The University’s Critical Role in the Human Rights Movement

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A half century after its launching, the international human rights movement has left an indelible mark on the university. Its sheer inventiveness, revolutionary aspirations for many states, major triumphs, and failures claim the attention within the academy of committed partisans and skeptical observers alike. Moreover, many new students begin their humanistic or professional studies with a keen awareness of and perhaps active experience in “the movement”—a term I use to mean international human rights in its governmental, intergovernmental, and nongovernmental forms. The university opens the path toward developing those interests.

The international human rights norms that took shape from 1946 to 1966 have reshaped the legal, moral, and political landscape of international relations. In so doing, they have affected the internal discourse and ordering of states everywhere—to be sure, some more deeply and dramatically than others. The young movement’s ideals and ideology have become a part of modern consciousness, both as a body of norms and institutions and as a lens through which to observe and evaluate the world’s events.

International human rights has become a subject of its own in many university curricula. It also constitutes a vital component of courses in other fields, figuring ever more significantly in research and writing, in advocacy-oriented clinical work, and in programs or centers within different faculties (schools) or at the university level.

This Essay argues that human rights studies fill a vital role and function both within the university and the larger movement. The word “critical” in

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1. Other authors might prefer the plural form of the word, “movements.” The major cultural, ideological, and regional perspectives on human rights and challenges to the notion of universal human rights could be thought to create distinct movements. My use of the singular term is meant to embrace significant variation and dissent within the international human rights movement.

2. In September 1999, the Harvard Law School Human Rights Program organized an interdisciplinary roundtable discussion on the theme of the university and the human rights movement. The edited transcript of that discussion will be published by the Program by October 2002. Several themes discussed in this Essay figured in the agenda that I prepared for that event. Some parts of this Essay expand on that agenda and on some of my and others’ remarks during the group discussions. A copy of the draft of the publication of the roundtable is on file with the Harvard Human Rights Journal.
this Essay’s title captures the two senses of my argument. First, given the movement’s global significance for individuals, states, and international relations, it is critical that universities foster the study and teaching of human rights. Although each university faculty involved in this enterprise will have its own dominant orientation influencing the content of teaching and research, human rights work should not be imprisoned within different disciplines’ boundaries but should often adopt an interdisciplinary approach.

Second, scholarship and teaching within the university should have a significant critical component. By “critical,” I mean an approach that challenges and problematizes some fundamental aspects of the movement rather than remains securely within its basic choices or dominant assumptions. Such an approach probes the movement’s internal conflicts and dilemmas. Rather than treating human rights as a fixed corpus of ideas or a realized aspiration, a critical approach should be open to rethinking norms and institutions in light of a half century’s experience and evolving conditions, ideas, and needs.

The force and significance of these proposals varies considerably for universities in liberal democracies and in countries of radically different ideologies and circumstances. This Essay draws primarily on my experience in universities in the United States and similarly situated countries. My remarks should be generally relevant to universities in most liberal democratic countries, despite the significant variations in tradition and pedagogy among them. Indeed, the university in liberal democracies has long been familiar with much of the content of international human rights, part of which developed out of western traditions of liberal constitutionalism. This association and linkage have a particular significance. Basic tenets of the international instruments—freedoms of belief, inquiry, advocacy, and association, for example—constitute the foundational values of the university itself.

On the other hand, my proposals will have less relevance in authoritarian countries now in transition to a more open society whose governments grant the university some degree of autonomy and freedom. They are hardly plausible where governments impose repressive authoritarian rule.

Two threshold questions must first be addressed. The proposals refer to human rights courses and research and to the functions of the university. What are the boundaries of human rights study and to whom in this complex institution are my remarks directed?

I. What Are Human Rights Courses and Study?

Perhaps three decades ago we could have imagined a hard core of human rights courses (and scholarship) that defined the field, although that core was understood to have close links to other fields like government or international relations. Lists of topics at the core have changed over the decades; indeed the very idea of a core is open to some question. In any event, lists
tell us nothing about the questions that scholars or teachers bring to the topics, or the methods and goals that inform their teaching and scholarship.

