

ARE HUMAN RIGHTS THE “LAST UTOPIA”?

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ABSTRACT

Samuel Moyn's 'The Last Utopia: Human Rights in History (2010)' is one of the most valuable and controversial contributions to human rights of the last decade. In this wide-ranging and critical book, Samuel Moyn, a professor of history at Columbia University, takes a different view that human rights are a relatively new invention. He draws a sharp distinction between the modern concept of human rights and older claims of rights, such as the rights of man from the Enlightenment and the revolutionary period. Moyn regards modern international human rights, in particular Universal Declaration of Human Rights, as 'the last utopia', which emerged in an age when other, previously more appealing utopias, died. By analysing Samuel Moyn's arguments, this paper attempts to address the question of whether modern human rights are the "last utopia" or not. In order to answer this question, this paper aims to discuss relevant historical and contemporary examples.

Key Words: Human Rights, Utopia, Modern International Human Rights, Samuel Moyn.

(İnsan Hakları “Son Ütopya” Mı?)

ÖZET

Samuel Moyn'un 'Tarihte Son Ütopya: İnsan Hakları (2010)' isimli kitabı son dönemlerde insan hakları üzerine yapılmış olan tartışmalara katkı sağlamış en değerli ve münakaşacı eserlerden bir tanesini oluşturmaktadır. Columbia Üniversitesi tarih bölümünde profesör olan Samuel Moyn'un bu geniş kapsamlı ve kritik kitabında özgün bir yaklaşım ortaya atarak insan haklarının yeni bir buluş olduğu görüşü dile getirilmektedir. Samuel Moyn modern insan hakları ile tarihin tozlu sayfalarında yer edinmiş insan hakları arasında keskin bir ayırım yapmaktadır. Yazar, çağdaş insan hakları anlayışını ve özellikle İnsan Hakları Evrensel Bildirisi'ni, Komünizm gibi misyonunu tamamlamış ütopyaların ardından gelen son ütopya olarak tanımlamaktadır. Bu çalışmanın temel amacı başta Samuel Moyn'un ortaya attığı ve akademik dünyada gündem oluşturan tartışmalı çalışmasını eleştirel bir şekilde analiz etmek ve insan haklarının son ütopya olup olmadığı sorusunu ayrıntılı bir şekilde incelemektir. Modern insan haklarının bir ütopya olup olmadığı sorusu, tarihsel süreç içerisinde yaşanmış önemli olaylar ele alınarak ve güncel dünyadan alıntılar yapılarak irdelenmeye çalışılacaktır.

Anahtar Kelimeler: İnsan Hakları, Ütopya, Modern Uluslararası İnsan Hakları, Samuel Moyn

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I. Introduction

Adopted by the General Assembly on December 10th, 1948, the Universal Declaration of Human Rights (UDHR), as a bulwark against oppression and discrimination, is one of the first major landmark achievements in world history¹. People and nations have increasingly recognised the importance of human rights as a fundamental part of social justice in today's world. Human rights, however, are not a recent invention, as discussion and protection of rights have been an important part of all communities throughout history.

Significant development in thinking about human rights had already taken place, with the emergence of important declarations and doctrines (such as the French and American Declarations) in the seventeenth and eighteenth centuries. Samuel Moyn's 'The Last Utopia: Human Rights in History' is one of the most interesting and controversial contributions to these debates. He views that there are radical differences between today's human rights and the rights of man, and argues that contemporary human rights became the last utopia because prior universalistic schemes collapsed. This raises the following questions: What is the difference between the contemporary vision of human rights and older claims of rights (such as the rights of man)? Is there a direct line of descent from the natural rights of the seventeenth century to human rights in their current form? Are human rights really a utopia, such as described by Samuel Moyn? Is the UDHR still more of a dream than a reality? If it is not a utopia, why does human rights violation still exist in every part of the world, in spite of the UDHR, the International Criminal Court and non-governmental organisations, such as the Human Rights Watch? Moyn's history provides a few clues to address these central queries.

In order to answer the above questions, it is, firstly, necessary to analyse Samuel Moyn's 'The Last Utopia: Human Rights in History'. This paper has two fundamental objectives. The first is to provide an analysis of Moyn's approach to human rights and the second is to ascertain whether human rights are a utopia or not, by discussing relevant examples.

II. Samuel Moyn's Approach To Human Rights In "The Last Utopia: Human Rights In History"

To understand the real strengths and limitations of the concept of human rights, Samuel Moyn, in "The last utopia: human rights in history",

¹ Ishay, M. (2010). The Universal Declaration of Human Rights at 60: a bridge to which future?. *Perspectives on Global Development & Technology*, 9 (1/2): 11-27

divides human rights' history into two eras and draws a sharp analytic distinction between them. The first era is the older claims of human rights from the age of Enlightenment and the revolutionary period (the U.S. Bill of Rights and France's Declaration). Seventeenth and eighteenth centuries' doctrines of natural rights and the rights of man, he argues, were about the construction of a new form of state sovereignty. They all predicated on belonging to a political community and forced all people to incorporate in a state. The basic outline of his argument is that human rights were born out of disillusion with utopias.

