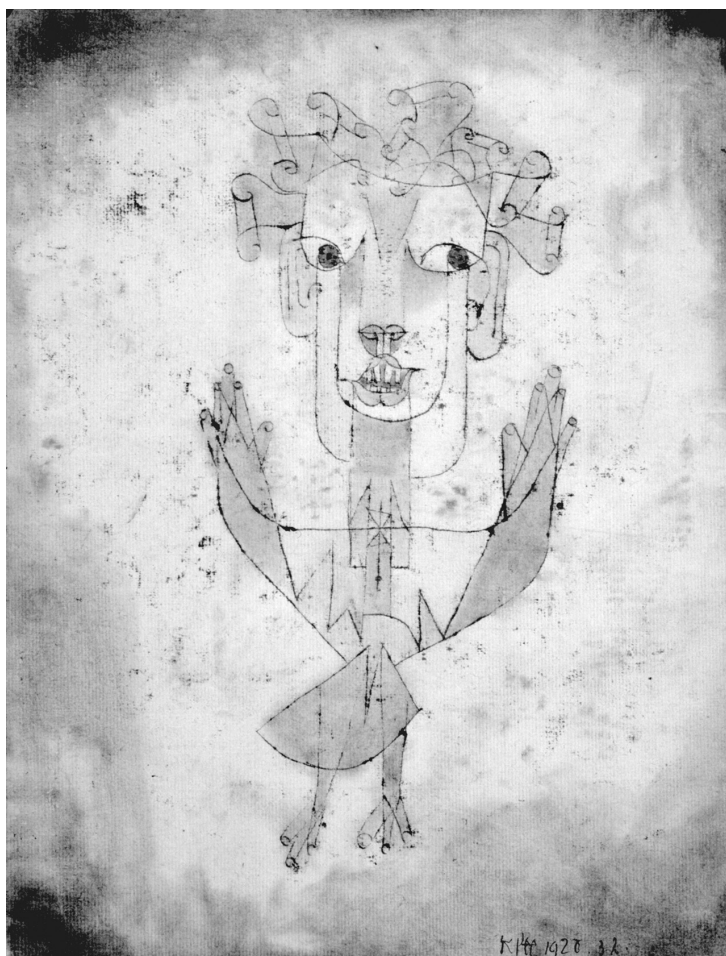


# Introduction



*Angelus Novus* by  
Paul Klee, 1920.  
Courtesy of the Israel  
Museum, Jerusalem.

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**T**HERE ARE MANY HISTORIES. While some are written from the vantage point of the conquerors and oppressors, this book belongs to another tradition: that which gives voice to the oppressed. Rather than revel in the victors' parading of their slaves and the defeated, it harvests the hopes of the victims. It is not mesmerized by orators' charisma but remains attentive to the recurring dissonance between self-satisfied rhetoric and social reality. It does not leave optimism regarding humankind's noblest aspirations in the dustbin of history but follows messengers of hope through the cynicism characterizing human tyranny. It does not privilege the messianic aspirations of a single generation but recognizes the dedication of a host of human rights couriers over time.

Human rights are thus seen here as the result of a cumulative historical process that takes on a life of its own, *sui generis*, beyond the speeches and writings of progressive thinkers, beyond the documents and main events that compose a particular epoch. Inspired by a critical theoretical approach, this book presupposes that ideas and events are carried over from one era to another, through the media of historical texts, cultural traditions, architecture, and artistic displays. In this respect, it departs from realist perspectives on history, which privilege power over morality as the ultimate driving force of history, or postmodern interpretations of history, which question the progressive linearity of events in favor of a disconnected understanding of local discourses.<sup>1</sup> If the spirit of a time seems to meander whimsically and dangerously around the volcanic craters of social upheavals, it is transmitted consciously and unconsciously from one generation to another, carrying the scars of its tumultuous past. "There is no document of civilization," the critical theorist Walter Benjamin reminds us, "which is not at the same time a document of barbarism; barbarism taints also the style in which it was transmitted from one owner to another."

Barbarian and repressive policies, however, also tend to shape the direction of the social reaction. A human rights document may be marred by barbarism, yet, adding to Benjamin's observation, it is also a barom-

eter of human rights progress. One may thus think of the history of human rights as a journey guided by lampposts across ruins left behind by ravaging and insatiable storms. In Benjamin's eloquent description of Paul Klee's painting *Angelus Novus* (The angel of history):

[The] face [of the angel of history] is turned toward the past. Where we perceived a chain of events, he sees a single catastrophe which keeps piling wreckage and hurls it in front of his feet. The angel would like to stay, awaken the dead, and make whole what has been smashed. But a storm is blowing from Paradise; it has got caught in his wings with such violence that the angel can no longer close them. This storm irresistibly propels him into the future to which his back is turned, while the pile of debris before him grows skyward. This storm is what we call progress.<sup>2</sup>

#### THE DEFINITION, THE ARGUMENT, AND SIX HISTORICAL CONTROVERSIES

Human rights are rights held by individuals simply because they are part of the human species. They are rights shared equally by everyone regardless of sex, race, nationality, and economic background. They are universal in content. Across the centuries, conflicting political traditions have elaborated different components of human rights or differed over which elements had priority. In our day, the manifold meanings of human rights reflect the process of historical continuity and change that helped shape their present substance and helped form the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations in 1948. René Cassin, one of the main drafters of the document, outlined the central tenets of human rights, comparing the declaration to the portico of a temple.

