



MICHELINE R. ISHAY

THE
HUMAN
RIGHTS
READER

Second Edition

Major Political Essays, Speeches, and Documents from
Ancient Times to the Present

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EDITED BY
MICHELINE R. ISHAY

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Pour mon père, Edmond Ishay

PREFACE

Until the first edition of *The Human Rights Reader: Major Speeches, Essays, and Documents from the Bible to the Present* came out in 1997, there was no comprehensive canon on the history of human rights, and that publication represented my first effort to convey that history. I spent much of the next seven years researching and writing *The History of Human Rights: From Ancient Times to the Era of Globalization* (published by University of California Press in 2004). As I worked on that book, it became clear that the original reader needed to be revised and expanded.

The new *Human Rights Reader* draws its conceptual organization from my *History of Human Rights*. Like *The History*, each of the first five parts, which correspond to five historical phases in the history of human rights, is subdivided into three sections. The first presents the arguments on behalf of human rights (or human rights in the making) associated with the historical phase under consideration; the second conveys the corresponding debate over acceptable ways to promote those human rights; and the third shows the views of contributors from that period on the question of the inclusiveness of human rights. Finally, Part VI of the reader gathers major historical legal documents, organized to represent the major themes of the modern legal history of human rights.

As potential selections were divided into the five historical phases and the concluding set of legal documents, an important criterion for inclusion was their contribution to informing fundamental questions that retain contemporary relevance. These include: What are the origins of human rights? Why did Europeans so strongly influence the modern notion of human rights? Has socialism made a lasting contribution to the legacy of human rights? Is self-determination promoting or undermining a universal notion of human rights? Is globalization eroding or advancing human rights? Are human rights universal or culturally bound? Must human rights be sacrificed for the demands of national security?

To ensure a full representation of the controversies over such critical questions, the new *Human Rights Reader* was expanded substantially. The parts corresponding to the original reader contain additional selections (particularly Part I on the pre-Enlightenment era), and a new part, on the globalization era, has been added. To provide historical and theoretical context, each of the six parts is preceded by an editorial introduction and, in four of the parts, a selection was chosen to provide the reader with a general background on the history and themes represented in the readings that follow.

In addition, where the titles of selections were absent (or too far removed from the chosen excerpts to identify the content), I added titles that will help readers quickly find topics of particular interest. Titles without quotes and usually preceded by the word “on” are mine. Also, I changed all British spelling to American for the sake of consistency and the ease

of the reader. Finally, I removed archaic or cumbersome references, while adding editorial notes where needed for clarification. Original references are annotated to help scholars (and other curious readers) to retrieve the unedited source.

Undoubtedly, one can always challenge the choice of one selection over another, and some readers will no doubt conclude that one set of ideas, or a region of the world, is favored. (Based on reactions to my first reader, however, there will be sharp differences over which viewpoints are favored.) The principal criteria guiding the selections of this new *Human Rights Reader*, beyond the manifest historical importance of some of the readings, were their value in illustrating the main clusters of rights that comprise the U.N. Universal Declaration of Human Rights (1948) and the illumination they provide to critical human rights debates. For readers who wish to deepen their knowledge, more complete depictions and analyses of each historical phase, and more material on the complexity of particular debates, can be found in my *History of Human Rights*, the scholarly companion of this book.

My own historical journey through the creation of *The New Human Rights Reader* benefited from many helpers, who were at times unfortunate victims of my drive to finish this project. I thank Steve Bronner for remaining an unconditional supporter over the years; Ginni Ishimatsu for her friendship and expertise on Asian religions and traditions; Steve Roach, Matt Dickhoff, Sasha Breger, and Rebecca Otis, and particularly Joel Pruce, for their industrious research help with the final proof. I owe a special thanks to David Michael Gillespie, for showing exemplary diligence, uncomplaining devotion, and enthusiasm throughout this project, and in general for being such a great research assistant.

At Taylor & Francis, I would like to express my gratitude for the excellent work of the project editor Gerry Jaffe, the copy editor Sheyanne Armstrong, and my very capable acquiring editors Robert Tempio and Michael Kerns.