The second era is contemporary human rights, directed against state sovereignty. Today's human rights, Moyn argues, are, indeed, something of a recent phenomenon that has emerged as a pillar of United States foreign policy (under the administration of the president Jimmy Carter) and of international NGOs' communities, such as Amnesty International. He states that:

"The year of human rights, 1977, began with Carter's January 20 inauguration, which put 'human rights' in front of the viewing public for the first time in American history. This year of breakthrough would culminate in Amnesty International's receipt of the Nobel Peace Prize on December 10. Carter's inaugural address on January 20 made 'human rights' a publicly acknowledged buzzword" (p. 155).

Moyn claims that the ideas and values of modern human rights are not traced to the Enlightenment, nor to the French and American Declarations, nor to the humanitarian impulses of the 19th century and nor to the impact of the Holocaust after the Second World War. Instead, unlike the rights of man, they were born as an antipolitics and moral response to disillusionment with revolutionary political projects (such as communism), specifically the anticolonial independence struggles of the 1950s and 1960s (the decolonisation and independence of several African states after World War II), which had imploded. Utopian ideologies and systems characterised some of the most appalling political regimes of the twentieth century². To take an imperfect example, Joseph Stalin, Adolf Hitler and Mao governed on the basis that they had a vision of communism, with its promises of equality, an end to exploitation and a future society based on justice³. After the Second World War, these failed utopias inspired a new vision (modern

² Moyn, S. (2010). *The last utopia: human rights in history*. London: Belknap Press.

³ Starkey, H. (2012). Human rights, cosmopolitanism and utopias: implications for citizenship education. *Cambridge Journal of Education*, 42 (1): 21–35.

human rights), based on the universal notion of human dignity and equality of rights for a better world⁴.

Disillusionment with anticolonialism (the romance of third-world revolution) and communism led to the need for an alternative universalism, with moral hopes placed in a new internationalist 'utopia' of human rights against the failure of prior universalistic schemes. New collective public psychology, or popular imagination, has regarded a new concept of human rights as an alternative utopia of failed revolutionary projects. In other words, human rights emerged as a new utopia because other idealistic visions 'imploded'. The history of human rights moved from the politics of the state to the morality of the globe⁵.

Pheng Cheah criticises Moyn's human rights argument in that it is not acceptable to make a distinction between human rights, as they all have the same priority, which is to protect and promote the political, economic, social and cultural rights of human beings⁶. There is no doubt that different forms of politics and governance have shaped the discourse of human rights over the last centuries, but this does not make them different from contemporary human rights. In other words, there is a direct line of descent from the natural rights of the seventeenth and eighteenth centuries to modern concepts of human rights.

III. Are the Human Rights "The Last Utopia"?

How much is it possible to implement the UDHR all over the world? Do all countries, or human rights organisations, have enough resources and power to implement these human rights? In spite of the UDHR, why is human rights violation still a growing problem in all countries? Are human rights "the last utopia"? In order to address these questions, it is, firstly, necessary to analyse the UDHR.

III.I. The Framework of Modern Human Rights

On 10th December, 1948, in Paris, the General Assembly of the United Nations adopted and proclaimed the UDHR as a response to the horrors of World War II, by providing a comprehensive and indivisible

⁴ Klug, F. (2000). *Values for a godless age: The story of the UK's new Bill of Rights*. Harmondsworth, UK: Penguin

⁵ Moyn, S., a.g.e.

⁶ Cheah, P. (2013). Human rights and the material making of Humanity: a response to Samuel Moyn's. *Qui Parle: Critical Humanities and Social Sciences*, 22 (1): 55-61.

conception of human rights⁷. This declaration is a milestone document in the history of human rights. It consists of 30 articles that set out a range of fundamental human rights and freedoms to which all human beings, everywhere in the globe, are entitled. They are the first global expression of rights to which all women and men are inherently entitled. Moreover, 192 member states of the United Nations have signed in agreement with the UDHR, governed by the rule of law⁸ ⁹. This means that the Universal Declaration of Human Rights is a universal phenomenon, and not regional or domestic. It has been accepted as a contract between a government and its people throughout the world.

The UDHR has managed to develop successfully from the politically hazardous processes of the Second World War to become the human rights flagship of the whole world. The International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966 and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1975, an international human rights instrument, are multilateral treaties adopted by the United Nations General Assembly, as part of the Universal Declaration of Human Rights¹⁰. They became a pillar of the new international order and are now an increasingly powerful instrument for the achievement of human dignity and peace for all human beings in the world.

