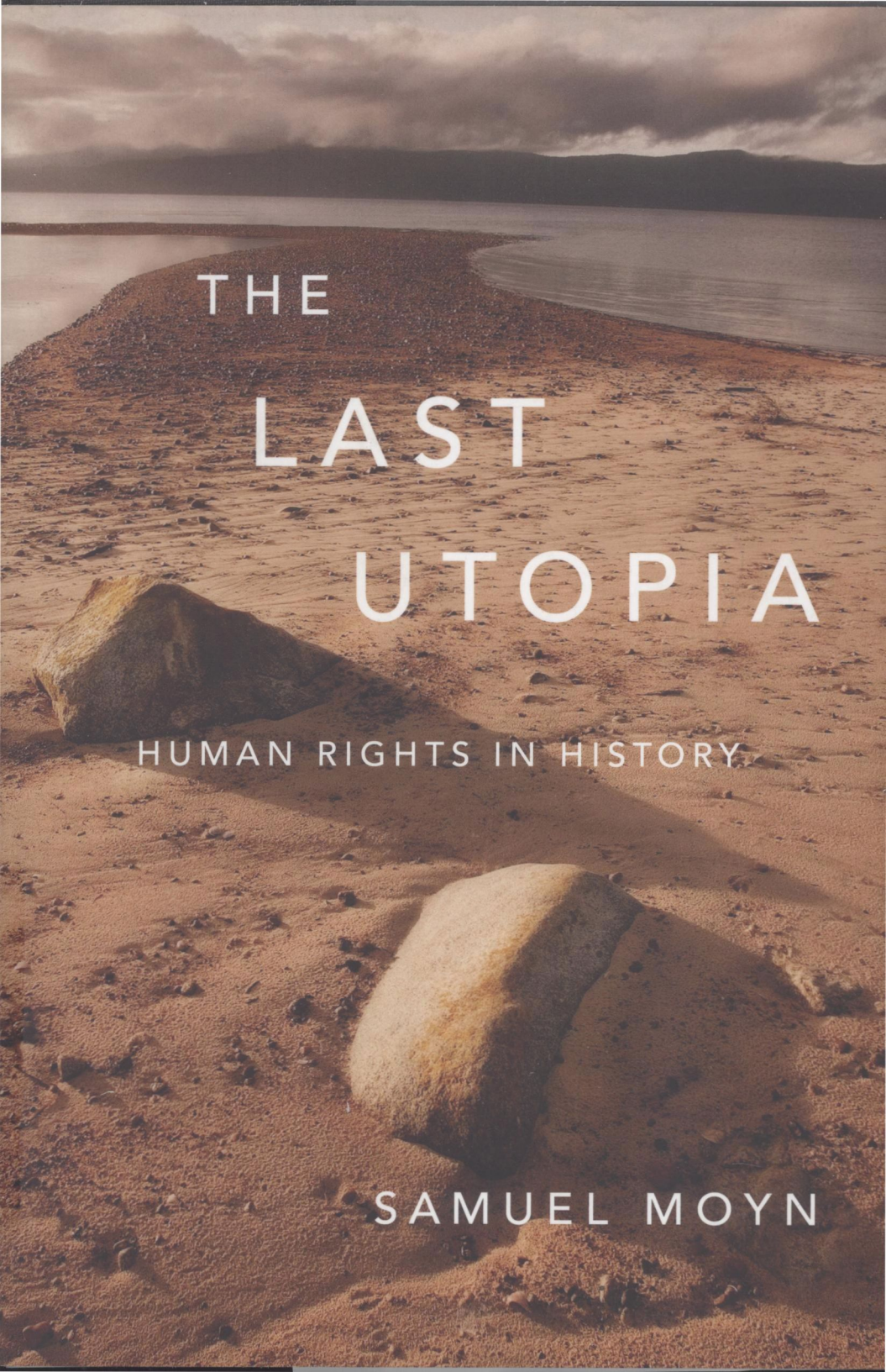
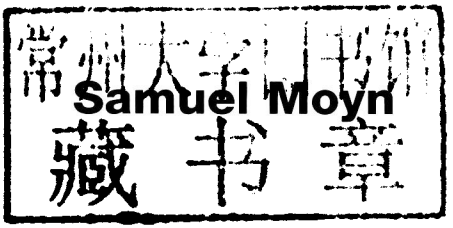

