In accepting the Nobel Peace Prize President Obama surely had an interesting speech assignment. What does one say in accepting the Nobel prize for peace when one's accomplishments are yet modest and one is aware that the prize was awarded more for the hope inspired by one's words and in the hope of what the award may inspire, and yet one has just ordered a major escalation of war? Understandably, the focus of much of the speech is an attempt to justify the war in Afghanistan, and in so doing he appeals to just war theory. At least in that the President's words were a welcome departure from the blatant dismissal of just war theory and the UN Charter that marked the previous Administration. About halfway through the speech Obama turns his focus to the subject of human rights. He brings up human rights in order to explain "the nature of the peace that we seek." Obama continues:

"For peace is not merely the absence of visible conflict. Only a just peace based upon the inherent rights and dignity of every individual can truly be lasting. It was this insight that drove drafters of the Universal Declaration of Human Rights after the Second World War. In the wake of devastation, they recognized that if human rights are not protected, peace is a hollow promise."

In emphasizing this necessary connection between peace and the protection of human rights, Obama's words here reaffirm a most fundamental commitment. The commitment to protect human rights is surely shared by almost everyone listening to the President's address in Oslo. The idea that there are rights possessed by all human beings by virtue of being a human being is one of the most widely shared assumptions of at least everyone in the "free world."

One obvious difficulty with Obama's claim that it is false to suggest that the defense of human rights is based on Western principles is that the doctrine of human rights is so clearly part of the legacy of the Enlightenment that has shaped so much of modern Western thought and politics. The idea can be traced to the texts of Locke and Rousseau, inspiring both the American and French Revolutions. It is enshrined by Jefferson in the Declaration of Independence as one of the "self-evident truths," the truth that all men "are endowed by their Creator with certain unalienable rights." This conception of rights is also found in the French Declaration of the Rights of Man and Citizen, which in
1789, begins by announcing its aim "to set forth in a solemn declaration the natural, unalienable, and sacred rights of man."³

Of course, Obama is not denying this legacy, but rather asserting that this doctrine of human rights is not merely a Western idea. One strategy which some have taken in taking this position has been to find in other cultures examples in which something like the notion of human rights might be found. If something like a defense of human rights is found elsewhere, then the defense of human rights is not based on merely Western principles. The problem here is that there are too many counter-examples. The preponderance of slavery and human sacrifice throughout diverse cultures in the ancient world should dispel any thought that respect for human rights is not a modern idea. Our notion of human rights would have been laughable to the ancient Greeks as well as to most human societies prior to the dawn of the European Enlightenment.

Obama appeals, however, not to such an argument, but rather to the examples of contemporary struggles for human rights outside the West, and then to the landmark 1948 U.N. Universal Declaration of Human Rights. Obama's words are essentially a restatement of the opening words of the Preamble to this document: "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, . . . "⁴ Obama then continues by pointing out that these words are too often ignored. The reason for this, the reason for the failure of some countries to uphold human rights is "the false suggestion that these are Western principles, foreign to local cultures or stages of a nation's development."⁵

The difficulty with this claim, once again, is that the UN Declaration is itself a product of the Enlightenment; grounded upon the Enlightenment's rational and humanistic foundations it might even be regarded as one of the crowning achievements of the Enlightenment. Thus the problem raised in the President's words, the central problem in thinking through the idea of human rights might be stated as follows: "How can those rights historically built on the Western tradition be made universal without adopting an imperialistic stance?"⁶

Attempts to solve this problem have generally followed two strategies, that taken by the "natural school," the route taken by the early modern founders of the doctrine of rights which holds that rights are somehow "natural" or given, "endowed by the Creator,"
or the strategy of the "deliberative school" which rejects "the natural element on which the traditional orthodoxy bases human rights" and holds instead that "human rights come into existence through societal agreement." In the Kantian formulation, rights are natural in the sense that they are possessed by all human beings simply by being a human being. Rights are endowed, in a sense, simply by the recognition of the dignity of human beings as a result of their rational and moral capacities. This is a sort of contractual approach since, for Kant, rights and duties are fixed by laws we give to ourselves as rational beings, a view which follows from his second formulation of the categorical imperative to "[t]reat all human beings as ends in themselves rather than as mere means." Contemporary contractualists like Rawls follow the Kantian approach.