Boundaries today are difficult to define, given the field's substantive and methodological expansion. Human rights themes race through the curriculum. As I suggested, the once compact field becomes a lens through which to see diverse phenomena some of which earlier appeared (perhaps only to the West) untouched and likely untouchable by the human rights corpus. The study of economic development, gender issues, terrorism, religious teachings, or pandemics is increasingly informed by human rights norms.

Part of this expansion stems less from the scholar's speculation or systematic reflection about the movement as a whole than from advocates' pursuit of their professional tasks. Invoking the norms and ideals of international human rights to advance the claim of a client has become a familiar strategy. The advocate (a professorial consultant, the staff or student interns of a nongovernmental organization) may develop a human rights argument in an ad hoc manner and context in order to achieve what a self interested client seeks or may act more broadly in the public interest. The forum for advocacy will range among courts, government offices, intergovernmental organizations, and public opinion. The effective advocate will imaginatively try to expand the reach of human rights doctrine as required by the task at hand, perhaps to embrace more environmental issues, the codes of conduct of multinational enterprises, massive state corruption, or the expanding technology of procreation. As in so many bodies of domestic law, the advocate's argument about the immediate issue may both open avenues of thought not yet imagined within the academy and exclude what a more detached scholar's systematic view of the field might reveal: the larger and perhaps difficult consequences for human rights as a whole of victory for the client.

In a broader and more ideological context that extends beyond an advocate's service to clients, links between diverse fields and human rights law sometimes proliferate because powerful actors find it beneficial to harness the movement's moral and emotional rhetoric to their own purposes. It has indeed become commonplace for many interests to appropriate human rights discourse for many purposes. The asserted relationship between the actor or interest and human rights often has an explicit causal and consequentialist ring. For example, corporations claim to lay the foundation for the rule of law through their investments in a foreign state. Governments and nongovernmental interests claim to advance the cause of civil and political rights by cutting off trade with a given state—or by not cutting it off.

Boundaries of human rights study are then expanding, an expansion further illustrated in this Essay's following Part on interdisciplinary work. In another context as well, the term "human rights" has an uncertain scope. My proposals address international human rights, the novel body of norms of customary or treaty law and the new intergovernmental institutions that purport to regulate states. In many countries, human rights applies equally
to international and domestic law. Problems of censorship or police brutality in, say, Brazil or France are internal human rights problems that may be resolved in judicial or other settings under national or international law or some complex fusion of the two.

The United States poses a special problem. Because of a bundle of historical, political, and cultural reasons that are sometimes today grouped as the basis for American exceptionalism in human rights, the United States has remained very resistant to ratifying human rights treaties or becoming deeply integrated in other ways into the human rights movement. (To make the point forcefully, it is difficult to imagine the United States taking the many steps necessary to become party to a covenant similar in its institutional arrangements to the European human rights system with a court at its apex.) Partly as a consequence, the term “human rights” has little domestic currency. Human rights rhetoric rarely figures in political discourse, campaigns, or programs. The familiar national vocabulary of civil rights and liberties within a strong constitutional tradition has proven impermeable by the new rhetoric, partly because United States reservations to ratification of human rights treaties have often denied these treaties internal judicial effect, partly for more subtle historical reasons. The upshot is that in the United States, references to human rights problems mean occurrences in foreign countries.

II. WHAT ACTORS IN THE UNIVERSITY DO THE PROPOSALS ADDRESS?

In some respects, this Essay imagines the university in its corporate sense, as a distinct entity governed in a variety of ways among states and often within any one state. The governing power may lie with or be divided among state officials or state-appointed boards, a university administration selected through its own internal processes, academic deans and faculty councils or other decision-making bodies, student councils or other forms of student participation in decision-making, and so on.

When commenting on matters like a university’s neutrality, partisan involvement in human rights, or commitment to academic freedom, this Essay


4. For example, law schools in the United States have a rich tradition of scholarship and teaching in domestic fields like constitutional law or the law of criminal procedure. Those fields would be characterized by observers in many other countries as part of U.S. internal human rights law. The human rights programs and centers in university faculties in the United States have generally separated themselves from these traditional domestic fields, so that (as is the case for the Harvard Law School Human Rights Program) they limit their jurisdiction to international, foreign, and comparative aspects of human rights.
refers to this corporate character of the institution and its governing authorities. But whether a critical perspective is developed on the human rights movement does not depend on mandates from such authorities. What is relevant, indeed indispensable, depends on the decisions of individual faculty members about scholarship and teaching, as well as on student initiatives and pressures on the administration. Academic freedom permits many choices about the terms of professors’ engagement with the movement and about their ideological orientation in teaching a class or writing a book. Of course, corporate decisions by the university will expand or contract teachers’ and scholars’ choices, by making (or refusing to make) professorial appointments, setting criteria for advancement of teachers and admission of students, establishing programs or centers, and allocating scarce resources like funds or space among many competing academic interests.

