kuti?*), he asked, using Chichewa for the first time during our conversation, rather than English, Malawi’s official language. The activist saw little value in a foreigner’s efforts to master a language that was, in his view, confined to a small and predominantly poor population. Whereas English opened out a world of opportunities, Chichewa appeared to close it. It seemed natural for foreigners and educated Malawians to converse in the language of opportunities rather than the language of deprivation.

That many other Malawians, including human rights activists, greeted my interest in Chichewa with mirth rather than sarcasm is beside the point. Virtually all Malawians who considered themselves educated regarded a Chichewa-speaking white man as an exotic curiosity, especially anomalous because he was not in Malawi to spread the gospel. Human rights activists working for non-governmental organizations and projects were accustomed to receiving white visitors who, whether as expatriate aid administrators or fly-by-night consultants, rarely proceeded beyond basic greetings in their study of Chichewa. These visitors’ relations with Malawians who did not speak English, the vast majority of the population, were never direct. In this regard, a white person (*mzungu*) speaking Chichewa did have unusually extensive opportunities, if only for unmediated interaction in the local context. Before his sarcastic question, the activist had attempted to convince me that “Malawian culture” was to

blame for the apparently slow pace with which Malawians used the new talk about human rights to make claims. Culture told them to “suffer in silence.” But if this *mzungu* could actually hear the claims that were made in Chichewa, would he consider them silenced by culture or by activists themselves? If he had no need to be chaperoned by activists, what would he witness in villages and townships?

The notion of human rights depends on universalism in order to have any meaning at all. Much as this statement obliterates sterile debates with cultural relativists, it is only the beginning for other theoretical and political quandaries. For instance, if universals are made through translation (Butler 2000), Chichewa and other indigenous languages have little to offer, according to some Malawian activists. As the language of universalism, English appears as the sole source of a new discourse (see chapters 2 and 3). This approach to translation informs the making of Malawian activists as particular kinds of subjects, distinct from those whom they imagine as the beneficiaries of their efforts. The process may be peculiar to some African postcolonies, but certain aspects of these perspectives have also impeded human rights universalism more generally. Too often have the exhortations of universalism been accompanied by equally vehement assertions of the particular origins of the concept. One recent example is in the confident attempt of Micheline Ishay (2004) to provide *the* history of human rights. Underlying its laudable commitment to universalism is a troubling particularism. One of this history’s “most consequential realities,” we are told, is that “the influence of the West, including the influence of the Western concept of universal rights, . . . has prevailed” (Ishay 2004, 7). The assertion builds on exclusion as the cornerstone of a certain kind of universalism. Not only does the assertion about origins exclude those scholars of human rights who feel no allegiance to the West; it also fails to explain how a universal notion can be the prerogative of one particular civilization.<sup>1</sup>

This book subscribes to the view that universals emerge through friction, a relational condition for which translation is only one possible metaphor. Anna Lowenhaupt Tsing (2005) has written about “engaged universals,” suggesting that universality in the abstract remains a chimera. Sensitivity to context should no longer be mistaken for particularism, whether as a simple opposite of universalism or as an espousal of a particular civilization. Engaged universals never actually take over the world; their universalism is situational. This perspective finds further philosophical justification in the thought of Alain Badiou (2001), who has insisted on considering situations in which human rights are evoked as

ineluctably *political*. This chapter must, therefore, also examine the assumption that human rights discourse contributes to governance in its transnational and subjective modalities.

## Varieties of Rights and Citizenship

I write in a cultural context in which positive values attached to individual freedoms are so ingrained that some may consider ethnographic insights from another context inconceivable or morally repugnant. As a preliminary step, it is important to note that this book seeks to achieve more than a simple inversion of priorities in discourse on human rights. To promote economic and social rights as if they took precedence over civil and political liberties would be to make the same mistaken assumption that many human rights activists in Malawi made during the first ten years of democratization — the assumption of a hierarchy or generation of rights.<sup>2</sup> Civil and political rights are not realized in full as long as social and economic rights remain rudimentary. Conversely, and against many of the “founding fathers” of independent Africa, socioeconomic development is not a more urgent matter than the establishment of civil and political rights. Rather than deciding which set of rights should come first, we should replace abstract considerations with empirical investigations into the actual situations of rights and wrongs. Issa Shivji’s statement, formulated before the recent wave of democratization in Africa, is as cogent at present as when it was written: “[H]uman rights-talk should be historically situated and socially specific. . . . Any debate conducted on the level of moral absolutes or universal humanity is not only fruitless but ideologically subversive of the interests of the African masses” (1989, 69).

While it may be unwarranted to assume a hierarchy of rights, the different scope of different rights challenges the view that human rights are first and foremost individual freedoms. Talal Asad (2003, 130) has drawn attention to a basic grouping of rights in political philosophy. In this dualistic scheme, rights that are intrinsic to the individual irrespective of social relationships contrast with rights that entail and are entailed by obligations toward other people. The distinction is, however, rather inconsequential as it stands, as evidence from Malawi and Zambia will demonstrate (see especially chapter 2). Obligations can be envisaged as individualistically as freedoms, and the critical issue is the extent to which rights discourses enable subjects to claim entitlements. The idea of entitlement presupposes membership in political society, institutional

arrangements that ensure historically specific standards of life. These arrangements have conventionally been the responsibilities of the state, but the predicament of many African postcolonies, as is discussed below, demands analysis of the transnational conditions of state formation. For the moment, more needs to be said about citizenship as the basis for rights as entitlements.<sup>3</sup>

