

A Rights-Based Utopia?*

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A map of the world that does not include Utopia is not worth even glancing at, for it leaves out the one country at which Humanity is always landing. And when Humanity lands there, it looks out, and, seeing a better country, sets sail. Progress is the realisation of Utopias.

- Oscar Wilde, *The Soul of Man Under Socialism* (1895).

When we stop to think about what an ideal world would look like, it is striking to notice how quickly human rights enter the picture. So many of the staples of any plausible utopia are projects that have now been taken up in the name of human rights: the relief of global suffering; the protection of human dignity; the provision of equal economic and social opportunities to all; the purging of corruption and dishonesty from politics; the achievement of world peace; freedom from crime, fear, alienation, and torture; harmony with the planet, its ecosystems, and species; loving relationships, success, spiritual fulfillment, and even affordable (and unrestricted) internet access for all. All of these admirable goals have somehow become bound up with the idea of human rights as we commonly understand it today.

What is the significance of this imaginative entanglement between human rights on the one hand, and utopia, on the other? Well, for one, it means that many of our traditional utopian aspirations (e.g., peace, harmony, prosperity, and social advancement) have found expression in the modern idea of human rights. This has had the effect of exerting an outward pressure on such rights to incorporate more and more of what we deem good. For instance, Article 22 of the *African Charter on Human and Peoples' Rights* affirms a human right to “national and international peace and security.”¹ That there is a legally

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¹ 1998: <http://www.achpr.org/instruments/achpr/>.

posited human right to *world peace* is good evidence that such rights have become placeholders for almost any worthy cause whatsoever.

On the other hand, the inverse is also true. The Enlightenment idea of human rights – and, with it, the far older notion of a *right* – has found a secure home in our modern utopian imagination. The effect that this has had on our utopian ideals is not entirely clear. However, since it is doubtful that human rights bring with them some new concern that was hitherto neglected by our conceptions of utopia, it seems unlikely that our vision of utopia is in a parallel way pressured to *expand* as a result of its incorporation of human rights. Rather, it seems far more likely that our utopian imagination is in fact *restricted* by its preoccupation with rights. What I want to do in what follows is to try to clarify the nature of this restriction, and to highlight some of its dangers.

This essay is in part a response. Towards the end of his fascinating new book on the history of human rights, *The Last Utopia*, Samuel Moyn, a historian at Columbia University, asks whether human rights will be able to continue carrying the burden of their utopian status through the coming centuries or even decades.² Moyn is worried about the fate of human rights as a utopian ideal. But he never stops to consider the fate of utopia as a rights-based ideal. Nor does he consider how our utopian imagination, too, suffers burdens as a result of its connection with human rights. It is this blind spot in Moyn's analysis that I want to fill in.

I

One interesting thing to note about the hold that human rights have on our contemporary social and political imagination is how recent a phenomenon this is. The more or less standard story we're told about human rights is that (after a lengthy post-Enlightenment slumber) these rights recaptured the global imagination in the immediate aftermath of the Second World War and, in particular, the Holocaust. Most importantly, it was widespread and acute postwar revulsion to Nazi brutality that culminated in the international signing of the influential 1948 Universal Declaration of Human Rights. Since then, so the story goes, what we've witnessed is the gradual dissemination of the moral wisdom embodied in that document, in the form of a growing affirmation of the

² Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge: Harvard University Press, 2010)

moral importance of human rights across the globe, and in the form of the progressive introduction of human rights into domestic and international law.³

This familiar narrative has been fiercely challenged by Moyn in his recent book. According to Moyn, the linearity of the history of human rights has been grossly overestimated. If we are prepared to resist the temptations of hindsight, he argues, at least two discontinuities in that history become apparent. First, the twentieth-century internationalist idea of human rights bears little resemblance to its Enlightenment or pre-Modern counterpart: while the former pretends to limit national sovereignty by making all governments answerable to certain universal standards of conduct, the latter had no such pretension. Second, Moyn goes to great lengths to show that even the twentieth-century history of human rights is far from linear. Contrary to popular belief, the immediate global reverberations created by the Universal Declaration itself were modest, and the full moral impact of the Holocaust only set in later on. In fact, it was not until the mid-to-late 1970s, Moyn argues, that an arbitrary confluence of factors created an environment in which human rights finally emerged as a genuinely viable social cause.