My deepest thanks, and apologies for the time this project consumed, go to my shining stars, Adam and Elise, who feed me with joy and hope during the best of times and worst of times, and to their father, David Goldfischer, who lends to this and my other intellectual endeavors the power of his mind and the strength of his heart. Beyond this fountain of strength, I remain grateful to my loving mother, Rachele Bazini, and for the human rights courage of my father, Edmond Ishay. They showed me, through the determination and decency they carried with them as refugees and immigrants across three continents, the path that made all the difference. This book is dedicated to my father and to the generations of fighters for human rights that preceded and will follow him.

INTRODUCTION

HUMAN RIGHTS: HISTORICAL AND CONTEMPORARY CONTROVERSIES¹

BY MICHELINE R. ISHAY

We stand today at the threshold of a great event both in the life of the United Nations and in the life of mankind, that is, the approval by the General Assembly of the Universal Declaration of Human Rights. This declaration may well become the international Magna Carta of all men everywhere. We hope its proclamation by the General Assembly will be an event comparable to the proclamation of the Declaration of the Rights of Man by the French people in 1789, the adoption of the Bill of Rights by the people of the United States, and the adoption of comparable declarations at different times in other countries.

Eleanor Roosevelt, 1948

The spirit of human rights has been transmitted consciously and unconsciously from one generation to another, carrying the scars of its tumultuous past. Today, invoking the United Nations (U.N.) Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, one may think of human rights as universal, inalienable, and indivisible, as rights shared equally by everyone regardless of sex, race, nationality, and economic background. Yet conflicting political traditions across centuries have elaborated different visions of human rights rooted in past social struggles.

Eleanor Roosevelt, however, was resolute in her efforts to overcome ideological and philosophical tensions among the eighteen delegates who composed the first U.N. human rights commission, over which she presided. Indefatigable, she mediated many disputes that ultimately led to the drafters' agreement on the central tenets of human rights. Comparing those rights to the portico of a temple, René Cassin, one of the most influential drafters, divided the twenty-seven articles of the Declaration among four pillars. The four pillars supported the roof of the portico (articles 28 to 30), which stipulated the conditions under which the rights of individuals could be realized within society and the state. The first two articles of the declaration are represented by the courtyard steps of the portico and stand for human dignity, shared by all individuals regardless of their religion, creed, ethnicity, or sex. The first pillar represents articles 3 to 11 and covers the rights of individuals, notably the right to life, liberty, and security. The second pillar, encompassing articles 12 to 17 of the Declaration, invokes civil and property rights; the third, delineated in articles 18 to 21,

stands for political and social rights; and the fourth (articles 22 to 27) focuses on economic, social, and cultural rights.²

Drawing from the rallying cry of the French Revolution, Cassin identified these four pillars as “dignity, liberty, equality, and fraternity,” corresponding to the successive generations of rights. It is worth noting that while these four clusters of rights do not correspond precisely to the historical chronology of emergent visions (or generations) of human rights, they serve as a useful historical reference for this reader. For instance, with some thematic adjustment consistent with history, one can associate the concept of dignity with monotheistic and nonmonotheistic religions; the preponderance of (civil) liberty arguments can be identified primarily with the Enlightenment legacy; the fight for greater economic and political equality with the socialist and labor movements of the industrial revolution; and fraternity with the notions of group and cultural rights identified with anti-imperialist movements in nineteenth-century Europe and within the twentieth-century colonized world.

Inspired by Cassin, what follows is a brief consideration of these five periods, each of which can be associated with critical controversies regarding human rights. These controversies are of more than merely historical interest; they underlie and animate contemporary political battles over human rights and help structure this reader. The first controversy concerns the debate over the origins of human rights (Part I). Did they emerge out of humanity’s great religions and ancient secular traditions? Or did human rights arise from a fundamental challenge to the narrow worldviews embraced by those traditions? The second controversy is over the validity of the claim that our modern conception of rights, wherever in the world it may be voiced, is predominantly European in origin (Part II). The third controversy concerns the often-overlooked socialist contribution to human rights — a contribution obscured by Stalinism and Maoism (Part III). The fourth controversy, over the right to self-determination, originally invoked against imperialism, continues to provoke conflicts between opposed groups fighting for sovereignty over the same territories (Part IV). Finally, the fifth controversy considers whether globalization in its multifaceted economic and cultural forms is a boon or a threat from a human rights perspective (Part V). This part also considers whether the new security regime consolidated after September 11 is serving to promote or undermine human rights in our age of globalization.