As soon as citizenship becomes the focus of struggles over rights, the meaning of “human” in human rights begins to look less certain. The paradox, as Asad (2003, 129) has pointed out, is that while human rights are intrinsic to all persons irrespective of their cultural or political affiliations, the realization and protection of these rights depend on judicial institutions belonging to nation-states and international organizations. Membership as civil status appears, therefore, more crucial than bare humanity; presocial individuals are replaced by political subjects. It is in this sense that Shivji, as quoted above, warned against adopting “universal humanity” (1989, 69) as the rallying cry for human rights discourse in Africa. Yet it is not clear, in turn, whether this warning should itself be taken as universally valid. In his discussion of how ideas of humanity have variously informed struggles over rights, Asad (2003, 141–148) recalls the civil rights movement in the United States. Particularly revealing is the frustration that Malcolm X expressed over a political project that remained confined to the jurisdiction of the American state. The issue for him was to transcend a discourse on civil rights by appealing to human rights. A whole new world of possibilities would open out: “You can take Uncle Sam before a world court. But the only level you can do it is the level of human rights. Civil-rights keeps you under his restrictions, under his jurisdiction” (quoted in Asad 2003, 141–142).

The transnational dimensions of governance in postcolonial Africa may lend relevance to analogous concerns over rights debates that are confined to national jurisdictions. At the same time, the *human* rights that those concerns evoke gain meaning within situational arguments about membership in political society, not through arguments that depend on the concept of abstract humanity.<sup>4</sup> There is every reason to imagine this political society as a transnational or worldwide society (Ferguson 2002). At any rate, whatever the scale of society in which persons can claim membership, it is important to recognize as much variation in the types of citizenship as in the notions of rights. In a classic discussion, T. H. Marshall ([1950] 1977) identified political, civil, and socioeconomic elements in citizenship. His particular concern was the exclusion of the working class in postwar Britain from social rights to the kinds of education, health care,

and social security that would have generated a shared sense of equal citizenship.

More recent theorists of citizenship have insisted that exclusion is not only a consequence of material deprivation, but it can also occur from a lack of recognition for cultural citizenship (Kymlicka 1995). One more dimension has thus been added to Marshall's typology of citizenship, with those countries in mind in which the presence of immigrants and other minority groups has come to challenge discriminatory definitions of citizenship. This "multiculturalist" challenge has, however, been ill served by those studies that have deployed a notion of discrete cultures confronting one another within the same society (see, e.g., Parekh 2000; Tully 1995). The contrast to current anthropological explorations of cultural citizenship is sharp. Anthropologists investigate how culturally defined subjects are constructed within the specific political and economic conjunctures of ostensibly liberal societies (see, e.g., Comaroff and Comaroff 2004; Povinelli 2003). These anthropological studies, in other words, take as problematic what some multiculturalists have taken for granted. Far from arising from primordial identities, cultural citizenship may be constrained and molded by the very operations of state-sponsored recognition its proponents demand.

The frequent reference to "liberalism" in some of these critiques also presents an opportunity to specify the contemporary political and economic conditions of many emerging democracies in Africa and beyond. Liberalism encompasses such a complex legacy of thought and practice that it can be a misnomer for what has informed state policies and foreign aid since the Cold War (see Kelly 2005). *Neoliberalism* appears to be a more proper description, acknowledging historical resonances with some aspects of liberalism while revealing a distinctively contemporary predicament. Of particular relevance to a discussion of citizenship is the way in which political subjectivity is envisaged under the neoliberal regime. It is a subjectivity that seems congenial to the assertion of "the uncompromising autonomy of the individual, rights-bearing, physically discrete, monied, market-driven, materially inviolate human subject" (J. L. Comaroff and J. Comaroff 1999, 3). At the same time when multicultural citizenship was contemplated in some European and North American contexts, many emerging democracies in Africa were built on the assumption that citizens are individuals.<sup>5</sup> The assumption supported neoliberal reform in national economies, with privatization, for example, creating the conditions for bringing to fruition the individual's entrepreneurial essence. That human rights came to be defined in a particular way did not

surprise critics, as Asad, among others, noted: “The historical convergence between human rights and neoliberalism may not be purely accidental” (2003, 157).

Citizenship was, in other words, largely one-dimensional, a passport to political rights at the expense of socioeconomic justice. Hence, also, the emphasis on developments in the narrowly defined political sphere, especially in the realm of electoral competition, in much academic and policy-oriented discussion on these new democracies (for a critique, see Caldeira and Holston 1999). Yet precisely because the regime is best described as neoliberal, alternatives to it can be sought both in the more radical strands of liberalism and in the actual situations uncovered by ethnography. To be sure, democratic proceduralism, giving special weight to the constitutional distribution of political and civil rights, has been handed down from liberalism’s foundational figures, such as Immanuel Kant (Kelly 2005, 29). Alongside, and perhaps increasingly against, one-dimensional citizenship stand the intellectual and political legacies of civil and socioeconomic citizenship and entitlements, as indicated above. Moreover, despite their compatibility with the neoliberal regime, certain interventions can also be reclaimed for potentially transformative projects. The rhetoric of participation has been eagerly repeated by human rights activists in Malawi as elsewhere (chapter 4), but the allocation of responsibility to abstract individuals and resource-poor communities has done little to address neoliberal injustices. As has recently been argued, however, the idea of participation is not intrinsically tied to the neoliberal order it may serve (Hickey and Mohan 2005). Much hinges on what kind of citizenship informs participatory projects — it is possible to envisage other dimensions of citizenship that address the situations of marginalized and subordinate persons.