The notion of "natural" rights began to be questioned early in the 19th century, Bentham famously regarded the concept of natural rights "nonsense on stilts." For Bentham rights are merely conventional, the product of law and thus a "natural" right, as he put it, is "like a son without a father." Mill accepted this critique of natural rights, but as a social reformer, it was necessary to provide a basis for rights not recognized by law. According to Mill, to have a right is simply "to have something which society ought to defend me in the possession of. If the objector goes on to ask, why it ought? I can give no other reason than utility." Mill goes on to develop a Utilitarian defense of universal human rights based on the idea that agreeing to recognize some rights as universal would in the end be most beneficial for human society. Subsequent attempts to defend the universality of human rights have typically tended to follow either a Kantian or Utilitarian model, developing either contractualist or consequentialist theories.

Marx, of course, was suspicious, even contemptuous of the rights of man laid out in the French Declaration. The rights of equality, liberty, property and security championed in that document Marx derided as bourgeois rights that were, in essence, really only about acquiring and securing private property; and thus, as he put it: "not one of the so-called rights of man goes beyond egoistic man."

The resulting dispute about rights between the liberal West and the Socialist Eastern Bloc can clearly be seen in the U.N. Declaration of Human Rights, which Jacques Rancière has characterized as "the charter that epitomized this delicate balancing of the collectivity and guarantees of individual freedom." One can see in this document two distinct sets of rights: one set, what has been called "first generation rights," includes
basic political and civil rights as well as the rights to property—basically the rights included in the Bill of Rights in the U.S. Constitution—and then another set, the "second generation rights" which include various social and economic rights. It is, indeed, an impressive declaration of universal human rights, and it might be regarded as establishing a global consensus on human rights, the product of the social agreement championed by the "deliberative school," except, of course, for the ongoing disputes that call that consensus into question. At the time of the ratification in 1948, the socialist states objected to the property rights while the social and economic rights displeased some orthodox liberals in the West. It is interesting that most of these social and economic rights, strongly defended by the Eastern Bloc in the 1948 deliberations, were proposed as a "Second Bill of Rights" by Franklin D. Roosevelt in his State of the Union address in January of 1944. It has been noted that the Universal Declaration was certainly not born "universal" in that eight countries abstained from the vote and most of those who voted for the Declaration were from the West or "Westernized;" and thus, "those who had not participated in the negotiations and who labeled the Declaration as a 'Western product' did indeed have a point." Despite these difficulties further steps toward global consensus concerning universal human rights have been taken, most notably during the 1993 World Conference on Human Rights in Vienna, resulting in the Vienna Declaration which affirms unambiguously in Article 1 that: "The universal nature of these rights and freedoms is beyond question."

It might indeed be comforting to think that there is an advancing global consensus concerning human rights. There is, however, the challenge to the notion of human rights posed by Nietzsche and postmodern thought. Nietzsche often expresses an outright hostility to the notion of rights. As part of his critique of Christian morality and the liberal humanist values of the Enlightenment developed especially in *Beyond Good and Evil* and *On the Genealogy of Morals*, Nietzsche characterizes the morality and values of his time not as the result of the progress of humanity, but rather as the result of a degeneration from values of classical antiquity. This process of degeneration Nietzsche describes as "a brutalizing process" which turns "humanity into stunted little animals with equal rights."

Even more problematic, there is that crisis of modernity, when the value of truth itself is called into question, which Nietzsche announces as the "death of God." Gianni Vattimo, observing that this event marks the "moment of transition from the modern to
the postmodern" takes up an anti-foundational postmodern stance in thinking through the problems of ethics, law, and politics in "the wake of the death of God." Nietzsche anticipated the crisis of nihilism that would come after this "eclipse of the sun," Plato's sun that is, when "the whole of our European morality" collapses. Though Vattimo finds, like Nietzsche, something emancipatory in this event, the postmodern position is typically understood as being nihilistic and thus corrosive to the discourse of human rights, certainly undermining any attempt to provide foundations for the universality of human rights, and even deflating any hope for consensus. Some view postmodern thought as allowing for excuses for those who would violate human rights, and this is enough of a reason for many to simply dismiss Nietzsche, as well as his postmodern heirs, as having anything useful to contribute to the discourse on human rights. What, then, might be said about human rights in the wake of the death of God?

In thinking through Nietzsche's thought it is crucially important to consider the "art of experiment" that characterizes his thought and the philosophers of the future he anticipates. Nietzsche is thus often engaging in thought experiments, finding some perspective to question what has hitherto been unquestioned, and this results in thoughts which he admits are dangerous, even wicked, as the closing aphorism of Beyond Good and Evil suggests. In considering this, it should become obvious, that in reading Nietzsche it is at times not even clear whether the author wants the reader's assent.