Before the 1970s, human rights were off the ideological and moral map, so to speak. Eclipsed by what were – until then – far more dominant social movements, human rights only emerged as a plausible ideological alternative after disenchantment with revolutionary communism and nationalistic anti-colonialism finally began to set in during the years of the Vietnam War. In fact, Moyn argues, it was precisely because human rights came off as ideologically and politically neutral – accommodating both communism and capitalism on the one hand, and nationalism and individualism on the other – that human rights then emerged as a safe bet for the ideologically disenchanted. Most importantly, human rights were innocent of the aggressive utopianism that brought their alternatives to ruin. They did not require a commitment to manifestly violent processes of political and social upheaval in the way that communism and anti-colonialism did. Nor were they incompatible with communism in a way that would demand foreign interventions like the Vietnamese and Korean Wars. Human rights found success in representing a feasible, sober-minded, anti-political, anti-revolutionary, anti-utopian utopia, at the right historical moment. In this sense, human rights came to represent a kind of *last utopia*, hence the provocative title of Moyn's book.

³ For a history of this general form, see: Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001).

II

In his epilogue, Moyn expresses concern that, having come to play the role of a substitute for now-defunct utopian projects, human rights may implode under the enormous ideological pressure heaped upon them. One of those pressures is what Moyn calls the “burden of politics” (p. 226). Standing in as a substitute for earlier grand political visions, there is pressure on human rights to not only offer “a set of minimal constraints on responsible politics,” but to present a *bona fide* political programme of their own. However, because the original utopian appeal of human rights consisted precisely in their modest, ideologically neutral, and real-world character, there is a serious question as to whether that appeal can survive the process of politicization. Moyn’s implicit suggestion is that, in order to preserve their status as the *last utopia*, human rights must reticently call our attention to “a few core values that demand protection,” thereby making room for “new and other political visions that have yet to be fully outlined.”

I agree with Moyn that human rights should be seen as offering something less than a complete political program. It is precisely when we try to give them real institutional substance – say, by affirming a human right to representative democracy – that human rights begin to lose their aura of universality and descend into partisanship. This is perhaps the main reason why both the Universal Declaration and the International Covenant on Civil and Political Rights (1976) fall short of declaring a human right to “democracy” as such. The avoidance of political partisanship, however, need not be seen as a sign of moral infirmity or political compromise, let alone as an attempt to preserve the utopian status of human rights. Very often, it is better understood as motivated by the recognition that there is more than one way to satisfy human rights at an institutional level. Democracy has gained significant momentum over the course of the last century, and the more widespread democratic governance becomes, the less partisan the idea of a human right to democracy will be. Nevertheless, it will always be true that there are and have been other social forms, other non-democratic ways of organizing human society, under which people have been able to live perfectly decent and dignified lives. It wouldn’t make a great deal of sense, for instance, to ascribe a human right to democracy to the members of isolated tribes in the Amazonian rainforest. Given their unique isolation, history, and socio-political traditions, it seems more apt to say that the members of such tribes have an abstract right to political participation in their communities, rather than a specific right to democratic rule.

Another reason to resist the temptation to fully politicize human rights is that, after all, they are only *rights*. Rights are commonly understood to correlate with duties – duties assigned either to individuals or institutions, or both. The relevant duty might be to provide an individual with some good or service, or to refrain from mistreating them in certain ways. In either case, what is at issue in any claim of right are certain obligations that one agent owes to another, obligations strong enough to qualify as a matter of “right.” So, for example, when one is confident that strong corollary obligations exist, one might claim that “affordable access to higher education is not just a good thing, it is our *right*,” or that “ample paid paternity leave is his *right*,” or that “freedom from torture is a human *right*.” As such, rights are an extremely important part of our moral and political vocabulary; they structure our efforts to make others answerable to crucial interests, concerns, and vulnerabilities that we have as citizens and as human beings.

Yet, so much of what is important in politics escapes the purview of rights. Societies typically coalesce around a way of life that is oriented by certain basic values. These values – like the values of fairness and equality – can affect our thinking about the set of rights that we all possess, but such values can also affect our judgment about non-rights-related questions. For instance, a society will tend to endorse certain standards of good conduct towards strangers that have nothing to do with rights, as well as standards of loyalty and caring towards friends and family that are similarly non-rights-related. Those standards and values can have a momentous impact on what political life – essentially, our life as lived *together* – is like. They affect, for instance, what it’s like to travel on trains, to walk on the street, to buy groceries, or to do almost anything. Moreover, a society’s basic values address a host of questions that are simultaneously personal and political: questions about virtue (e.g., “what sort of person should I become?”), about personal fulfillment (e.g., “what will make me happy?”), and about daily life (e.g., “how should I spend my free time today?”). Much of what we learn from society consists in answers to intimate questions like these. And the social mechanisms of shame and esteem are ways of compelling us to answer such questions in the same way as everyone else. Despite its rhetorical emphasis on freedom (i.e., do what you want within the limits of everyone else’s rights), American society is heavily oriented not only by consumerist attitudes and practices, but also by the Romantic archetype of the self-made man.⁴ All this is to say that a comprehensive political vision simply