In a similar vein, civil citizenship, while only superficially promoted by some human rights agencies, is crucial to the realization of political and socioeconomic citizenships. Violence and insecurity have been the flip side of new democracies where civil citizenship has had little impact beyond legislative reforms. The popular experience in Malawi has been strikingly similar to the one in Brazil, where elite citizens have responded to insecurity by criminalizing the poor (Caldeira and Holston 1999, 699). Chapter 7 describes how insecurity and violence in Malawi’s impoverished townships led to a moral panic that was criminalized as “mob justice” by both the police and human rights activists. The extent to which this incident was triggered by a lack of civil citizenship, defined as it was through an individualistic notion of freedoms, was rendered unthinkable.

“Rights-based development” (see, e.g., DFID 2000) presents one more example of how current interventions can have contradictory consequences depending on the interests they are made to serve. Critics, such as Mark Duffield (2001, 221–224), have been quick to point out that this development’s apparent commitment to social and economic rights can translate into yet another depoliticized humanitarian effort to satisfy social and economic needs. By contrast, the case from Malawi, discussed in chapter 8, shows how the transformative potential of rights-based development was too much for the Malawian and British governments to bear, resulting in the project’s closure even before it was officially launched. Intriguing in this case is that it would have offered resources for Malawians to claim their rights as entitlements rather than as individual freedoms. The status quo prevailed, and two alternative forms of citizenship and rights remained alien to the new democracy (Kymlicka 2002, 327). On the one hand, civil virtues and active political participation were deemphasized, if not discouraged altogether. On the other hand, group-differentiated rights, uniting claimants as a collective force, were nipped in the bud by associating them with pathological and dangerous ideas, such as regionalism and tribalism.<sup>6</sup> These reflections suggest that the necessary task of critique is not advanced if it merely attacks concepts and procedures that the neoliberal moment has made fashionable. Throughout this book, the critical focus is on the making and conduct of subjects who put those concepts to specific uses. The focus, in short, is on the *situational* character of human rights and citizenship.

## Situating Universal Rights

The situation of human rights, it was claimed above, is invariably political. Much of this book is concerned with showing how various participants in human rights discourse, deliberately or not, *depoliticize* the situation of human rights. Yet as some critics of the post–Cold War wave of democratization have argued, there was no lack of politics in emerging democracies (see Abrahamsen 2000; Caldeira and Holston 1999). Political citizenship, as was mentioned above, became a major preoccupation all over the world. Busying themselves with issues such as regime change and electoral competition, analysts and activists were often slow to assess whether political reforms, including the introduction of human rights discourse, brought legitimacy and efficacy to the ways in which these countries were governed. At the same time, analysts and activists

might have been excused for thinking that they were merely being loyal to popular priorities. In Malawi, talk about politics became the nation's favorite pastime, with a handful of political leaders providing entertaining, if sometimes controversial, topics for conversation after many years of great circumspection about political life. President Muluzi often lamented, especially toward the end of his regime, that wherever two or more Malawians met, they started to talk politics.

Muluzi's lament was, of course, a thinly veiled attempt to discourage popular debate on his regime's intrigues. To this extent, talk about politics could be consequential, and a human rights project that studiously avoided such talk contributed to depoliticization in a rather literal sense (chapters 3 and 4). It is, however, precisely these ostensibly nonpolitical agencies that make the actual scope of the political extend far beyond political institutions and politicians themselves. At issue is the constitution of power whose structures and processes are not reducible to the domain of political science. The cultural disposition of elitism is a historically constituted way of legitimizing and exercising power in Malawi. As is discussed further in this chapter, it introduces both subjective and transnational modalities to the study of governance.

A key procedure by which human rights discourse in Malawi and elsewhere has depoliticized the exercise of power is the denial that human rights acquire significance situationally. The procedure is familiar from a wide range of contemporary contexts and is one that, according to the French philosopher Alain Badiou (2001, 9), posits a universal human subject who is split into two modalities. On the one hand, the subject is passive and pathetic, the one who suffers. On the other, the subject is active, the one who identifies suffering and knows how to act. Note the ease with which such a procedure articulates with one historical legacy of elitism in Malawi — the association of knowledge with elites and those who mimic their ways. The education of the poor and the ignorant has long been an aspect of liberal democracy (Asad 2003, 61), pregnant with historical parallels with missionary and colonial projects in many African settings. The situation of human rights is political because the decision over abstract humanity always precedes any actual claim or grievance. This decision holds, in effect, some protagonists in contempt by precluding participation in defining the universal in their situation. Badiou has emphasized the transnational and racial underpinnings of this procedure: "On the side of the victims, the haggard animal exposed on television screens. On the side of the benefactors, conscience and the imperative to intervene. And why does this splitting always assign the same roles to the same sides? Who

cannot see that this ethics which rests on the misery of the world hides, behind its victim-Man, the good-Man, the white-Man?" (2001, 12–13).

Malawian activists' admiration for formal education, which involves the uncritical acceptance of English as the language of power and contempt for those whose skills in literacy are limited, is an instance of this split subjectivity in an African postcolony. What Badiou calls "the singularity of situations" (2001, 14) and "the real of situations" (2001, 7) are sacrificed to abstraction. Badiou's (2001, 14–15) analogy comes from the medical domain. Just as a human rights activist conceives of victims as an indistinct crowd, so too does a medical doctor following a bureaucratic procedure forget the singularity of the medical situation and see her patients as "the sick," anonymous statistical entities. Badiou's assault is on the proliferation of a certain ethical discourse that has brought to the medical situation concerns that are radically exterior to it, such as health-care expenses and managerial responsibilities. The result can be a lack of care for bureaucratic and political reasons, for instance when the patient is an illegal immigrant.