My reference to human rights centers or programs requires some elaboration. They are clearly of the university, established by one or another level of university administration and subject to regulation or termination by the same authorities. Their possibilities will depend on issues like office space and access to funds that require administrative decisions. At the same time, programs or centers possess a significant autonomy. The course of a program, its goals and activities, will depend principally on its own director. Like the individual professor, and unlike the university in its corporate sense, the program or center may take a formal position about issues in the field. It may concentrate on one or another human rights issue, stress a particular methodology, or engage in a particular way with the movement's inter-governmental and non-governmental institutions.

Such programs are emphatically advocates for university teaching and scholarship in the field. None of the characteristics noted above is inconsistent with their remaining open to multiple viewpoints and to passionate adherents and skeptical critics alike. The Harvard Law School Human Rights Program (HRP) offers one illustration:

HRP carries on a range of activities and projects that extend through the school curriculum and beyond, into the worlds of scholarship and human rights activism. Its . . . activities respond to the dual aims of the program, which are to bring human rights issues into the internal life of the school, and to contribute to the external human rights movement through scholarship, clinical

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5. A program could be organized to advance a particular position on a particular issue, such as abolition of capital punishment or U.S. ratification of human rights treaties. Presumably only questions of strategy would remain open to internal debate.

work, educating students to participate in it, and hosting visiting fellows.\textsuperscript{7}

University programs must complement the work of actively involved human rights groups by training future leaders of the human rights movement and by generating critical scholarship that addresses not only human rights issues but the problems of the movement itself. HRP . . . tries to infuse the education of as many students as possible with an understanding of human rights issues and work, thereby encouraging students to build into their careers a professional concern for and involvement in human rights problems. It fosters action and involvement as well as reflection and scholarly contribution to knowledge.\textsuperscript{8}

III. INTERDISCIPLINARY WORK

In underscoring the importance of interdisciplinary work, I refer to a university curriculum in human rights as a whole, ideally spread among several faculties and accessible by students registered in any of them. Within that curriculum, there will be room for many types of courses and scholarship. Not every project can or should be interdisciplinary. Not every course can or should attempt to see the problem whole, or incorporate a critical dimension. Some will concentrate on knowledge and skills thought to be essential to a given profession or field. My point is that within the mix, interdisciplinary projects should occupy an important space.

Beyond the knowledge that such projects generate and the lines of research to which they point, interdisciplinary projects also respond to special characteristics of human rights problems. Those problems tend to arise in contexts that immediately implicate larger social systems—for example, police brutality, the homeless, ethnic conflict and self-determination, gender and sexual discrimination, exploitation of labor, pollution, corrupt institutions, and maltreatment of refugees. Professional approaches, such as those of the lawyer or public health expert, may bring help to victims and thereby alleviate or resolve the problem for the moment. But for the exploration of longer-run solutions, the problem may demand the more comprehensive analysis and knowledge that interdisciplinary work can provide.

Consider some illustrations of how readily a human rights problem implicates large bodies of knowledge. Work on overcoming gender discrimination draws scholars and students into such fields as cultural studies, the sociology of gender, religious texts and practices, construction or reform of systems of education, the economics of discrimination, and grassroots strategies toward

\textsuperscript{7} Id.

\textsuperscript{8} Id. at What the Program Does.
change. Research about genocide may include study of the ideologies of nationalism, the etiology of a given ethnic conflict, the individual and social psychology of hatred and violence, and the strategies toward reconciliation. Analysis of the right to political participation may implicate different theories and practices of democracy, as well as the literature on cultural obstacles to political change.