PART I: THE CONTROVERSY OVER THE ORIGINS OF HUMAN RIGHTS

When embarking on a historical investigation of the origins of human rights, the first question one confronts is: Where does that history begin? It is a politically charged question, as difficult to answer as the one addressing the end of history. The question of the end of history has always implied the triumph of one particular worldview over another. Thus, Friederich Hegel’s vision of history ending with the birth of the Prussian state celebrated the superiority of German liberal and cultural views of his time over other beliefs; Karl Marx’s prediction that history would end with the withering away of the state and the birth of a classless society emerged from a deepening struggle against the abuses of early industrialization; and Francis Fukuyama’s declaration of the end of history exemplified liberal euphoria in the immediate aftermath of the Soviet collapse.

Similarly, where one locates the beginning of a history tends to privilege a particular worldview; a history of human rights can be perceived as a way either to defend a specific status quo or value system against possible challengers, or to legitimize the claims of neglected agents of history. It is in this context that one can understand the fight between religious creationists

and evolutionary Darwinists in American schools, and the clash between some defenders of the Western canon, on the one hand, and some advocates of African and Third World studies, on the other. Identifying the origins of human rights will inescapably invite a similar debate. For example, skeptics over the achievements of Western civilization are correct to point out that current notions of morality cannot be associated solely with European history.

Modern ethics is in fact indebted to a worldwide spectrum of both secular and religious traditions. Thus, the concept of proportionate punishment and justice was first professed by the Hammurabi Code of ancient Babylon. The Hebrew Bible celebrates the sanctity of life and reciprocal entitlements. The Hindu and Buddhist religions offered the earliest defense of the ecosystem. Confucianism promoted widespread education. The ancient Greeks and Romans endorsed natural laws and the capacity of every individual to reason. Christianity and Islam encouraged human solidarity, just as both considered the problem of moral conduct in wartime.

Yet the idea that religion is a source of our current human rights tradition remains contested by some scholars, who regard religious edicts and commandments as the very antithesis of rights. Often presented as injunctions against proscribed behaviors, many religious invocations of moral duties would correspond closely to later secular conceptions of rights. For example, the Biblical injunction “thou shall not kill” implies the right to secure one’s life, just as “thou shall not steal” implies a right to property.

At the same time, while all religions and secular traditions prior to the Enlightenment may have shared basic views of a common good, no ancient religious or secular belief system regarded all individuals as equal. From Hammurabi’s Code to the New Testament to the Koran, one can identify a common disdain toward indentured servants (or slaves), women, and homosexuals — as all were excluded from equal social benefits. While emphasizing a universal moral embrace, all great civilizations have thus tended to rationalize unequal entitlements for the weak or the “inferior.” Yet, while such commonalities are noteworthy, they should not overshadow one of history’s most consequential realities: it has been the influence of the West that has prevailed, including Western conceptions of universal rights.

PART II: THE CONTROVERSY OVER THE LIBERAL LEGACY AND THE ENLIGHTENMENT

If the civilizations and ethical contributions of China, India, and the Muslim world towered over those of medieval Europe, is it equally true that the legacy of the European Enlightenment supersedes other influences on our current understanding of human rights? The necessary conditions for the Enlightenment, which combined to bring an end to the Middle Ages of Europe, included the scientific revolution, the rise of mercantilism, the launching of maritime explorations of the globe, the consolidation of the nation-state, and the emergence of a middle class. These developments stimulated the expansion of Western power, even as they created propitious circumstances for the development of modern conceptions of human rights. They ultimately shattered feudalism and delegitimized appeals by kings to divine rights.

As Europe was plagued by religious wars pitting Catholics and Protestants in a struggle to redefine religious and political structures, human rights visionaries like Hugo Grotius, Samuel Pufendorf, Emmerich de Vattel, and René Descartes constructed a new secular language, affirming a common humanity that transcended religious sectarianism. Over the next two centuries, revolutionaries in England, America, and France would use a similar

discourse to fight aristocratic privileges or colonial authority, and to reorganize their societies based on human rights principles. Armed with the scientific confidence of their era, they struggled for the right to life, for freedom of religion and opinion, and for property rights, and ultimately broke the grip of monarchical regimes.