Analogies aside, thinking across domains gives little guidance as to how to define a situation. It may be the philosopher's privilege to create an impression that human rights discourse is incorrigibly inimical to the interests of the poor.<sup>7</sup> By contrast, those who actually study "the real of situations" often need to include within it contests over the very idea of human rights. On the one hand, aspects of the discourse as promoted by activists and their foreign benefactors do find their way into popular vocabularies, although the interests they are made to serve can be incompatible. On the other hand, incompatibilities can be even more radical, beginning with the inability of some activists to accept certain grievances and practices as belonging to the domain of human rights (chapters 6 and 7). Neither of these observations undermines Badiou's insight that human rights discourse tends to bury actual contests and incompatibilities under the abstraction of universal subjectivity. The observations, moreover, lend support to a critique of the expectation that rational debate in the public sphere could alone resolve even the sharpest of these contradictions (Calhoun 1992). A fundamental problem is subjects' uneven capacity to be heard in a human rights discourse that delineates the public sphere less as a realm of rational deliberation than as a site of power (Asad 2003, 184). At the same time, and as Badiou's philosophical critique entails, even if some subjects are assigned the status of victims, their engagement with the situation bespeaks a far more active disposition. Notions of resistance and agency have little to offer here, linked as they often are to social sci-

entists' "easy populism" (Brennan 1997, 65) that forgets the real of situations in which different subjects enter the debate on human rights. Rather, engagement compels a reconsideration of what freedom might be once it is recovered from its individualistic connotations in a particular human rights discourse (see below).

Engagement also represents the source of universals in the situation of human rights. The universalism of victimhood and those who claim to know how it is defined gives way to engaged universals (Tsing 2005). It is through contingent collaborations that incompatible interests and dispositions can turn into compatible ones, moments of shared vision and hope. As universals, human rights concepts must satisfy two conditions. The first is the conventional expectation that they travel across the situations in which they are evoked. The second is the more contentious requirement that they come to operate as universals within a situation. Even though The second condition finds relatively little support in the ethnography of human rights discourse in Malawi, this by no means entails pure victimhood or a lack of engagement. If anything, disengagement has been activists' mode of undermining the universalist promise of human rights.<sup>8</sup> By describing how other Malawians actually have engaged with the situation of human rights, this book may be read to suggest possibilities for collaboration and coalitions. However, because the situation of human rights is political, more is needed than improved translation between activists and their impoverished partners in villages and townships. The situation is an instance of governance, not rational debate.

## Transnational Governance and Neoliberal Governmentality

The concept of governance would hardly feature in an ethnography of human rights discourse if it did not, somewhat paradoxically, extend our purview beyond the workings of national governments. Such an extension was not envisaged by those who first introduced the notion in policy and academic debates on the post-Cold War world. Good governance was the business of good governments. "Governance" signaled a renewed interest in engineering state institutions to manage the assumed economic and developmental consequences of neoliberal reforms. When the World Bank, for example, defined governance as "the manner in which power is exercised in the management of the economic and social resources for development" (1993, 2), it was clear that at issue was the power of political and bureaucratic agents in a nation-state.

Despite intensifying doubts over such limiting notions of power and governance, as discussed in this chapter, the focus on state institutions has remained an item of faith among influential thinkers. An obvious example is the recent attempt of Francis Fukuyama (2004) to highlight the importance of rebuilding institutions in “failing states,” an ideological program that is thought to safeguard the entire world order. Similar assumptions are evident even when authors’ sense of complexity surpasses Fukuyama’s policy-oriented panacea. The study of Africa’s fledgling democracies, for instance, is said to benefit from a subtle notion of “governance quality,” a means to differentiate governments according to their success in institutionalizing developmental procedures and values (see, e.g., Alence 2004). The world thus envisaged may well be interconnected, composed of myriad political and economic forces, but it also lends itself to a view of governance as mutually independent governments’ prerogative.

The search for a more plausible notion of governance must be mindful of especially two aspects of state-centered and institutional perspectives. The first informs Fukuyama’s (2004) caution against an unvarnished belief in the benevolence of the market. His focus on state institutions comes as a refinement of the neoliberal credo that, from at least the 1980s onward, promoted the free market economy as the solution to virtually every conceivable problem in society. The tyranny of the market, so abhorrent to neoliberalism’s critics (see, e.g., Bourdieu 1998; Chomsky 1998), troubles some of neoliberalism’s apologists too. As a means to enhance good governance, the institutions of liberal democracy are thought to ensure development, if only for the benefit of the market. This is linked to the second preoccupation of institutional neoliberalism. “Failing states” are an anathema to a world order in which the interests of Western economic and political predominance are increasingly gauged in terms of security. Popular discontent breeds protest, which may, in the absence of deliberate institutional reforms toward liberal democracy, jeopardize the security of rich nations. When institutional reforms are thought to ensure participation and partnership in this world order, the commitment of the discourse to the status quo is unmistakable.