Such interdisciplinary projects approach human rights contextually rather than abstractly, and hence must explore the relevant context in its own right. Students concerned with development and human rights, for example, had better know a great deal about development. A growing number of course titles underscores this trend: ethnic conflict and human rights, AIDS and human rights, democratization and human rights, sexual orientation and human rights—or in each case, in reverse order.9

Interdisciplinary work may be launched not only in the classroom or in research projects, but also in exploratory conferences. Two recent academic meetings illustrate the range of possibilities. A roundtable on business and human rights included twenty participants from the worlds of business, journalism, economics, labor unions, and human rights. This breadth of talents opened the discussion to themes that would not have surfaced in a meeting confined, say, to human rights scholars and activists.10 A recent roundtable on ethnic conflict and the theories and practice of conflict resolution explored the relevance of human rights norms to such theories and practice. It drew on experts in ethnic conflict, UN officials who had intervened in such conflicts, professional mediators and theory-oriented professors of conflict resolution, and human rights activists and professors.11

Few institutions other than the university are positioned to undertake such work. Governmental institutions may often be captive to a national perspective on human rights that underscores some concerns while blinking others. Many non-governmental human rights organizations absorbed in monitoring and reporting, lobbying, and developing policy papers on pressing issues, lack the time, resources or instinct to draw on diverse bodies of learning or experience to probe the problems presented within an interdisciplinary framework. Their mission is one of advocacy within the fray rather than broader public education in the issues.

In recent years, some non-governmental organizations (NGOs) have become aware of the limitations of their focused approach to the movement

9. Over the last two decades, universities have followed quite different paths. The range of courses that this Essay describes reflects this variety among institutions. For one illustration, the human rights courses taught at Harvard Law School over the eighteen years of its Human Rights Program, see i.e. at Courses.


11. The conference was organized by the Human Rights Program and the International Centre for Ethnic Studies (Colombo) and was held at Bellagio, Italy in 2001. A publication is now in process of preparation.
and have made an effort to address larger issues that reach well beyond monitoring. Non-governmental think tanks carry the task further. Intergovernmental institutions like the United Nations Development Programme issue reports that draw on economics, broader development theory, human rights, and other related disciplines. But such institutions cannot match the university's talents, resources, and available time for original and constructive work in these fields.

Multiple routes are open within the university to achieve the promise and synergy of interdisciplinary projects. It is said that interdisciplinary work always begins within one head; individuals undertake serious work in fields other than their own, and integrate the knowledge acquired into the project at hand. In some universities, cooperative ventures among researchers from several faculties on issues related to human rights have become almost commonplace. University-wide initiatives can facilitate such ventures through, for example, the establishment of interdisciplinary centers.

IV. CRITICAL TEACHING AND SCHOLARSHIP

The university, this Essay argues, must study the human rights movement. But it is not the movement's advocate. Individual faculty members, students, or administrators may engage with the movement as they wish. Programs and centers have their special role. But the university maintains a certain distance. Within the spirit of academic freedom, it does not impose or forbid any one position on the field in general or on any one issue.

My argument addresses principally the teaching and scholarship of faculty members. It would be plausible for professors and scholarship to do no more than present the movement by tracing its history, describing its basic norms and institutions, analyzing and assessing its relevance to the world's events, debating ways of heightening its effectiveness in responding to violations, weighing policy choices, and so on. Such an agenda will inevitably inform any university curriculum. The courses and scholarship that it generates invite and indeed depend on thoughtful criticism, whatever the target of that criticism: a failure to intervene (Rwanda) or decision to intervene (Kosovo), a system of minimum quotas for women in elections to public office or a state's refusal to institute such a system, or a treaty's grant or denial of certain powers to a new intergovernmental institution.

But these illustrations of types of criticism that pervade any curriculum fall short of the necessary. Perhaps the human rights movement particularly needs more probing and fundamental criticism. Because it offers such rare features in international life as idealism and hope for a better world—even for a better human nature—and because students often bring their deep moral commitment to those ideals, the movement runs the risk of excessive veneration. That veneration might blind the movement's adherents to its sometime problematic content and assumptions. Scholars and students may
unconsciously avoid the challenge to reach beneath the surface and question basic notions for fear that such inquiry would threaten the entire enterprise.