THE
LAST
UTOPIA
HUMAN RIGHTS IN HISTORY
SAMUEL MOYN

The Last Utopia

Human Rights in History



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Prologue

When people hear the phrase "human rights," they think of the highest moral precepts and political ideals. And they are right to do so. They have in mind a familiar set of indispensable liberal freedoms, and sometimes more expansive principles of social protection. But they also mean something more. The phrase implies an agenda for improving the world, and bringing about a new one in which the dignity of each individual will enjoy secure international protection. It is a recognizably utopian program: for the political standards it champions and the emotional passion it inspires, this program draws on the image of a place that has not yet been called into being. It promises to penetrate the impregnability of state borders, slowly replacing them with the authority of international law. It prides itself on offering victims the world over the possibility of a better life. It pledges to do so by working in alliance with states when possible, but naming and shaming them when they violate the most basic norms. Human rights in this sense have come to define the most elevated aspirations of both social movements and political entities—state and interstate. They evoke hope and provoke action.

It is striking to register how recently this program became widespread. Over the course of the 1970s, the moral world of Westerners shifted, opening a space for the sort of utopianism that coalesced in an international human rights movement that had never existed before. The eternal rights of man were proclaimed in the era of Enlightenment, but they were so profoundly different in their practical outcomes—up to and including bloody revolution—as to constitute

another conception altogether. In 1948, in the aftermath of World War II, a Universal Declaration of Human Rights was proclaimed. But it was less the annunciation of a new age than a funeral wreath laid on the grave of wartime hopes. The world looked up for a moment. Then it resumed its postwar agendas, which had crystallized in the same years that the United Nations—which sponsored the declaration—emerged. The priority fell on victory of one or the other of the two global Cold War visions for America, the Soviet Union, and the European continent they were dividing between them. And the struggle for the decolonization of empire made the Cold War competition global, even if some new states strove to find some exit from the Cold War rivalry to chart their own course. The United States, which had driven the inflation of global hopes during World War II for a new order after it, and introduced the idea of "human rights" into minor circulation, soon dropped the phrase. And both the Soviet Union and anticolonialist forces were more committed to collective ideals of emancipation—communism and nationalism—as the path into the future, not individual rights directly, or their enshrinement in international law.

Even in 1968, which the UN declared "International Human Rights Year," such rights remained peripheral as an organizing concept and almost nonexistent as a movement. The UN organized a twentieth-anniversary conference in Tehran, Iran, to remember and revive stillborn principles. It was an extraordinary scene. The dictatorial shah, Mohammad Reza Pahlavi, opened the spring conference by crediting his ancient countrymen with the discovery of human rights: the tradition of the great Persian emperor Cyrus of more than a millennium before, the shah asserted, had now found fulfillment in his own dynasty's respect for moral principle. The meetings that followed, chaired by his sister Princess Ashraf, brought to the fore an interpretation of human rights altogether unrecognizable now: the liberation of nations formerly under imperial rule was presented as the most significant achievement so far, the outcome of the long march of human rights, and the model for what had yet to be accom-

plished—not least in Israel, which received withering attention in the proceedings, due to its acquisitions after the Six Day War against its Arab neighbors. Yet outside the UN in 1968, human rights had not yet become a powerful set of ideals, and this fact is more crucial than anything that went on at the shah's staged event.[1] As the conference went through its scripted motions, the real world was exploding in revolt. May 1968 brought to Paris its greatest postwar upheaval, with students and workers shutting the country down and demanding an end to middle-class compromises. In far-flung spots around the globe, from Eastern Europe to China, and across the United States, from Berkeley to New York, people—especially young people—demanded change. But outside Tehran, no one in the global disruption of 1968 thought of the better world they demanded as a world to be governed by "human rights."