⁴ The latter is surprising given the unusually low rates of social mobility in the United States as compared to other high-income nations See: Tom Hertz, *Understanding*

cannot be formulated within the terms of rights alone, whether these are the rights of citizens or those of all human beings. Some consideration must also be given to a society's basic values and to the way(s) of life that they promote.

III

The same is true, to an even greater extent, of a utopian social ideal. Moyn is concerned with the ability of human rights to continue carrying the burden of representing the *last utopia*. In particular, he's concerned with the complex stresses that this status places on such rights. But what about the burden carried by the other participant in this relationship? What about the stresses exerted upon the utopian imagination by virtue of its habitual association with human rights? Here human rights have an impoverishing flipside. Of course, it is true that any plausible social ideal would respect the human rights of its members, and that a fully just world would, among other things, protect and promote the human rights of all persons. But this only begins to scratch the surface. For, a genuine utopia would be a world in which we not only find our rights and the rights of others respected, but also find ourselves *living well* both individually and collectively. That is to say, it would be a world in which the quality and satisfaction of our social interactions was high, in which we as individuals and society as a whole were productive in a variety of important ways, in which we would benefit from that productivity, and in which we would be able to properly look after not only others but, critically, ourselves. Much of the utopian appeal of Marxist humanism lay in its vivid description of what such a world would be like. But such a world cannot be depicted exclusively in the language of rights. A utopia has to be more than just a world in which reciprocal obligations are fulfilled, as a matter of *right*. In addition to being a world of giving, abstaining, and receiving (i.e., a world defined by rights), a utopia also has to be world in which we live a good life.

This means, among other things, knowing how to make *proper use* of our rights-based entitlements. Rights or entitlements can only help us live a good life up to a certain point. For instance, rights to education or to the free access of information can help us make good use of our rights to employment, liberty, and equal opportunity by increasing our knowledge of available options. But what we ultimately do with our social entitlements is up to us, and the choices that we make will either bring us closer to the good life or farther away from it. This

is why broader questions of value are so important to the description of a utopia. Would a utopian society be consumerist and materialistic? Or would it endorse some variety of Buddhist transcendentalism and realize a society-wide state of nirvana? Regardless of how we might answer these questions, the point is that a utopia cannot be merely a world of individual rights or entitlements. It must also be a social world that orients us towards the good, towards our own betterment, or towards making the *most* of our rights.

The fact that human rights have become the dominant ideology of our time has had the unfortunate effect of making us lose sight of this greater role for society. Instead of striving to cultivate human virtue or excellence in all its forms (athletic, intellectual, moral, artistic, etc.), we tend to think it is good enough for society to observe and enforce certain minimum constraints on action and politics. Well, perhaps this is an exaggeration. Not all of us are so complacent. Many of us do think that society is (and should be) in the business of promoting human virtue. But it is precisely this great expectation that is threatened by making politics and, even worse, *utopia* all about rights. For, once we have come to see human rights as not only necessary standards of politics, but also as the full embodiment of utopia – i.e., as describing the best of all possible worlds – we have in effect given up on the idea that there is anything more than rights that is worth striving for. That is a deeply cynical and ultimately dangerous form of complacency.

Such complacency is not only dangerous – because it shrinks our sense of what we can imagine and strive for – it is also unwarranted. We can and should expect more than just guarantees of rights from society, from politicians, and from others; our human betterment *depends* on our expecting and striving for more than that. And so, rather than worry about how we might preserve the utopian status of human rights into the future, which is one of Moyn's concerns, we ought to worry about just the opposite: how to *rescue* utopia from the clutches of human rights. This need not involve denying the importance or centrality of human rights in morality and politics. Rather, all it requires is that we adopt a sober distance from the ideological clichés of our times and allow human rights to simply remain there in their proper place, i.e., as rights and not as utopia.

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