Notwithstanding the incontestable debt of modern conceptions of human rights to the European Enlightenment, the positive legacy of that era remains widely contested. Many rightly argue that the Enlightenment did not fulfill its universal human rights promises. In the early nineteenth century, slavery continued in the European colonies and in America. Throughout the European-dominated world (with the brief exception of revolutionary France), women failed to achieve equal rights with men, propertyless men were denied the right to vote and other political rights, children's rights continued to be usurped, and the right to sexual preference was not even considered. Given those shortcomings, critics have argued that the Enlightenment legacy of human rights represented little more than an imperialist masquerade, designed to bend the rest of the world to its will under the pretense of universality.

While the development of capitalism in Europe contributed to the circumstances necessary for the development of a secular and universal language of human rights, the early European liberal agenda inadvertently taught that very language to its challengers. Thus, the international languages of power and resistance were simultaneously born in the cradle of the European Enlightenment. Not only did the Enlightenment thinkers invent the language of human rights discourse, but they launched arguments over the nature of human rights that continue to preoccupy us today.

Now as then, we find ourselves pondering the role of the state — as both the guardian of basic rights and the behemoth against which one's rights need to be defended. During the Enlightenment and still today, this dual allegiance to one's state and to universal human rights has contributed to the perpetuation of a double standard of moral behavior, in which various appeals to human rights obligations remain subordinated to the "the national interest." Just as the celebrated Declaration of the Rights of Man and the Citizen (1789) was followed by Napoleon's *realpolitik* during his reign over the European continental system, Fukuyama's end-of-history vision predicated on liberal rights has confronted post-September 11 claims that civil liberties must yield to the need for national security.

In addition, we are still embroiled in Enlightenment debates over whether a *laissez-faire* approach to economic activity is the best way to promote democratic institutions and global peace, as such early advocates as Immanuel Kant and Thomas Paine are echoed more than two centuries later by thinkers such as the political theorist Michael Doyle and the economist Milton Friedman. Further, we remained engaged in the Enlightenment argument over when and how one may justly wage war (see Hugo Grotius, Part II, Chapter 6). The current forms of these debates, one should add, are not merely a contemporary variant of the early liberal tradition, but have been modified and enriched by the socialist contribution.

PART III: THE CONTROVERSY OVER THE SOCIALIST CONTRIBUTION AND THE INDUSTRIAL AGE

The nineteenth-century industrial revolution and the growth of the labor movement opened the gates of freedom to previously marginalized individuals, who challenged the classical liberal economic conception of social justice. Yet, despite the important socialist contribution to the human rights discourse, the human rights legacy of the socialist — and especially the Marxist — tradition is today widely dismissed. Bearing in mind the atrocities that have

been committed by communist regimes in the name of human rights, the historical record still needs to show that the struggle for universal suffrage, social justice, and worker's rights — principles endorsed in the Universal Declaration of Human Rights (articles 18 to 21) and by the two main 1966 International Covenants on Human Rights (see Part VI, Chapter 15) — was strongly influenced by socialist thought.

Indeed, the Chartists in England — early socialist precursors — and later the European labor parties, played a large role in the campaign for voting and social rights. Disenfranchised from the political process, propertyless workers realized that without a political voice, they would not be able to address the widening economic gap between themselves and the rising industrial capitalists. In other words, the historical struggle for universal suffrage was launched and largely waged by the socialist movement. As Marx put it in the *New York Daily Tribune* of 1850: “The carrying of universal suffrage in England ... [is] a far more socialistic measure than anything which has been honored with that name on the Continent” (Karl Marx, on universal suffrage, Part III, Chapter 8).

While liberals retained their preoccupation with liberty, Chartists and socialists focused on the troubling possibility that economic inequity could make liberty a hollow concept — a belief that resonated powerfully with the burgeoning class of urban workingmen and women. Highlighting this inconsistency, French socialist Louis Blanc declared (on the material basis of rights, Part III, Chapter 8):

But the poor man, you say, has the *right* to better his position? So! And what difference does it make, if he has not the power to do so? What does the right to be cured matter to a sick man whom no one is curing? Right considered abstractly is the mirage that has kept the people in abused condition since 1789. ... Let us say it then for once and for all: freedom consists, not only in the RIGHTS that have been accorded, but also in the power given men to develop and exercise their faculties, under the reign of justice and the safeguard of law.