The drama of human rights, then, is that they emerged in the 1970s seemingly from nowhere. If the Soviet Union had generally lost credibility (and America's Vietnamese adventure invited so much international outrage), human rights were not the immediate beneficiaries. During the 1960s crisis of superpower order, other utopian visions prospered. They called for community at home, redeeming the United States from hollow consumerism, or "socialism with a human face" in the Soviet empire, or further liberation from a so-called neocolonialism in the third world. At the time, there were next to no nongovernmental organizations that pursued human rights; Amnesty International, a fledging group, remained practically unknown. From the 1940s until 1968, the few NGOs that did view human rights as part of their mission struggled for them within the UN's framework, but the conference in Tehran confirmed the agonizing fruitlessness of this project. One longtime NGO chief, Moses Moskowitz, observed bitterly in the aftermath of the conference that the human rights idea had "yet to arouse the curiosity of the intellectual, to stir the imagination of the social and political reformer and to evoke the emotional response of the moralist."[2] He was right.

Yet, within one decade, human rights would begin to be invoked

across the developed world and by many more ordinary people than ever before. Instead of implying colonial liberation and the creation of emancipated nations, human rights most often now meant individual protection against the state. Amnesty International became newly visible and, as a beacon of new ideals, won the Nobel Peace Prize in 1977 for its work. The popularity of its new mode of advocacy forever transformed what it meant to agitate for humane causes, and spawned a new brand and age of internationalist citizen advocacy. Westerners left the dream of revolution behind—both for themselves and for the third world they had once ruled—and adopted other tactics, envisioning an international law of human rights as the steward of utopian norms, and as the mechanism of their fulfillment. Even politicians, most notably American president Jimmy Carter, started to invoke human rights as the guiding rationale of the foreign policy of states. And most visibly of all, the public relevance of human rights skyrocketed, as measured by the simple presence of the phrase in the newspaper, ushering in the current supremacy of human rights. Having been almost never used in English prior to the 1940s, when they experienced only a modest increase, the words "human rights" were printed in 1977 in the *New York Times* nearly five times as often as in any prior year in that publication's history. The moral world had changed. "People think of history in the long term," Philip Roth says in one of his novels, "but history, in fact, is a very sudden thing."[3] Never has this been truer than when it comes to the history of human rights.

There is no way to reckon with the recent emergence and contemporary power of human rights without focusing on their utopian dimension: the image of another, better world of dignity and respect that underlies their appeal, even when human rights seem to be about slow and piecemeal reform. But far from being the sole idealism that has inspired faith and activism in the course of human events, human rights emerged historically as the last utopia—one that became powerful and prominent because other visions imploded. Human rights are only a particular modern version of the

ancient commitment by Plato and Deuteronomy—and Cyrus—to the cause of justice. Even among modern schemes of freedom and equality, they are only one among others; they were far from the first to make humanity's global aspirations the central focus. Nor are human rights the only imaginable rallying cry around which to build a grassroots popular movement. As Moses Moskowitz so well understood on the brink of their ascendancy, human rights would have to win or lose on the terrain of the imagination, first and foremost. And for them to win, others would have to lose. In the realm of thinking, as in that of social action, human rights are best understood as survivors: the god that did not fail while other political ideologies did. If they avoided failure, it was most of all because they were widely understood as a moral alternative to bankrupt political utopias.

Historians in the United States started writing the history of human rights a decade ago. Since that time, a new field has crystallized and burgeoned. Almost unanimously, contemporary historians have adopted a celebratory attitude toward the emergence and progress of human rights, providing recent enthusiasms with uplifting backstories, and differing primarily about whether to locate the true breakthrough with the Greeks or the Jews, medieval Christians or early modern philosophers, democratic revolutionaries or abolitionist heroes, American internationalists or antiracist visionaries. In recasting world history as raw material for the progressive ascent of international human rights, they have rarely conceded that earlier history left open diverse paths into the future, rather than paving a single road toward current ways of thinking and acting. And in studying human rights more recently, once they did come on the scene, historians have been loathe to regard them as only one appealing ideology among others. Instead, they have used history to confirm their inevitable rise rather than register the choices that were made and the accidents that happen. A different approach is needed to reveal the true origins of this most recent utopian program.