Drawing on the battle cry of the French Revolution, Cassin identified the four pillars of the declaration as "dignity, liberty, equality, and brotherhood." The twenty-seven articles of the declaration were divided among these four pillars. While Cassin divided the articles conceptually, a modest redivision of the Declaration's articles among those pillars enables us to view them in terms of major historical milestones in the advance of human rights. Under this revised scheme, a first pillar, constructed out of the first two articles, stands for human dignity, which is shared by all individuals regardless of race, religion, creed, nationality, social origin, or sex; a second pillar, composed of articles 3–19 of the declaration, invokes the first generation of civil liberties and other liberal rights that were fought for during the Enlightenment; a third pillar,

consisting of articles 20–26, addresses the second generation of rights, those related to political, social, and economic equity and championed during the industrial revolution; the fourth, representing articles 27–28, focuses on the third generation of rights, those associated with communal and national solidarity as advocated during the late nineteenth century and early twentieth century and throughout the post-colonial era. In a sense, the sequence of the articles corresponds to the historical appearance of changing visions of universal rights.<sup>3</sup>

Yet in historical reality, each major stride forward was followed by severe setbacks. The universalism of human rights brandished during the French Revolution was slowly superseded by a nationalist reaction incubated during Napoleon's conquests, just as the internationalist hopes of socialist human rights advocates were drowned in a tidal wave of nationalism at the approach of World War I. The human rights aspirations of the Bolshevik Revolution and of two liberal sister institutions, the League of Nations and the International Labor Organization (ILO), were crushed by the rise of Stalinism and fascism during the interwar period; the establishment of the United Nations (UN) and adoption of the Universal Declaration of Human Rights were eclipsed by intensifying nationalism in the emerging Third World and global competition between two nuclear-armed superpowers. Finally, the triumphant claims made after 1989 that human rights would blossom in an unfettered global market economy were soon drowned out by rising nationalism in the former Soviet Union, Africa, the Balkans, and beyond.

This is not to say that reactionary forces have completely nullified each phase of progress in human rights. Rather, history preserves the human rights record as each generation builds on the hopes and achievements of its predecessors while struggling to free itself from authoritarianism and improve its social conditions. Yet throughout history, human rights projects—whether liberal, socialist, or “Third World” in origin—have generated contradictions concerning both how to promote human rights and who should be endowed with equal human rights. For instance, as it became clear during the nineteenth century that the masses of ordinary working people had been excluded from the liberal vision of the Enlightenment, a new socialist conception of internationalism laid claim to universal human rights promises. Furthermore, while the rise of the modern state was originally justified by claims that it would promote universal human rights, the subsequent prevalence of *realpolitik* and particularism inspired nineteenth- and twentieth-century efforts to embody universalism in a succession of international organizations.

If inconsistencies within each project exposed the boundaries of this or that worldview, they also moved the history of human rights forward. At the same time, the contradictory achievements of each human rights project contributed to the rise of nationalism and cultural rights. Ironically, these particularist perspectives, though directed against universalist promises, became an integral part of the Universal Declaration of Human Rights and subsequent human rights covenants, and have remained a continuing source of division within the human rights community.

Using the main points developed in the UN Declaration of Human Rights to chronicle the clashes of ideas, social movements, and armies that comprise the history of human rights, this book also engages six core controversies over human rights that have shaped human rights debate and scholarship. Thus, the historical record is offered in part to clarify several misconceptions that persist both within and outside the human rights community.

*The first controversy* concerns the origins of human rights. I argue that despite any temptation—especially after the events of September 11, 2001—to view religion as antithetical to a secular view of universal rights, each great religion contains important humanistic elements that anticipated our modern conceptions of rights. This does not mean that all religious contributions were equal, however, or that there is a perfect continuum from ancient to modern thinking about human rights (see chapter 1). *The second controversy* concerns the claim, which I endorse, that our modern conception of rights, wherever in the world it may be voiced, is predominantly European in origin (see chapter 2). To say that our current views of universal rights originated in the West, however, should not imply that Western rights are reducible to free-market liberalism. Despite faddish assertions that the end of the cold war represented liberalism's victory over the socialist challenge to human rights, the human rights vision currently depicted as liberal was in fact indelibly molded by the socialist ideals that grew out of nineteenth-century industrialization. The extent of modern liberalism's indebtedness to socialist thought represents the *third controversy* over human rights (see chapter 3).