In this sense, socialists became legitimate heirs of the Enlightenment, applying the universal promises of “*liberté, égalité, fraternité*” to the political realities of the nineteenth century.

From the nineteenth century onward, radical and reformist socialists alike called for redefining the liberal agenda, to include increased economic equity, the right to trade unions, child welfare, universal suffrage, the restriction of the workday, the right to education, and other social welfare rights. Most of these principles were encapsulated in the U.N. Covenant on Social, Cultural, and Economic Rights. By then, these key elements of the original socialist platform had long since been embraced as mainstream tenets of liberalism. So long as arguments are framed in terms of universal rights, liberals and socialists have thus shared a key premise, i.e., universalism, that could provide a basis for reasoned debate. In that sense, both visions of rights have often been allied in opposition to the recurrent challenge posed by adherents of cultural and national relativism.

PART IV: THE CONTROVERSY OVER THE RIGHT TO SELF-DETERMINATION AND THE IMPERIAL AGE

The liberal nationalist writings of Jonathan Gottlieb Fichte, Giuseppe Mazzini, John Stuart Mill, and Theodore Herzl, among other social thinkers of the nineteenth century, foreshadowed the twentieth century's quest to codify the right to self-determination. If generally invoked throughout nineteenth-century Europe against imperial domination or ethnic oppression, the right to a homeland would become a central issue of twentieth-century inter-

national affairs. Yet the intensifying assertion of self-determination as an inalienable human right, throughout the twentieth century, was imbued with contradictions from the outset.

At the time of the ratification of the Covenant of the League of Nations (1919), advocates, such as President Woodrow Wilson, failed to foresee that imperialist and fascist leaders would invoke the notion of national rights to justify their expansionist policies, contributing to the horrors of World War II. Few recognized, despite the warnings of Rosa Luxemburg, that such rights would be left far too vague in international legal documents. Indeed, Article 1 of the two main human rights covenants, adopted by the U.N. in 1966, stipulated that “all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic and cultural development.”

Written in such sweeping terms, that legal codification of self-determination never specified which type of political regime a newly independent state would establish. It never addressed the possibility that legitimizing one group’s national aspirations would be invoked at the expense of others and possibly create conflicts; it never resolved to what extent a prospective independent state was economically viable, and thereby at least potentially a truly sovereign state; and it never considered how an economically nonviable new state might be doomed to permanent economic dependency and neocolonial political subordination.

The search for appropriate standards for implementing self-determination rights started before World War I, as a nationalist tide swept Central and Eastern Europe, fragmenting the Ottoman and Austro-Hungarian Empires. With the ever more defiant ascendance of nationalism and the threat of war on the eve of World War I, puncturing the universalist hopes of the second Socialist International, socialists such as Rosa Luxemburg and Vladimir Lenin reflected on how to resolve the question of self-determination, addressing the need to establish standards for legitimizing this otherwise vacuous claim. With the anticolonial struggle spreading through Asia and Africa to overthrow European imperial domination in the mid-twentieth century, a new set of leaders and thinkers including Mahatma Gandhi, Sati’ al-Husri, Kwame Nkrumah, and Frantz Fanon, emerged from the colonized world, building their claims on previous rationales and quests for self-determination. Because the right to self-determination can result in contending claims to the same disputed territory, the meaning of this right remains far from obvious and needs to be elaborated in light of historical and political precedents.

PART V: THE CONTROVERSY OVER GLOBALIZATION’S IMPACT ON HUMAN RIGHTS

There is clear evidence that globalization coincides with a widening gap between the rich and poor within and between societies, an association that has propelled anti-Western sentiments, nationalist backlashes, and war. At the same time, one can make the case that the plight of the poorest countries can be attributed not to globalization but to their exclusion from the global marketplace. More inclusive globalization — from this point of view — would not only reduce ethnic sectarianism, but also generate new opportunities for human rights movements.