This uncertainty whether Nietzsche even wants the reader's assent is further complicated by the fact that he makes it very hard on the reader to even assume that one has first understood him. Employing a constantly shifting series of masks, Nietzsche makes it very hard to assume that one has ever unmasked him, and thus seems to go to great lengths to undermine the confidence of the reader.

Furthermore, it must be considered that in a text like On The Genealogy of Morals, rather than attempting to solve the problem of morality, he is instead trying to make morality a problem. The text is, after all, Nietzsche tells us, a polemic—it aims to make the reader uncomfortable. Nietzsche thus unfolds a story about how Christian morality and the liberal humanist values of modern man arose out of the slave revolt in morality. This "natural history of morals" is already suggested in Thus Spoke Zarathustra, when Zarathustra says that our tablets of good and evil are the voice of the will to power.
Though this idea of will to power is still very often grossly misunderstood as some arrogant desire for power, as Graham Parkes has explained, the will to power is "not a kind of willpower exerted by the human 'I' or ego". As elsewhere Nietzsche suggests will to power is the force in all life, it is clear that will to power is not something one could choose to have or not, as whatever lives is will to power. It is also clear Nietzsche is not thinking of a single force pervading all life as even within an individual there are multiple forces at work. So it is not a question of having or not having will to power, but rather, what matters is what will to power is expressing itself, giving voice, in our tablets of good and evil, which include also our conceptions of rights. Nietzsche's point here is that our values do not come from above, from some transcendent source, but rather, from within. They are the product of that driving force that shapes who we have become, the outcome of a long history of evolutionary development.

As this force finding expression in our values is, for the most part, subterranean, lying beneath the surface of a conscious willing subject, the tablets of good and evil are mostly surface phenomenon, masking what lies beneath. Nietzsche's "natural history of morals" is thus an attempt to unmask and show the "voice" or will to power expressed in Christian morality. Thus, modern morality, with its emphasis on equality and equal rights, is a deviation from the "aristocratic morality" of classical antiquity which emphasized instead "orders of rank" and the pathos of distance. The reason for Nietzsche's hostility to the notion of equal rights thus arises out of his concern that human beings, along with their values and morality, should continue to evolve. Nietzsche regards the idea of equality of rights as part of the leveling effect of modern culture which stood as an obstacle to this further evolution or self-overcoming of humanity. If rights are taken as "natural" and human nature thus conceived as fixed, the notion of human rights would be an impediment to this ideal.

One might very well challenge Nietzsche, perhaps ironically resisting him, and contend that the doctrine of human rights, arising out of the evolution of human values, expresses ascending life. Nevertheless, I think the value of Nietzsche's genealogical critique lies in its provocation to be as mindful as possible of the often subterranean play of forces that lie beneath the surface of our declarations of human rights. To be sure, the discourse of rights has often served as a means of liberation for oppressed peoples everywhere, but we also cannot be blind to the ways it has served as a means of oppression. One need
only recall a few examples. The war for the independence of Texas from Mexico in 1836, long enshrined in American history with the exhortation to "Remember the Alamo!", was justified at the time as a defense of "the sacred principles of Liberty, and the natural, inalienable Rights of Man"; but the subterranean reason for war may have had more to do with the fact that Mexico had already emancipated its slaves, and the rights that were fought for were the rights to own slaves. Then there is the case of the overthrow of Queen Lili'uokalani and the peaceful and independent nation of Hawai'i in 1893 by American businessmen who justified their actions as necessary to ensure their property rights. One could go on, of course, and mention the numerous cases of U.S. intervention in Latin America and Southeast Asia throughout the 20th century. The U.S. presents itself to the world today as the foremost defender of human rights, but as Vattimo contends this may just serve as another mask: "... where American domination disguised as democratic humanitarianism is threatening to impose a sort of universal police state 'legitimated' by (putative) respect for human rights, or what the empire defines as such." 

This brings me back to President Obama's Nobel speech. Now Vattimo was writing this during the reign of Bush the younger, and certainly I think that Obama's attempt in his speech to at least appeal to just war theory and international law is significantly better than the previous administration's abject dismissal of this responsibility. To his credit, Obama goes on to mention the aspiration for economic and social rights, but the context of the speech makes clear that the appeal to human rights is part of his justification for the escalation of the war in Afghanistan. It is all well and good to talk about the aspirations for universal human rights, but it seems imperative not to discount the possibility that this appeal to just war theory and the doctrine of human rights may just serve as a "fig leaf" covering over something much more insidious which unfortunately the President, however noble his intentions, is in power to serve.

