

From the Rights of Man to Human Rights?

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If human rights are our last utopia, it is only if we understand, says the American historian Samuel Moyn, that they are *not* the same as the rights of man as proclaimed at the end of the 17th century. But while the distinction is stimulating, it might appear to be conceptually too cut-and-dried.

Reviewed: Samuel Moyn, *The Last Utopia*, Cambridge (MA), Harvard University Press, 2010. 352 p., \$27,95.

Human rights – the worthy heirs of the “rights of man” proclaimed at the end of the 18th century – reached universal consciousness after the Second World War, when discovery of the death camps gave brutal witness to the necessity of imposing limits on the all-powerfulness of the nation-state.

This is the thesis, accepted by both common sense and evidently in the best scholarly work on human rights, which is demolished in a book just published by Samuel Moyn, historian at Columbia University. For him, human rights were only a peripheral element in the rhetoric deployed during the war and afterwards. Moreover, to the extent that no public awareness of the Holocaust existed immediately after the hostilities ended, such rights declarations cannot be considered a direct response to the genocide of the Jews. In reality, he says, it was not in the middle of the 1940s but rather thirty years later – in the second half of the 1970s – that human rights came to assume the title of our “last utopia”.

Rights of Man and Human Rights

Moyn's argument rests on the premise that human rights, far from being descendants of the "rights of man" proclaimed at the end of the century of Enlightenment, are very different in nature. The latter were articulated around a politics of constructing citizenship within a defined space, whereas the former promote a policy of compassion turned toward the outside: "The one implied a politics of citizenship at home and others a politics of suffering abroad." The rights of man were inseparably linked to building the state and the nation, whereas human rights aim to transcend the statist form. What today appears obvious to us – that the principal objective of human rights is to impose limits on state activities – would (according to Moyn) be an idea foreign to the *droits de l'homme*, which aimed to define citizenship and not to protect humanity. He maintains that the alliance between the rights of man and the nation-state is not an unfortunate contingency but rather quintessential: "The alliance with state and nation was not some accident that tragically befell the rights of man: it was their very essence, for the very bulk of their history" (p. 30). The 19th century movement advocating the rights of man was part of the "liberal nationalism" that aimed to protect the rights of citizens within a national framework. Similarly, Moyn doubts that the social struggles of the 19th century and the first half of the 20th actually contributed to the extension of the language of rights. On the one hand, the demand for social rights aimed to redefine citizenship, not to transcend the state. On the other hand, the call for rights long remained associated – notably between the world wars – with the defense of contractual freedom and property law.

The false start of human rights

Moreover, this conservative harnessing of rights was pursued in the aftermath of the Second World War. Moyn, far from retrospectively celebrating the "1948 moment," stresses that the theme of human rights occupied only a marginal place in the postwar period. Powerless to mobilize the imagination or to arouse a vast intellectual movement in their favor, both the Universal Declaration of the Rights of Man of 1948 and the European Convention of Rights of Man of 1950 were merely "minor byproducts of this era." Stillborn at their very proclamation, human rights suffered at the time from being confined solely to state diplomacy within the framework of the United Nations, as well as from seldom figuring among the demands of Christian personalist currents – themselves quickly identified with anti-Communism and the single-minded defense of the West. Most especially, human rights "solved no problem" in the sense that they proved incapable of answering the grand

alternative of the era – the choice between a Communist model and a market economy tempered by the establishment of the welfare state. Even in Europe, the story of human rights was at the time a mere footnote in the reinvention of conservatism. In the same spirit, Moyn refutes the interpretation of decolonization in terms of a struggle in favor of human rights. If the anti-colonialists were demanding the rights of man, it was because they understood them in their initial sense, closely articulated with construction of the state. It was the defense of national sovereignty that was being pursued, not the defense of individual prerogatives – the supremacy of the nation-state, not its subordination to a global law.

A provisional, minimal, and simple morality

If the movement for human rights dates neither from the post-war period nor from decolonization, how can we explain how it subsequently became a new *lingua franca* at the global level? For Moyn, human rights flourished since other utopias failed. After the Soviet crackdown in Prague and the assassination of Allende had dashed the hopes placed in “socialism with a human face”, human rights assumed the status of a “provisional, minimal and simple” morality, situated above and beyond politics – as witnessed by the emblematic trajectory of an organization like Amnesty International. Thus it is not so much globalization and the crumbling of the nation-state that account for the success of the rights of man, Moyn says, as the collapse of alternative global politics. The neutrality of human rights – which had led to their marginalization in the postwar era, when it was important to choose sides – supposedly accounts for their breakthrough at the end of the 1970s, at a time when the new ideological climate lent itself to claims to transcend politics.