In point of fact, Fukuyama joins a long lineage of concerned policy makers and intellectuals who have seen in impoverishment a haunting possibility of insurrection. This concern is at least as old as the notion of international development itself, with the Truman Doctrine of 1947, for example, arguing that the suffering of the poor was “a handicap and a threat to both them and the more prosperous areas” (quoted in Escobar 1995, 3).<sup>9</sup> Interventions by rich nations appear legitimate when the

avowed objective is to assist poor nations in democratic state building. Current institutional perspectives, calling for measures to curb the excesses of neoliberalism, assert the natural order of things in which nation-states carry the primary responsibility for their citizens' well-being. Critical responses to this false naturalism had been publicized even before neoliberalism assumed its present predominance. By the 1960s, the roots of "underdevelopment" had been located in the unequal exchange between rich and poor countries (e.g., Amin 1976; Frank 1969). More recent perspectives have emphasized not only nations as "imagined communities" (Anderson 1983) but also the imaginative and symbolic work that makes states seem the ultimate repositories of power and authority (see, e.g., Malkki 1992; Scott 1998; Taussig 1996).

The critical issue here is, on the one hand, that governance, *pace* Fukuyama and other institutionalists, is by no means the prerogative of governments. Governance takes place in a transnational context of non-governmental organizations and multilateral and financial institutions, perhaps even more so during the neoliberal era, when some state functions have been increasingly delegated to nonstate agencies.<sup>10</sup> Few would dispute the continuing salience of states in the world; the challenge is to account for this salience without merely repeating commonsensical ideas of the state as the most encompassing element in governance (Ferguson and Gupta 2002). On the other hand, if the exercise of state power has always depended no less on symbolic than on bureaucratic procedures — if indeed the symbolic and the bureaucratic are two sides of the same coin — the task is to discern the symbolic and subjective efficacy of governance under neoliberalism. As this book shows for Malawi, diverse agencies, often seen to be antagonistic toward one another, contributed to the undemocratic governance of an African country by entering into a tacit agreement over the scope of human rights. How can this instance of neoliberal governance be demonstrated ethnographically?

"Governmentality," a neologism first introduced by Michel Foucault in a lecture in 1978 (see Foucault 1991), offers one set of ideas for such a project, although, as is discussed below, important caveats must also be observed. Exploring government from a broad philosophical and historical perspective, Foucault extended the notion beyond its modern confines of state institutions. He argued that a shift from a Machiavellian emphasis on territory occurred to produce a population as the target of government, with territory and property as mere variables in "the general form of management" (Foucault 1991, 94). Foucault's innovation was to depict the practices of government in the plural and to locate them even in the

most intimate realms of family, let alone in such domains as education, religion, and the law. "Governmentality" thus refers to "the conduct of conduct," the acts and norms of governing from state institutions to a plurality of agencies and authorities, to aspects of personal behavior governed as much by self-regulation as by these authorities (Dean 1999). What appears to make governmentality conducive to ethnographic research is the manner in which it brings faceless institutions and active subjects within the same purview. The problem of subjectivity is at the core of governmentality, arising from people's continuing capacity to think and act when governed by others (see Burchell 1991).

The great interest of governmentality as a notion is the possibility it opens out to examine how people, including those with no formal involvement in the political system, participate in governing both themselves and others. This book shows how a particular translation of human rights came to represent individual freedoms as the natural grounds for making claims. In addition to the political history described in the introduction, the allure of defining human rights as individual freedoms lay in its apparently postcolonial approach to governance. Rights-bearing subjects were free to take up the burdens of governing and developing themselves. Yet precisely because the vast majority of subjects were given little else than abstract notions to work with, the establishment of a human rights regime appeared perpetually unfinished. The assumed reason was the low level of understanding among the poor, calling for more inculcation of the abstract notions. The involvement of activists and donors thus persisted, their status as vanguards asserted over and again.

Discourse on human rights was, therefore, instrumental in governmentality, and its efficacy rested as much on external donor agencies' financial support as on activists' own efforts to mold the behavior of not only authorities but the population at large. At the same time, much as activists and state authorities appeared to be at loggerheads, their approach to governing the populace shared remarkable affinities. Governmentality built on the cultural disposition of elitism, understood here in historical terms. The subsequent chapters will describe how notions of self-esteem, personal hygiene, linguistic habits, and modes of dress shaped self-regulation among youthful activists who themselves hardly belonged to the national elite.

Yet it is precisely because of history that the notion of governmentality cannot be applied without important caveats. The making of self-regulating subjects builds on objectification as much as on subjectification. The status of "the grassroots" as the ignorant recipients of others'

wisdom resonated with the coercion and control that colonialism had periodically asserted as its main methods of governance. Historical parallels are also apparent in contest and contradiction, with the narrow definition of human rights only partly successful in erasing the actual variety of making claims. The notion of governmentality may, after all, provide rather limited insights into this variety in the situation of human rights. Ethnographic knowledge, based on fieldwork, complicates the inexorable schemes that Foucauldian theorizing, at least in its unvarnished forms, conjures up.

### Beyond Foucault's Prison

A major theoretical advance is involved when an analytical vocabulary permits the description of governance in its subjective and transnational modalities, reaching beyond institutionalist perspectives. At the same time, the notion of governmentality may prove to be too persuasive in its reinvention of functionalism, a totalizing explanatory framework in which everything fits, including contradictions. As soon as neoliberalism's apologists had celebrated new freedoms, critics inspired by the notion of governmentality enthusiastically exposed new operations of power. Tsing is sardonic about the "mirror opposite" that some of these critiques have provided: "Non-governmental organizations, human rights advocacy, and civil society spread as a transnational governmentality, a new imperial power that reaches deeply into human souls. The new subjects of liberalism are even more trapped in power because they imagine it as freedom" (2005, 214).