Nietzsche's critique thus calls us to be mindful of what may lie beneath the surface of all our values, including our aspirations for human rights; but does this make those aspirations hopelessly naive—is it still possible to talk at all of universal human rights in the wake of the death of God? Is the only consequence of this event that calls into question the universal a nihilism that allows for some to ignore human rights and even to commit the unspeakable atrocities with which we are all too familiar? Like Nietzsche,
Vattimo finds an emancipatory potential in the wake of the death of God. Embracing the postmodern turn in Nietzsche and in Heidegger's thought, Vattimo contends that the "weak ontology" of this position "supplies philosophical reasons for preferring a liberal, tolerant, and democratic society rather than an authoritarian and totalitarian one."26 How might this be possible?

Regarding Nietzsche's thought, the crucial thing to recall is that one theme that seems to run through his work, from The Birth of Tragedy to the late writings, is that the countermovement to nihilism is somehow to be found in art. As Jacques Taminiaux suggested, Nietzsche's whole career might be thought as a continually developing meditation on the line we find in the late notebooks: "we possess art lest we perish of the truth."27 Thus, one sense in which The Birth of Tragedy perhaps offers a preview of the late work, is that the key to tragedy lie in the bringing together at once the mutually opposed Apollonian and Dionysian movements. Thus the essentially Dionysian movement of the death of God, that dream shattering experience which undermines foundations, subverts identity, and calls truth into question, must be thought together at once with the Apollonian necessity to create our "beautiful illusions" that make life possible in enabling the continuation of the dream. Thus we have art lest we perish of the truth in Nietzsche's thought in a number of senses: we have art (our Apollonian illusions) in order not to perish of the abysmal truth expressed by Silenus—that the best thing of all for human beings is never to have been born, and next best to die soon; or we have art (the necessity of creating our perspective truths), in order not to perish of the truth that there is no truth (of reality as it is in-itself); or we have art (the recognition that our truths are fictions) in order not to perish of dogmatic truth—not to perish of the consequences that follow from not recognizing our truths as fictions. Thus, now as the lucid dream, philosophy can proceed less naively and more modestly.

Vattimo finds this to be liberating: "What we really need to do . . . is to say farewell to claims to absolute truth. . . . The real enemy of liberty is the person who thinks she can and should preach final and definitive truth."28 I think one may also discern this double movement in Nietzsche's lucid dreams in Alain Badiou's thinking of truths as "events" or "truth-processes" that are irreducibly singular in proceeding from specific situations. What follows from this for ethics, according to Badiou, is the recognition that "[t]he only genuine ethics is of truths in the plural—or, more precisely, the only ethics is
of processes of truth, of the labour that brings some truths into the world." Thus, one of the forms of Evil Badiou is concerned to elucidate comes from the absolutization of the power of an event of truth, what he refers to as the disaster of believing in the total power of a truth; and thus, genuine ethics, as opposed to what he calls the "impotent morality of human rights," for Badiou, involves warding off "that Evil which it recognizes as the underside, or dark side, of these very truths."

The consequence of this for the discourse of human rights is obviously that we must accept that rights are not given in the nature of things, but rather, as products of our lucid dreaming, are merely conventional. Any universality of human rights can thus only be the result of societal agreement, and thus is possible only as a political achievement. For Vattimo this means that, when it is recognized that philosophy "no longer can or should be foundational thought, philosophy becomes intrinsically political thought." This recognition of the inherently political nature of philosophy is echoed in Rancière's focus upon the question of who determines which groups of people justify humanitarian intervention. "The 'humanitarian' regime of the 'international community,'" Rancière explains, "then exercises the administration of human rights in their regard, by sending supplies and medicine to the one and airborne divisions, more rarely, to the other." There are always political consequences in our conceptions of human rights. As Badiou puts it, "at the core of the mastery internal to ethics is always the power to decide who dies and who does not."

Vattimo develops a notion of rights in terms of what he calls "projectuality." Rights are best understood as aspirations, projects that we must take responsibility for. If the universality of human rights is the result of societal agreement and thus is a political achievement, the thought that proceeds in the wake of the death of God must proceed, I think—and all these thinkers would seem to agree—with extreme caution, and never assume this achievement has been achieved. Our conceptions of human rights, and our notions of when it is justified to use force to kill in the name of rights, express, in Nietzsche's thought, the voice of the will to power. They are expressions of the human beings we have evolved to be; and thus, if we are always continually to evolve, then our conceptions of rights and of when the use of force is warranted must evolve as well. Perhaps, as some have suggested, our conceptions of rights should evolve to include non-human species, biotic communities, and even, perhaps to include the notion of "earth
rights” as some have called for—as long as we recognize that these are projections or aspirations that express something about ourselves, and which have political consequences in determining what lives and what dies.