The UDHR sets a standard of rights for all human beings (whether men or women, white or black, communist or capitalist, Muslim or Christian, victor or vanquished, rich or poor and members of a majority or a minority in the society) to have human rights and freedoms. However, it is important to stress that having a human right should not be confused with enjoying the substance or protection of that right. The UDHR declares a number of rights and rules, as with other failed utopias, for a better world. The most important question is: Can the UDHR (as a human rights flagship) be implemented practically, or is the UDHR a dream, like other previous utopias? The implementation of these human rights requires resources that most countries presently lack¹¹, and there is no doubt that human rights are meaningless without the protection and implementation of them. |

⁷ Ishay, M. (2010). The Universal Declaration of Human Rights at 60: a bridge to which future?. *Perspectives on Global Development & Technology*, 9 (1/2): 11-27.

⁸ Hugres, G. (2011). The concept of dignity in the Universal Declaration of Human Rights. *Journal of Religious Ethics*, 39 (1): 1-24.

⁹ Neier, A. (2013). Between Dignity and Human Rights. *Dissent*, 60 (2): 60-65.

¹⁰ Andrassy, G. (2012). Freedom of language: A universal human right to be recognised. *International Journal on Minority and Group Rights*, 19 (2): 195-232.

¹¹ Nickel, James W. (1982). Are human rights utopian?. *Philosophy & Public Affairs*. 11 (3): 246-264.

completely agree with Samuel Moyn in that the modern concept of human rights (particularly the UDHR) is the last utopia, that cannot be implemented perfectly in today's world, despite the co-operative network of non-state actors and international institutions. Of course, this does not mean that human rights are useless. We should not underestimate the importance of today's human rights that have, more or less, made a valuable contribution to the protection of human dignity.

III.II. Why Are Human Rights "The Last Utopia"?

The modern concept of human rights is 'the last utopia', because it has never been implemented fully on earth until now. To be more precise, human rights have increasingly been violated, or are under threat of violation, all over the world. War crimes, genocide, torture, slavery, rape, enforced sterilisation or medical experimentation, deliberate starvation, discrimination and so on still exist in most countries. According to the Amnesty International's 2009 World Report¹², violations that increasingly occur against human rights include unfair trials in at least 54 countries, torture and abuse in at least 81 countries and restricted freedom of expression in at least 77 countries, in addition to racial discrimination, sexual harassment, early marriage and child labour. These few examples demonstrate full realisation of human rights is a remote and unattainable goal to achieve.

The first reason why human rights violation increasingly occurs is that there is no sufficient agreement about when, to what extent and in which situation outside countries can engage in humanitarian intervention. Co-operation is essential to protect human rights, and, in particular, to prevent genocide. Nicolas Rost¹³ claims that more people have been killed by genocides than have been murdered in wars, from the end of the Second World War until 2001. According to Barbara Harff¹⁴, 22 million people have been killed in genocides and approximately 16 million people have been killed in civil wars (in total, about 38 million people) between 1945 and 1999. We should add the Iraq War (between 2003-2011), the Civil War in Syria, the Darfur Genocide, etc. to this list. To take an imperfect example, the

¹² Amnesty International (2009). State of the World's right. Available from: <<http://report2009.amnesty.org/>> [Accessed 10th Jan 2015].

¹³ Rost, N. (2013). Will it happen again? On the possibility of forecasting the risk of genocide. *Journal of Genocide Research*, 15 (1): 41–67.

¹⁴ Harff, Barbara (2003). No lessons learned from the Holocaust? Assessing risks of genocide and political mass murder since 1955. *American Political Science Review*, 97 (1): 57-73.

Rwandan Genocide started in the spring of 1994 and an estimated 800,000 people were killed in only 100 days. Similarly, the Srebrenica genocide took place in 1995, and more than 8 thousand Bosniaks (Bosnian Muslims), mainly men and boys, were killed in the UN-protected "safe havens" in Bosnia and Herzegovina, in spite of the United Nations Protection Force. In addition to the genocide, approximately 20,000 civilians were expelled from the area (this process is known as ethnic cleansing)¹⁵. It is important to stress that this did not happen two or three hundred years ago, but took place in an age when modern human rights have existed all over the world, such as now. There is no doubt that we did not learn any lessons from both the Rwandan and the Srebrenica genocides, because it still exists in today's world and human rights have failed to prevent it. For example, the Darfur Genocide began in 2003 and continues today. More than 500,000 people have been killed and over 2.8 million people are displaced¹⁶. It is a current mass slaughter and rape of Darfuri men, women and children in Western Sudan.