That inquiry could take many directions. A teacher may seek to problematize important aspects of the movement, so as to convey a more complex, conflicted, and accurate view of it. A familiar illustration involves the rhetoric of rights and the analysis of rights-based argument to show its problematic character—exploring internal conflicts between rights, resolving the indeterminacy of rights, and considering rights in relationship to duties or responsibilities as a point of departure. Another fundamental issue that cuts to the core of the movement involves the relation between group or communitarian traditions and the individualistic bias of human rights. It will be important to probe the asserted polar positions—radical difference and opposition or interdependence and complementarity—about relationships between civil-political and economic-social rights. The list is a long one.¹²

Subjecting these aspects of the human rights movement to critical inquiry is important not simply for the education of students but for the development of the movement itself. Major actors like non-governmental or inter-governmental organizations are preoccupied with the tasks earlier noted. The university remains the best-situated institution to engage in such critical work.

Human rights instruction must also overcome the tendency of teachers and students to adopt reflexively the dominant perspectives on human rights in the university's own state, whether expressed in formal governmental policies or in more diffuse and subtle ways in the dominant culture. The study of universalist and relativist assumptions becomes an excellent vehicle for both exploring the multicultural human rights world and for reexamining basic assumptions about human rights in any one state. The comparative dimension of human rights study—comparing traditions and laws both between a state and international human rights, and among states—comes to the forefront.

V. ACTIVELY ENGAGED HUMAN RIGHTS WORK: ADVOCACY

Many universities have traditionally looked suspiciously at work within the institution of an active, engaged character. That attitude stems from a belief that university studies should remain pure in their devotion to classroom teaching and research—a realm of relative detachment from the sur-

¹² The few illustrations in this paragraph figure among a more extensive set of criticisms of basic human rights notions from different analytic and cultural perspectives. For further description, see Steiner & Alston, supra note 3, at 216–20, 330–60, 376–125, 483–86, 539–48, 950–53. These sections of the coursebook bring into the classroom in a discussion-provoking manner such matters as the complex nature of rights-based argument, feminist criticism of human rights norms, the relativist challenge to universalist premises, deep substantive conflicts within the human rights corpus, individualistic and community-oriented perspectives on rights, rights orientation as opposed to duty or responsibility orientation, the ambivalent relation between rights and social change, the nature and transformation of the public-private divide in human rights thinking, rights as an obstacle to cultural survival, and the legitimacy of inter-governmental and non-governmental organizations from perspectives of democracy.
rounding society that permits deeper thought. Despite historic exceptions in faculties such as medicine, and despite trends of recent decades in several other disciplines such as law toward complementary clinical training (particularly work in the public interest), such attitudes persist. But they are out of both place and date as applied to human rights studies in the United States and several other countries.

Some of law students' clinical work in human rights follows a conventional pattern, such as litigation-oriented legal aid work on matters of refugees and asylum, or participation in public interest litigation. But clinical projects in human rights should generally range more broadly than client representation in the courts and should shed their traditional court-centric character. The task is to engage students with non-governmental organizations acting within a more complex, less structured, and sometimes quite raw political process. These clinical linkages could take the form of term-time relationships with outside organizations or summer internships with human rights organizations anywhere in the world.¹³

The unmistakable value of clinical human rights work stems partly from its leading students to experience the dilemmas in and sheer obstacles to the realization of human rights norms. It is true that conventional study can illuminate many of these issues through readings of both a conceptual and case study character. But clinical experiences in foreign countries may offer richer insights into such relationships.

Classroom and clinical involvement can become reciprocally beneficial, each nourishing the other. Students returning to the university from summer human rights internships in developing countries often seek opportunities to deepen their knowledge of the problems encountered, sometimes to respond to requests for help from their host organizations. Academic life can then become a continuation of the summer experience rather than a break with it. Action and reflection, participation and study, engagement and distance, the graphic and the abstract become complementary facets of a richer education.

The reasons for offering clinical work extend beyond the pedagogical advantage of linking the active and reflective lives of students. Many students doing human rights work become absorbed in it because of their deep moral commitment to the field. They wish both to understand the world and to change it. Their commitment often leads them to both academic studies and clinical engagement. University study in human rights would be the poorer and its capacity to attract students would be the weaker if a curriculum did not offer these complementary opportunities.