Historians of human rights approach their subject, in spite of its

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novelty, the way church historians once approached theirs. They regard the basic cause—much as the church historian treated the Christian religion—as a saving truth, discovered rather than made in history. If a historical phenomenon can be made to seem like an anticipation of human rights, it is interpreted as leading to them in much the way church history famously treated Judaism for so long, as a proto-Christian movement simply confused about its true destiny. Meanwhile, the heroes who are viewed as advancing human rights in the world—much like the church historian's apostles and saints—are generally treated with uncritical wonderment. Hagiography, for the sake of moral imitation of those who chase the flame, becomes the main genre. And the organizations that finally appear to institutionalize human rights are treated like the early church: a fledgling, but hopefully universal, community of believers struggling for good in a vale of tears. If the cause fails, it is because of evil; if it succeeds, it is not by accident but because the cause is just. These approaches provide the myths that the new movement wants or needs.

They match a public and politically consequential consensus about the sources of human rights. Human rights commonly appear in journalistic commentary and in political speeches as a cause both age-old and obvious. At the latest, both historians and pundits focus on the 1940s as the crucial era of breakthrough and triumph. High-profile observers—Michael Ignatieff, for example—see human rights as an old ideal that finally came into its own as a response to the Holocaust, which might be the most universally repeated myth about their origins. In the 1990s, an era of ethnic cleansing in southeastern Europe and beyond during which human rights took on literally millennial appeal in the public discourse of the West, it became common to assume that, ever since their birth in a moment of post-Holocaust wisdom, human rights embedded themselves slowly but steadily in humane consciousness in what amounted to a revolution of moral concern. In a euphoric mood, many people believed that secure moral guidance, born out of shock about the Holocaust and nearly incontestable in its premises, was on the verge of displacing

interest and power as the foundation of international society. All this fails to register that, without the transformative impact of events in the 1970s, human rights would not have become today's utopia, and there would be no movement around it.

An alternative history of human rights, with a much more recent timeline, looks very different than conventional approaches. Rather than attributing their sources to Greek philosophy and monotheistic religion, European natural law and early modern revolutions, horror against American slavery and Adolf Hitler's Jew-killing, it shows that human rights as a powerful transnational ideal and movement have distinctive origins of a much more recent date. True, rights have long existed, but they were from the beginning part of the authority of the state, not invoked to transcend it. They were most visible in revolutionary nationalism through modern history—until "human rights" displaced revolutionary nationalism. The 1940s later turned out to be crucial, not least for the Universal Declaration they left behind, but it is essential to ask why human rights failed to interest many people—including international lawyers—at the time or for decades. In real history, human rights were peripheral to both wartime rhetoric and postwar reconstruction, not central to their outcome. Contrary to conventional assumptions, there was no widespread Holocaust consciousness in the postwar era, so human rights could not have been a response to it. More important, no international rights movement emerged at the time. This alternative history is forced, therefore, to take as its main challenge understanding why it was not in the middle of the 1940s but in the middle of the 1970s that human rights came to define people's hopes for the future as the foundation of an international movement and a utopia of international law.

The ideological ascendancy of human rights in living memory came out of a combination of separate histories that interacted in an unforeseeable explosion. Accident played a role, as it does in all human events, but what mattered most of all was the collapse of prior universalistic schemes, and the construction of human rights as a persuasive alternative to them. On the threshold is the United Na-

tions, which introduced human rights but had to be bypassed as the concept's essential institution for it to matter. In the 1940s, the UN arose as a concert of great powers that refused to break in principle with either sovereignty or empire. From the beginning, it was as responsible for the irrelevance of human rights as for their itemization as a list of entitlements. And the emergence of new states through decolonization, earth-shattering in other respects for the organization, changed the meaning of the very concept of human rights but left them peripheral on the world stage. It was, instead, only in the 1970s that a genuine social movement around human rights made its appearance, seizing the foreground by transcending official government institutions, especially international ones.