As for the use of force in the name of human rights, I don't deny that there are situations where this may be called for, but perhaps we should never forget Nietzsche's famous warning that "whoever fights monsters should see to it that in the process he does not become a monster.” As a final thought I recall here a little known passage from Nietzsche's writings, a thought completely obscured by the popular and gross misunderstanding of the notion of will to power. Here, from *Human, All Too Human*, are Nietzsche's thoughts on the means to real peace:

And perhaps there will come a great day on which a nation distinguished for wars and victories and for the highest development of military discipline and thinking, and accustomed to making the heaviest sacrifices on behalf of these things, will cry of its own free will: “we shall shatter the sword” – and demolish its entire military machine down to its last foundations. To disarm while being the best armed, out of an elevation of sensibility – that is the means to real peace, which must always rest on a disposition for peace: whereas the so-called armed peace such as now parades about in every country is a disposition to fractiousness which trusts neither itself nor its neighbor and fails to lay down its arms half out of hatred, half out of fear. Better to perish than to hate and fear, and twofold better to perish than to make oneself hated and feared – this must one day become the supreme maxim of every individual state!35
Notes


2 The Declaration of Independence as Adopted by the Second Continental Congress, July 4, 1776. Digital History, University of Houston.

3 Declaration of the Rights of Man, 1789. The Avalon Project, Yale University.


5 Obama, "Remarks by the President at the Acceptance of the Nobel Peace Prize."


20 Nietzsche admits this much in a letter to a friend: "It is not at all necessary or even desirable to side with me; on the contrary, a dose of curiosity . . . and an ironic resistance would be an incomparably more intelligent position to adopt." Ronald Hayman, Nietzsche: A Critical Life (New York: Penguin Books, 1982), p. 320.


23 The American abolitionist Benjamin Lundy saw it that way at the time: "But the prime cause, and the real objects of this war, are not distinctly understood by a large portion of the honest, disinterested, and well meaning citizens of the United States. Their means of obtaining correct information upon the subject have been necessarily limited; and many of them have been deceived and misled, by the misrepresentations of those concerned in it, and especially by hireling writers for the newspaper press. They have been induced to believe that the inhabitants of Texas were engaged in a legitimate contest for the maintenance of the sacred principles of Liberty, and the natural, inalienable Rights of Man:—whereas, the motives of its instigators, and their chief incentives to action, have been from the commencement, of a directly opposite character and tendency. It is susceptible of the clearest demonstration that the immediate cause and the leading object of this contest originated in a settled design, among the slaveholders of this country, (with land
speculators and slave traders) to wrest the large and valuable territory of Texas from the Mexican Republic, in order to re-establish the SYSTEM OF SLAVERY; to open a vast and profitable SLAVEMARKET therein; and, ultimately, to annex it to the United States. The Life, Travels and Opinions of Benjamin Lundy (1847). [http://www.tamu.edu/faculty/ccbn/dewitt/lundy.htm]

24 This justification is evident in newspaper accounts at the time: "Queen Liliuokalani attempted on Saturday, Jan. 14, to promulgate a new Constitution, depriving foreigners of the right of franchise. . . . It is firmly believed that the culminating revolutionary attempt of last Saturday will, unless radical measures are taken, wreck our already damaged credit abroad and precipitate to final ruin our already overstrained financial condition, and guarantees of protection to life, liberty, and property will steadily decrease." "A Revolution in Hawaii," The New York Times, January 17, 1893. [http://www.nytimes.com/learning/general/onthisday/big/0117.html#article]

25 Vattimo, Nihilism and Emancipation, p. XXVII.
26 Vattimo, Nihilism and Emancipation, p. 19.
28 Vattimo, Nihilism and Emancipation, p. 56.
30 Badiou, Ethics, pp. 71, 91. That Badiou seems to find in Nietzsche this very absolutization of the power of a truth (see p. 84) seems to miss this very double movement of the lucid dream in Nietzsche's thinking of the Dionysian in the late writings. I would counter Badiou's reference to Nietzsche here with the suggestion that "the great Dionysian 'yes' to Life" involves affirming perspectivism and thus rejecting "the ridiculous immodesty that would be involved in decreeing from our corner that perspectives are permitted only from this corner" (The Gay Science 374).
31 Vattimo, Nihilism and Emancipation, p. 86.
33 Badiou, Ethics, p. 35.
34 Nietzsche, Beyond Good and Evil, §146.