In spite of obvious empirical problems, such as the diversity of NGOs (Hilhorst 2004), the response to the persuasive fictions of governmentality requires further conceptual work. It is, after all, equally tempting to see agency and resistance in every instance of governmentality. Following such a procedure would obscure the life-worlds of activists themselves, whose embrace of the neoliberal rhetoric did not make them the individuals that the rhetoric promoted. As is described in chapter 3, the elitism that enabled activists to imagine a cleavage between themselves and the grassroots also fostered a sense of obligations and responsibility in their own lives, not as rights-bearing individuals, but as providers of welfare through the resources that involvement in NGOs and projects was expected to provide. Conversely, the room for maneuver among those who found themselves in the category of the grassroots was not simply determined by the new rhetoric. To assume resistance as a reflection of

power is to misrecognize claims and concerns that owe little to the organizing assumptions of powerful rhetoric. These considerations, while certainly informed by ethnographic observation, can be developed through a discussion of two themes that the analytic interest in governmentality has tended to overlook. The first is the idea of freedom, whether it has any applicability in contexts in which it appears to have become a key instrument of governmentality. The second concerns the interplay between subject making and objectification, the role of coercion in a mode of governance that appears to assign to the poor the burdens of developing themselves.

Anthropologists have been successful in applying the idea of freedom in their ethnographies of civilizations that can claim no direct link to liberalism (see, e.g., Barrett 2004; Fabian 1998; Riesman 1977). A recurrent insight in these studies has been the recognition that freedom as a potential to transform oneself can be achieved only through social relationships, not in the unproductive state of abstract individuality. It also follows that freedom is precarious and discontinuous, very different from the permanent condition that neoliberal rhetoric promises. Situational analysis is pertinent here, and, as Badiou (2001, 40) has insisted, the deceit of the abstract subject must give way to explorations of how people *become* subjects under specific circumstances. This insistence underlies his impatience with those critics who have misunderstood the political implications of the theoretical antihumanism that has informed the thought of certain French philosophers since the 1960s, including Foucault (Badiou 2001, 5–7). Rather than marking a cynical detachment from all political action, this theoretical position has been necessary precisely for a committed engagement in the real of situations. The apparent emphasis on surveillance and domination, associated with the early work of Foucault (1977), was something he spent many years undoing (Laidlaw 2002, 322). Foucault's deepening interest in the "techniques of the self" was crucial to a sense of freedom that some readings of governmentality have missed (Burchell 1996). The forms of freedom vary according to historical situations, and Foucault's project was less to prescribe the conditions in which freedom is achieved than to investigate how it is exercised (Laidlaw 2002, 323; see also Bell 1996). His position differed from the reduction of freedom to the exercise of choice in singular acts, a procedure that has characterized the use of "agency" as an analytic concept. What has been recognized by social scientists as agency has too often been determined by their tacit assumptions of what lies in agents' true interests (Laidlaw 2002, 315).

Whereas Foucault was able to demolish the prison he may have

erected, others continue to reconstruct it as an even more solid confinement. The debate on governmentality overlaps with that on sovereignty, a debate that has the merit of discussing subtle and direct uses of power within the same framework. The maddening capacity of some scholars to argue that black is white (and vice versa) finds an illustration in Giorgio Agamben's (1998) view that democracy and totalitarianism share the same foundations in biopolitics, in the value both attach to human life in its barest, most abstract form. Every decisive event in one political form, such as winning new liberties in emerging democracies, entails the other, such as the preparation of "a new and more dreadful foundation for the very sovereign power from which [people] wanted to liberate themselves" (Agamben 1998, 121). It is certainly possible to identify empirical contexts in which the line between democracy and totalitarianism risks becoming indistinct.<sup>11</sup> Yet a grand theory of sovereign power can also become another instance of depriving freedom and governance of any other content than the one given to them by power itself. The prospect is all the more bleak when the new politics that the theory is said to require remains, in Agamben's words, "largely to be invented" (1998, 11). Objectification and becoming a subject are, more often than not, simultaneous processes that need not be consigned to the sinister shadows of incipient totalitarianism.

According to John Comaroff's critique of the colonial state as a topic of Foucauldian reflections, for example, fault is to be found with the habit of regarding the colonial state as a uniform phenomenon. His charge against governmentality is the way in which the idea can contribute to this reification, to a false concreteness of what he considers to be "historically fluid forms and processes" (Comaroff 2002, 121). Specifically, Foucauldian narratives give short shrift to the limits of self-regulation in the contexts of abuse and unfulfilled promises. The very process of eliciting consent may also produce new vocabularies of riposte and unforeseen practices of subversion. The distinction between rights-bearing citizens and custom-oriented subjects may have been instrumental to colonial rule — and it may have limited subjects' scope for revolt (Mamdani 1996) — but the emerging disputes could also be about citizenship *tout court*. In the contemporary situation of human rights in Malawi, human rights activists are the ones who have the greatest difficulty in seeing beyond the fictions of neoliberal governance. Yet there is no inexorable condition of governmentality awaiting ethnographic description. Rather, inexorability would be all there is without ethnographic description.