However one judges its overall benefits and adverse effects, globalization has affected people in different ways, creating a plethora of ever more specific and conflicting human rights demands. For instance, if the fight for labor rights has been reenergized in recent years, organized labor continues to be divided internationally between workers from rich and poor countries, and domestically between the interests of those who are unionized and those who are not. Similarly, while the unprecedented ravaging of the global environment

has prompted the emergence of a global ecological movement, that movement is animated by different social and economic priorities in the developed and the developing world. The abuses of a growing illegal immigrant labor force and the hardships suffered by refugees fleeing from poverty, repression, or war have led to calls for fairer immigration and refugee laws. At the same time, low-skilled immigrants to richer countries conflict with the interests of unemployed and low-wage workers in the developed world, pitting two needy communities against each other.

Undoubtedly, these conflicts over rights have intensified cultural and regional differences. Indeed, if globalization erodes national distinctions, creating a more integrated world, as internationalists from liberal or socialist persuasions have hoped (in different ways), efforts to protect national patrimonies against waves of immigrants, foreign imports, or the overall homogenization of the world into universal consumerism have revived the appeal of cultural rights. Whereas staunch internationalists fear a world of competing cultures, which would favor the triumph of the most belligerent fundamentalists at the expense of women and other disenfranchised groups, cultural rights proponents worry that tendentious “universal” moral perspectives of the most powerful players will prevail over the cultural values of subordinated nations.

That fight between internationalists and cultural relativists has intensified and has taken a tragic turn since September 11. In many resentful, economically or culturally aggrieved areas of the world, the Western maestros of globalization are seen as responsible for overlooking oppression and creeping poverty and must now face the inevitable “blowback.” These sentiments in turn have unleashed Western fear of the Muslim world, strengthened demagogic assertions of American Western superiority, and made it politically viable to insist on adopting whatever means are necessary for security. Torn between their internationalist aspirations and the immediate dangers of the post–September 11 world, human rights advocates have been debating the extent to which security rights can override civil and other human rights, the legitimacy of humanitarian intervention to overthrow tyrants by force, and whether globalization represents desirable interdependence or a mask for empire.

The various schisms within the human rights community remind us why the main drafters of the Universal Declaration of Human Rights argued with such fervor for the indivisibility of human rights. By doing so, they were challenging assertions that security rights prevail over civil rights, as has been claimed in the “age of terror,” or that development rights justify civil and political repression, as argued by some Asian political elites. In short, they were trying to reduce the prospect that specific rights could be opportunistically elaborated to advance the political agenda of this or that leader or this or that movement, thereby undermining an all-encompassing and universal perspective on human rights.

To help regain clarity of purpose amidst these divisions, this book invites its readers to acquaint themselves with the original sources of human rights discourse and the historical debates that have shaped our current understandings of human rights. The central themes developed in the Universal Declaration of Human Rights provide a useful path for navigating through the major historical speeches, polemical writings, and legal documents. Each of the first five parts of this reader corresponds to critical historical junctures in the development of human rights: The Origins, Secular, Asian, and Monotheistic Traditions; The Legacy of Liberalism and the Enlightenment; The Socialist Contribution and the Industrial Age; The Right to Self-Determination and the Imperial Age; and Human Rights in the Era of Globalization. Each of these parts is in turn divided into three sections. The first presents the human rights of the period under consideration, the second reviews debates over acceptable ways to promote human rights, and the third addresses views on the inclusiveness of human rights. Finally, Part VI of the reader gathers major historical legal documents, organized to represent the major themes of the modern legal history of human rights. This new *Human Rights Reader: Major Political Essays, Speeches, and Documents from the Bible to the Present* is also designed as a companion to my *History of Human Rights: From Ancient*

Times to the Era of Globalization (University of California Press, 2004). There one can encounter the historical context in which the contending visions of human rights — illuminated by this reader — have emerged.

ENDNOTES

1 This introduction is a broader and altered version of my previous article, “What Are Human Rights? Six Historical Controversies,” *Journal of Human Rights*, Vol. 3, No. 3 (September 2004), 359–371.

2 For further elaboration, see Mary Ann Glendon, *A World Made New* (New York: Random House, 2001), 173–192.

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