The rejection of retrospective history

Founded on a repeated refusal to read history in a retrospective fashion by projecting back our own dreams and aspirations, Samuel Moyn’s book offers a number of similarities, from a methodological point of view, with a book published a year previously by one of his Columbia colleagues, Mark Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of United Nations*.¹ Mazower, too, invites a more critical reading of the beginnings of the United Nations and he demonstrates the same concern to avoid making the 1940s the gestation of our contemporary humanitarianism. In other words, instead of celebrating human rights by inventing ancestral filiations, it is better to recognize to what

¹ Mark Mazower, *No Enchanted Palace. The End of the Empire and the Ideological Origins of the United Nations*, Princeton (NJ), Princeton University Press, 2009.

point it is a newborn that is likely tomorrow to be swept away by other utopias. This is why, Moyn emphasized in a recent article,² Obama's great prudence on this theme surprises only those who believe that human rights have for a long time been an integral part of the American vision of the world. For an exactly opposite view to Moyn's, see the book of political theory published this year by Andrew Vincent, who more conventionally considers the "discovery" of the genocide of the Jews, decolonization, and the Cold War to be the principal motors of the gradual emergence of a transnational language of rights.³

Rights of citizenship and rights of humanity

Let us leave it up to historians to debate the actual moments of crystallization of what Elie Wiesel has called our "world-wide secular religion"⁴ – a debate to which Moyn's book no doubt makes a decisive contribution. But from the standpoint of political thought, we might wonder about the strict line of demarcation he draws between "human rights" (a term that has not been really adopted into French) and the "rights of man." Moyn is surely correct that there is no strict equivalence between the two. Concluding from this, however, that they are two distinct concepts with no relation between them is a step he too easily takes. To write that the *droits de l'homme* aimed only at the construction of citizenship within a given state, whereas human rights concern humanity beyond national borders, seems somewhat jumping to conclusions. For one thing, the new "revolution of rights of man" (or of "human rights") – which Moyn skillfully shows did not occur until the end of the 1970s, or even the start of the 1980s – did not have the exclusive goal of imposing an international norm on state actions. It has also contributed to defining a number of social struggles – those of women, homosexuals, consumers, children – in terms of "new rights" to be conquered within established states. In this sense, it also contributes to a form of reinvention of "national" citizenship through shifting boundaries between public and private, between the universal and the particular – as has been shown in the work of Lefort, Rancière, and Balibar especially. Curiously, Moyn seems to envisage the flourishing of human rights solely from the angle of a new duty to empathize with a suffering humanity, and thus solely from the standpoint of its implications for our transnational practices.

² Samuel Moyn, "Human Rights in History," *The Nation*, August 11, 2010, <http://www.thenation.com/article/1533993/human-rights-history>

³ Andrew Vincent, *The Politics of Human Rights*, Oxford: Oxford University Press, 2010.

⁴ Elie Wiesel, "A Tribute to Human Rights" in Y. Danieli et. Al. (eds.), *The Universal Declaration of Human Rights: Fifty Years and Beyond*, Amityville: Baywood, 1999, p. 3. Quoted by Michael Ignatieff, *Human Rights as Politics and Idolatry*, Princeton NJ: Princeton University Press, 2001.

Inversely, can we limit the scope of *les droits de l'homme* proclaimed at the end of the 18th century to the single desire to establish a sovereign state? The fact that they were understood and incarnated within a closed space takes nothing away from the fact that they also aimed to fix limits on the power of the state thus established. In this sense, the individualist heart of the rights of man is indeed a sign (sometimes unintended by its promoters) of a form of transcendence of their community of origin. The first critics of the Declarations of Rights were not mistaken – from Joseph de Maistre to Carl Schmitt – when they reproached the rights of man for abolishing any boundary between foreign war and civil war, due to the risk of seeing the “rights-of-man party” ineluctably become identified with the “humankind party.” In other words, while Moyn’s book has the immense merit of avoiding the trap of “inventing traditions”⁵ for human rights and of reminding us of the fragile and contingent character of their recent rhetorical triumph, his concern to avoid anachronism leads him sometimes to sweep away in the same stroke important filiations that are more than just semantic.

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⁵ Eric Hobsbawm and Terence Ranger (eds.) *The Invention of Tradition*, (Cambridge UK: Cambridge University Press, 1983).