Lest another set of abstract notions emerges to push the analysis to ever

more postmodern heights of indeterminate power, the historical continuities alluded to above must be kept in mind. If in colonial Africa, as Megan Vaughan has argued, “group classification was a far more important construction than individualization” (1991, 11), postcolonial Malawi offers an example of how the two were connected. The new human rights discourse individualized claimants by recourse to old fixations with group membership. “Communities” took the form of individuals when donors and activists asked them to provide for their own development (chapters 3 and 4). Persons seeking legal aid were made to believe that their grievances were particular, while, in practice, activists treated claimants as generic representatives of ignorant masses (chapters 5 and 6). The rhetoric appeared distinct enough from the paternalism of the previous regime to effect a certain amnesia. Community development, after all, had a much longer history in the governance of African countries than what the exhortations of participation suggested (Hickey and Mohan 2005, 239–240). At the same time, the emphasis on individual freedoms ensured that old images of tribal communities no longer applied. Objectified as “the grassroots” in human rights advocacy, communities were taught to consider themselves as nationals who shared political citizenship.<sup>12</sup>

As an example of how self-regulation is not far removed from the practices of objectification, consider a recent ethnography of a secondary school in postcolonial Zambia (Simpson 2003). Teachings and the school’s official association with a certain type of Christianity may not have been contested onstage when teachers were present, but they became elements in a complex process of identity formation, with students simultaneously drawing on and reworking the religious, gendered, and racialized discourses that their education presented to them. Much as their world-views may not have been exactly what their school as an institution of surveillance might have led their teachers to expect, the students, as an elite-in-the-making, did learn to regard their position in society in specific ways. It was a position that relegated their less-educated kin and compatriots to the status of “dirty villagers” (Simpson 2003, 121–122). While learning to consider themselves as sophisticated gentlemen, the students came to embrace a long tradition of objectifying others.

Similar “techniques of the self,” deriving from missionary education, can be seen to have produced Malawian human rights activists’ image of themselves as clean, assured, and civilized subjects. The potential for coalitions with the impoverished recipients of their advocacy was evident only occasionally. When activists in some NGOs appealed to human rights in their critique of a manipulative regime, many Malawians rejoiced. Yet

contested as they may have seemed, only some human rights were recognized for public debate by activists and authorities alike, while others were silenced. Popular frustrations loomed large when it became apparent that protests remained confined to particular liberties, far removed from the everyday concerns of impoverishment and exploitation. The deafness of activists and authorities became particularly acute when popular concerns and claims were expressed in ways that refused the naturalism of individual freedoms.

### Who Were the Prisoners?

Those whose imagination was imprisoned by the idea of individual freedoms did not share the same identity or subjectivity. The view of governance that emerges in this study emphasizes not only its transnational character but also its sources in an uncanny alliance between agents and agencies that would seem to have little in common. It is precisely because their interests were divergent that a conspiracy can be ruled out. Rather, the diverse interests were locked in a mutually beneficial dispute, although this dispute excluded the vast majority of Malawians whose interests were not served by the particular hierarchy of rights on which the dispute was based. As is argued throughout this book, Malawi's political history makes this situation of human rights understandable. Human rights activists, from an acquiescent project of civic education to a vociferous NGO, were particularly concerned about political and civil liberties, precisely the kinds of rights that affirmed their own identity as the harbingers of a new order. They were supported by an independent press that, while contracting after the first years of multiparty democracy, was admirably forthright in exposing ruling politicians' self-serving tactics.<sup>13</sup> Paradoxically, however, these interventions maintained the discourse that self-styled democrats were most comfortable with — a discourse on political and civil liberties. On numerous occasions during the first decade of multiparty democracy, the ruling UDF retorted that it had played a leading role in dismantling Banda's autocracy and continued to protect Malawians' "hard-won freedoms." A common strategy for leading politicians was to turn the tables by highlighting activists' dependence on external donors. Cycles of dispute thereby followed, with little scope for an expansion of the terms of those disputes.<sup>14</sup>

Such was the impact of political history that alternative imaginings were not readily available to intellectuals and politicians. Malawi's post-

colonial era had been remarkable in the region for its complete exclusion from socialist experiments. Whereas Mozambique, Tanzania, Zambia, and Zimbabwe adopted various aspects of socialist ideologies, Malawians harboring them could operate only in exile during Banda's regime and had little impact on the developments in the country. On the other hand, the facility with which the neighboring countries were able to discard socialist ideologies during the 1990s was matched by former exiles' enthusiasm for individual freedoms. Chapters 5 and 6 describe how an NGO they founded had an agenda that was compatible with neoliberal reforms. The few NGOs that had economic issues in their focus, notably the Economics Association of Malawi and the Malawi Economic Justice Network, were as averse to field-based collaboration and advocacy as human rights NGOs were. Their agenda was to offer professional economists' independent analysis of the national budget and macroeconomic issues, patently valuable service but not designed to mobilize the poor.

Crucial to this situation of human rights were the expatriate representatives of donor agencies, the most obvious embodiments of transnational governance in Malawi. As elsewhere in the postcolonial world, foreign nationals working as expatriates did not normally offer their opinions for public scrutiny. An exception was foreign diplomats, whose views on Malawi's developments were sought by the press and eagerly discussed by many Malawians. Donors preferred to represent themselves as "partners" and often employed Malawians as deputies in their country offices, available to act as the public faces of these agencies. As will become clear in the subsequent chapters, by funding projects and NGOs that focused on political and civil liberties and by ignoring the effects of other kinds of interventions, such as legal aid, donor agencies were complicit in maintaining the status quo. The European Union-funded project on civic education, with its incomparably extensive reach and resources, was an example of a quite deliberate silencing of those interests that might have revealed the threat that a different sense of human rights posed to neoliberalism.