Why did international bystanders fail to act to prevent or stop the genocides in Rwanda, Srebrenica and Darfur? In spite of the fact that the United Nations made a very important reform, with the office of the Special Adviser on the Prevention of Genocide being established in 2004, in order to prevent genocide¹⁷, legal tools and institutions failed to stop genocide in Rwanda (1994), Srebrenica (1995) and Darfur (since 2003). According to the Amnesty International report¹⁸, both Russia and The People's Republic of China have supplied arms and ongoing conflict. This shows that the main reason why it still continues today is disagreement between states. For the protection and implementation of human rights, co-operation and agreement between member states of the United Nations are a pre-condition.

The second reason why human rights cannot be implemented is that most of the states, or non-states actors, breach a part of the UDHR treaty or other international human rights, because of economic, political and social reasons. They abuse, ignore or deny basic human rights, in spite of the

¹⁵ Grunfeld, F. and Vermeulen, W. (2009). Failures to prevent genocide in Rwanda (1994), Srebrenica (1995), and Darfur (since 2003). *Genocide Studies and Prevention*, 4 (2): 221-237.

¹⁶ Prunier, G. (2005). *Darfur: the ambiguous genocide*. Ithaca, N.Y. : Cornell University Press.

¹⁷ Mennecke, M. (2009). *Genocide Prevention and International Law*. *Genocide Studies and Prevention*, 4 (2): 167-175.

¹⁸ Amnesty International (2007). Sudan: arms continuing to fuel serious human rights violations in Darfur. Available from: <<http://www.amnesty.org/en/library/info/AFR54/019/2007>>. [Accessed 10th Jan 2015].

UDHR and the presence of international watchdogs. For example, it was discussed that Armenian genocide claims (it is claimed that the 1915 Armenian Genocide was committed by Ottoman Turkey) denial would become a crime in France in 2012¹⁹, but the UDHR states (Article 19) that: *"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers"*²⁰. If we have the right to freedom of opinion and expression (according to the UDHR), why are we not free to express opposing ideas about the events of 1915? Undoubtedly, it was a political decision to obtain the votes of Armenian people living in France.

Another interesting example is the United States military inventions. Although US diplomats were influential in drawing up the 1948 UDHR, the country is very often criticised by human rights organisations. The UDHR states (Article 13) that: *"Everyone has the right to life, liberty and security of person"*²¹. As a result of American military invention, an estimated 500,000 people (including up to 134,000 civilians) have been killed in Iraq between 2003 and 2011. It is important to note that approximately 50 countries (including the United Kingdom) deployed troops to Iraq²². This means that 50 countries, along with the United States, committed human rights violations and caused thousands of deaths. Why do they not deploy troops to Darfur to stop the genocide? Is it because Darfur does not have rich underground resources? According to Burhan Al-Chalabi²³, the main purpose of the US was to control Iraq's vast oil and gas resources. Very briefly, all these relevant examples show that the implementation of human rights is a utopia.

IV. Conclusion

This paper has investigated whether human rights are 'the last utopia' or not, by analysing Samuel Moyn's controversial argument in 'The Last Utopia: Human Rights in History'. Moyn claims that today's human

¹⁹ Kahn, R. A. (2014). Should It Matter Where Genocide Denial Is Banned? A Critique of the Nexus Argument. *A Critique of the Nexus Argument*, 14-32.

²⁰ Donnelly, J. (2013). *Universal human rights in theory and practice*. Cornell University Press.

²¹ Kahn, R. A., a.g.e.

²² Subramanian, C. (2013). New study estimates nearly 500,000 died in Iraq War. Available from: < <http://world.time.com/2013/10/15/new-study-estimates-nearly-500000-died-in-iraq-war/>> [Accessed 15th January 2015].

²³ Al Chalabial, B. (2014). Why the US should apologise. *New Statesman*, 143 (4): 16-16.

rights emerged as a moral response to disillusionment with revolutionary political projects. Failed utopias (such as communism) inspired a new vision and human rights have become the last utopia, as an alternative to previous utopias. I completely agree with Samuel Moyn's human rights' argument that the modern concept of human rights is 'the last utopia', because implementation of human rights all over the world is an unattainable purpose to achieve. Violations still exist in every part of the world, in spite of many human rights documents, organisations and human rights observers. While 192 member states of the United Nations have signed in agreement with the Universal Declaration of Human Rights, practically no member states implement the UDHR perfectly. Most of them continue to commit serious human rights violations, such as genocide and war crimes.

There are two important reasons why human rights are a utopia. First is that there is no universal agreement between the member states of the UN (particularly between the Western Bloc and the Russian Federation) about when, to what extent and in which situation outside countries can engage in humanitarian intervention. They do not have a consensus on the Darfur crisis, the Civil War in Syria or Iraq military interventions. Second is that some states tend to systematically abuse human rights, or commit violations, for political and economic purposes, whilst being responsible for the protection of human rights. Very briefly, it appears to me that full realisation of human rights is a remote and unattainable goal to achieve, as the actual situation throughout the globe is far distant from the ideals envisioned in the UDHR.

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