To be sure, there were a number of catalysts for the explosion: the search for a European identity outside Cold War terms; the reception of Soviet and later East European dissidents by politicians, journalists, and intellectuals; and the American liberal shift in foreign policy in new, moralized terms, after the Vietnamese disaster. Equally significant, but more neglected, were the end of formal colonialism and the crisis of the postcolonial state, certainly in the eyes of Western observers. The best general explanation for the origins of this social movement and common discourse around rights remains the collapse of other, prior utopias, both state-based and internationalist. These were belief systems that promised a free way of life, but led into bloody morass, or offered emancipation from empire and capital, but suddenly came to seem like dark tragedies rather than bright hopes. In this atmosphere, an internationalism revolving around individual rights surged, and it did so because it was defined as a pure alternative in an age of ideological betrayal and political collapse. It was then that the phrase "human rights" entered common parlance in the English language. And it is from that recent moment that human rights have come to define the present day.

To give up church history is not to celebrate a black mass instead. I wrote this book out of intense interest in—even admiration for—the

contemporary human rights movement, the most inspiring mass utopianism Westerners have had before them in recent decades. For today's utopians, it is surely the place to start. But especially for those who feel their powerful appeal, human rights have to be treated as a human cause, rather than one with the long-term inevitability and moral self-evidence that common sense assumes. Understanding better how human rights came to the world in the midst of a crisis of utopianism reveals not simply their historical origins but their contemporary situation much more thoroughly than other approaches. For their emergence in an age when other, previously more appealing utopias died came at a very high price.

The true history of human rights matters most of all, then, in order to confront their prospects today and in the future. If they do capture many longstanding values, it is equally critical to understand more honestly how and when human rights took shape as a widespread and powerful set of aspirations for a better and more humane world. After all, they have done far more to transform the terrain of idealism than they have the world itself. In and through their emergence as the last utopia after predecessors and rivals collapsed, the movement's most difficult quandaries were already set. Though they were born as an alternative to grand political missions—or even as a moral criticism of politics—human rights were forced to take on the grand political mission of providing a global framework for the achievement of freedom, identity, and prosperity. They were forced, slowly but surely, to assume the very maximalism they triumphed by avoiding.

This contemporary dilemma is what has to be faced squarely, yet history as celebration of origins will not help in doing so. Few things that are powerful today turn out on inspection to be longstanding and inevitable. And the human rights movement is certainly not one of them. But this also means that human rights are not so much an inheritance to preserve as an invention to remake—or even leave behind—if their program is to be vital and relevant in what is already a very different world than the one into which it came so recently. No

one knows yet for sure, in light of the inspiration they provide and the challenges they face, what kind of better world human rights can bring about. And no one knows whether, if they are found wanting, another utopia can arise in the future, just as human rights once emerged on the ruins of their predecessors. Human rights were born as the last utopia—but one day another may appear.

Humanity before Human Rights

"Each writer *creates* his precursors," Jorge Luis Borges writes in a wonderful meditation on Franz Kafka's relationship to literary history. "His work modifies our conception of the past, just as it will modify the future."[1] From the Greek philosopher Zeno on, through obscure and famous sources over the centuries, Borges presents a collection of Kafka's stylistic devices and even some of his seemingly unique personal obsessions—all in place before Kafka was born. Borges explains: "If I am not mistaken, the heterogeneous pieces I have assembled resemble Kafka; if I am not mistaken, not all of them resemble each other." How, then, to interpret these early texts? The earlier writers were trying to be not Kafka but themselves. And the "sources" were not sufficient to make Kafka possible on their own: no one would even have seen them as anticipating Kafka had he never emerged. Borges's point about "Kafka's precursors," then, is that there are no such things. If the past is read as preparation for a surprising recent event, both are distorted. The past is treated as if it were simply the future waiting to happen. And the surprising recent event is treated as less surprising than it really is.

The same is true of contemporary human rights as a set of global political norms providing the creed of a transnational social movement. Since the phrase was consecrated in English in the 1940s, and with increasing frequency in the last few decades, there have been many attempts to lay out the deep sources of human rights—but without Borges's awareness that surprising discontinuity as much leaves the past behind as consummates it. The classic case be-

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