Like human rights activists, expatriate officials may have begun with genuine intentions to transform Malawi's structural inequalities. Just as activists were embedded in particular circumstances that blinded them to the limited relevance of their own interests, so too were most expatriates predisposed to live highly circumscribed lives in Malawi. Working for donor agencies, they typically lived in the affluent parts of urban areas, mixing with other expatriates during their spare time, surrounded by domestic servants, often the only Malawians with whom they were able

to establish some measure of familiarity during their stints in the country (see also chapter 5). A relation between a servant and a master, or between a maid and a madam, was a poor substitute for lived experience among the impoverished majority, never compensated by “field trips” in which donors’ lack of language skills became especially apparent. It remains rare to find an expatriate who has made an effort to learn the national language of Malawi, let alone its other indigenous languages. The most frequent excuse I have heard is that expatriates see no reason to learn a language that they will never need outside Malawi. This book lays bare some of the consequences of this attitude.

All the prisoners of freedom mentioned above — and the organizations that are in the empirical focus of this book — are primarily secular in orientation. This focus can be seen to introduce a bias to the study, given that Christian organizations played a major role in Malawi’s democratization. The majority of Malawians are Christians, and Islam as the second largest faith commands a following of about 12 percent of the population. As mentioned in the introduction, the new era in Malawi is commonly seen to have dawned with the Lenten Letter of the country’s Catholic bishops in 1992 (see, e.g., Newell 1995). Churches remained vocal critics of ruling politicians in “democratic” Malawi, and both Presbyterian and Catholic clergy, representing the leading mainstream denominations, issued a continuous flow of critical “pastoral letters” during the decade after the transition (see Englund 2000; Ott 2000; Ross 2004). While individual religious leaders were susceptible to political patronage throughout the Muluzi era, churches as institutions were remarkably consistent as watchdogs of democracy and, if anything, grew more united as the cynicism of the regime became more apparent. The contrast with Zimbabwe, where civil society also found leadership in Christian churches, is illuminating (see Dorman 2002, 2003). Different Christian organizations, even within the Catholic community, came to swear allegiance to different initiatives during the run-up to the constitutional referendum in 2000, making the voice of Christian churches less clear in Zimbabwean public life than it was in Malawi.<sup>15</sup>

A good example of churches’ activism in Malawi was the opposition to the UDF’s attempts to remove the limits on the number of terms that the state president could stay in office. The introduction pointed out the fearless activism in which several organizations, both secular and religious, participated during 2001–2. With Muluzi banning all public demonstrations on the issue and the UDF appearing at times as formidable as Banda’s MCP before the transition,<sup>16</sup> the churches from main-

stream to many charismatic denominations offered an unrivaled infrastructure of dissent and courage. Indeed, such is their role as watchdogs of democracy in Malawi that Kenneth Ross sees them holding almost “a monopoly of civil society activism” (2004, 105). His concern is whether this indicates a failure in the development of Malawi’s civil society.

Ross’s concern may seem unfounded if it is observed that a network of about forty human rights, women’s, youth, church, and media organizations constituted Malawi’s Human Rights Consultative Committee in 2002. Moreover, the evidence in this book on secular organizations shows that they are by no means inconsequential agents in Malawi’s civil society. Perhaps a more crucial concern is whether church activism carries any prospects for a wider set of issues to be addressed in human rights discourse. Ross (2004, 104) is hopeful, reporting that the silence of the churches on economic issues during the early years of multiparty democracy has changed into a greater awareness among the clergy. Yet at the level of public statements — from “pastoral letters” to press releases — there is nothing new in the churches’ comments on the exploitation of Malawians. The Catholic bishops’ letter in 1992 already lamented the growing gap between the rich and the poor. More significant is the churches’ virtual incapability to launch concrete programs and campaigns to debate and revise neoliberal economic policies. Interventions on this front have been haphazard and localized, ranging from microcredit schemes, in line with the neoliberal insistence on self-empowerment, to more radical attempts to institute economic and social justice, such as the initiative of expatriate priests in a tobacco-growing area to organize tenants into a union (Englund 2000, 588–589). The economic situation of the local clergy themselves has hardly improved over the years, keeping their concerns focused on personal survival and security (see VonDoepp 2002).

Muluzi’s blatant abuse of personal and public resources for buying support did direct church leaders’ attention to his management of the economy. They were not alone, however, in condemning his handouts, and popular reflections on the issue extended from mere moral considerations, as expressed by the clergy, to concrete suggestions of proper policies. Time and again, I was told by both urban and rural poor in Malawi that Muluzi’s gifts were much less desirable than economic policies that would have benefited the nation as a whole. People frequently arrived at innovative calculations of how many millions of kwacha Muluzi had spent on gifts and patronage during a given week and the extent to which those millions could have decreased the price of fertilizer in the

country. The removal of subsidies on agricultural inputs after the democratic transition had come as a shock to ordinary Malawians, most of whom, whether in town or in village (Englund 2002d), depended on cultivation for their food security. The clergy's preoccupation with civil and political liberties failed to bring the question of livelihoods to the public arena that they had helped to expand since autocratic rule. While Malawians remained as resolutely Christian as ever, mainstream denominations may have seen a certain alienation between the top clergy and the laity, with the spiritual security offered in Pentecostal and charismatic churches attracting new adherents (see Englund 2000, 2001b, 2003, 2004a).

These developments in Malawi's popular Christianity indicate yet another challenge to a human rights discourse that puts an emphasis on individual freedoms. Prisoners of freedom are unlikely to accept discourses on debt, obligation, and entitlement within the realm of the conceivable in this situation of human rights, even when some of these alternatives are voiced in Christian idioms that they otherwise cherish. The situation of human rights delineates a sphere of governance in which public debate has to conform to predetermined standards of what is worth saying. Yet to stop the analysis there is to give the last word to power. How freedom can retain any actual meaning, in the lives of both human rights activists and the impoverished majority, is a puzzle that must not disappear into the fury of critique.