¹³. For the views of a teacher of a clinically oriented seminar in human rights advocacy, see Peter Rosenblum, Teaching Human Rights: Ambivalent Activism, Boundary Tales, Multiple Discourses, and Lingering Dilemmas, 15 HARV. HUM. RTS. J. 301 (2002).
VI. UNIVERSITIES IN AUTHORITARIAN AND REPRESSIVE SOCIETIES

It is more difficult to generalize about the role of the university in the
human rights movement when discussion turns to authoritarian states that
repress to varying degrees academic, intellectual, and political life. The dif-
fferences among such states may be subtle or striking—for example, Iran
(with its elections, internal factions, and some degree of explicit dissent) and
Iraq (the state of pervasive control). What openings exist will depend on the
time chosen, as governments change, ideologies evolve, international alli-
ances shift, and the reins of control expand or contract according to the poli-
tics of the day or the leader's whim.

In these circumstances, I offer some thoughts about the university's role
in the human rights movement, which depend on different imaginations of
host countries' political situations. The relation between human rights edu-
cation and national politics sharply changes. Such education in liberal states
is now broadly understood as a subject like others, no different from the
study of a state's history, political system or constitution or from the study of
the U.N., no more or less "political" than such other fields, no more or less
open to the infusion of "right" or "left" or "radical" or "conservative" view-
points into teaching or scholarship.

But the political character of human rights study in authoritarian and
depthly repressive states will be far more prominent. Human rights prin-
ciples condemn the regime in its actions and very foundations. Public discus-
sion in the university about those principles constitutes, at best, an annoy-
ance and, at worst, a threat. Dissent in people's minds is difficult to stamp
out. Criticism in the classroom can be quashed.

More is involved than the repression of dissent. The university is likely to
be absorbed by the government and made to serve as its intellectual arm. Its
function may be to justify to the student population the regime's ideology,
goals, and methods. The official ideology—a given understanding of the
nation's past, its enemies and struggles, its superior culture, its inevitable
triumph—may dominate the curriculum. Far from being a forum of choice
for systematic thinking about human rights, the university could become an
effective agent for its extinction.

In a less extreme but repressive setting—in, for example, a number of
East European countries under Soviet domination—the university may be-
come more subtly and discreetly the locus of intellectual resistance and cri-
tique, the breeding ground for a human rights and political opposition that
may speak and write in coded language. As the political climate moderates,
the university may be granted some degree of independence in its adminis-
tration and academic life. Students may be permitted public demonstra-
tions. Student strikes may put greater pressure on the government.

The intermittent crackdown—mass arrests or dismissals, or the closing of
the university—will seek to keep matters roughly under government con-
rol. But heightened repression may be too costly to the government. The
news will rapidly travel abroad with the risk of provoking undesired consequences. Growing internal dissent or other threats to stability may weaken the regime to the point where it cannot act decisively.

When some such degree of human rights study or activity is permitted, the university may enter the political struggle as an important actor. It may develop into a space for explicit criticism of the regime and public debate about new political solutions. Such a role would differ radically from what I have suggested for universities in liberal democracies. Even if favored by human rights advocates as long-term goals, these earlier proposals for interdisciplinary and critical projects would appear absurdly out of place, irrelevant to, and perhaps counterproductive for the current political struggle, a role to be considered after governmental recognition of human rights.

VII. Conclusion

The human rights movement's triumphs over a mere half century have been monumental, none more striking than the institutionalization of a new and influential discourse incorporating a remarkable set of ideals. The massive failure of will and achievement and the hypocrisy of major actors sharply remind us of the external obstacles to realizing these ideals. They draw our attention as well to the internal dilemmas of the movement, its contradictions and conflicts over basic assumptions and strategies for implementation.

I wish students to see both sides of this assessment of the movement and its effects, each student in his or her own way. I wish scholars in the large to examine both sides. Courses about varied aspects of the movement that are spread among the university's different faculties are the starting point for this educational venture. Different methods and skills, from conceptual understanding to engagement in advocacy, from policy analysis to social-theoretical inquiry, from empirical research to philosophical investigation, will inform courses and research. A critical spirit must inform the entire venture.

The international human rights movement can never be a finished or uncontested project. It will remain a work in process within a framework of ongoing criticism, self-assessment, and rethinking. Students and scholars will be vital contributors to that process. Many of them may see their task as suggesting how the movement can better proceed toward the realization of its ideals. But first they must see the movement as it is, and to that task they must bring their critical faculties.