The twentieth century witnessed popular assertions that cultural rights are necessary defenses against either liberal or socialist conceptions of human rights, since these conceptions presumably represent the oppressive legacy of Western domination of the rest of the world. Reminding the reader that nationalist and culturally focused arguments originated within nineteenth-century Europe, I take the position in this *fourth controversy* that demands for cultural rights must always be informed by

and checked against a universalist perspective of human rights (see chapters 3, 4, and 5). At a time when proclamations of an “end of history” have been mocked by terrorists who, more dramatically than ever before, reject the very notion of universal rights, and when political realists triumphantly reassert that history is only the dismal repetition of power struggles and wars, it may be questionable, as *the fifth controversy* considers, whether there is such a thing as historical progress. Here, I will argue that human rights are not antithetical to realism, but rather complementary to sound realist policies. Further, in the post–September 11 environment, it is precisely progress in the worldwide implementation of universal rights that will most reliably advance the security goals so cherished by realists (see chapter 5). Finally, carving a middle position in a *sixth controversial* debate over whether globalization is a boon or a threat from a human rights perspective, this book draws on the legacy of history to consider broad strategies for the advancement of human rights in the twenty-first century (see chapters 5 and 6).

### *The Origins of Human Rights*

When embarking on a history 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 suggested the triumph of one particular worldview over another: Friedrich Hegel’s vision of history ending with the birth of the Prussian state celebrated the German liberal and cultural views of his time over others; Karl Marx’s prediction that history would end with the withering 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, the question of the beginning of a history tends to privilege 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 and some advocates of African and Third World studies.

Tracing the origins and evolution of human rights will inescapably invite a similar debate. Those who are skeptical about the achievements of Western civilization are correct to point out that current notions of moral-

ity 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 concepts of progressive punishment and justice were professed by Hammurabi's Code of ancient Babylon; the Hindu and Buddhist religions offered the earliest defenses of the ecosystem; Confucianism promoted mass education; the ancient Greeks and Romans endorsed natural laws and the capacity of every individual to reason; Christianity and Islam each encouraged human solidarity, just as both considered the problem of moral conduct in wartime.

The first chapter of this book documents such connections between ancient values and modern human rights. Notwithstanding the different rituals and moral priorities associated with each of these traditions, all share basic views of a common good. This of course should not imply that all individuals were perceived as equal under any ancient religious or secular aegis. From Hammurabi's Code to the New Testament to the Quran, one can identify a common disdain toward indentured servants (or slaves), women, and homosexuals—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 similarities are noteworthy, they should not overshadow one of history's most consequential realities: it has been the influence of the West, including the influence of the Western concept of universal rights, that has prevailed.

### *The Enlightenment Legacy of Human Rights*

If the civilizations and ethical contributions of China, India, and the Muslim world towered over those of medieval Europe, it is equally true that the legacy of the European Enlightenment, for our current understanding of human rights, supersedes other influences. The necessary conditions for the Enlightenment, which combined to bring an end to the Middle Ages in 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 prospects for the development of modern conceptions of human rights. They ultimately shattered feudalism and challenged the previously uncontested divine rights of kings.

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.

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 exception of revolutionary France), women had 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 argue that the Enlightenment human rights legacy represents little more than an imperialist masquerade aimed at subduing the rest of the world under the pretense of promoting 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 language of power and the language of resistance were simultaneously born in the cradle of the European Enlightenment. The Enlightenment thinkers not only invented the language of human rights discourse, they discussed issues that continue to preoccupy current human rights debates. Now as then, we find ourselves pondering the role of the state as both the guardian of basic rights and as the behemoth against which one's rights need to be defended. Both during the Enlightenment and 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 national interest." Further, we are still embroiled in Enlightenment debates over whether a laissez-faire approach to markets is the best way to promote democratic institutions and global peace, as Immanuel Kant and Thomas Paine contended, and we remain engaged in the Enlightenment argument over when and how one may justly wage war. The current

forms of these debates, one should add, are not merely a contemporary variant of the liberal tradition but have been modified and enriched by the socialist contribution.

### *The Socialist Contribution to Human Rights*

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. Despite the important socialist contribution to 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, this book nevertheless attempts to correct the historical record by showing that the struggles for universal suffrage, social justice, and workers' rights—principles endorsed in the Universal Declaration of Human Rights (articles 18–21) and in the two International Covenants adopted by the United Nations in 1966—were socialist in origin.

Indeed, the Chartists in England and 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 by the Chartist and socialist movements. As Marx put it in the *New York Daily Tribune* in 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.”<sup>4</sup>

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 workingwomen. 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 organize trade unions, child welfare, universal suffrage, restriction of the workday, the right to education, and other

social welfare rights. Most of these principles were encapsulated in the 1966 International Covenant on Economic, Social and Cultural Rights. By then, these key elements of the original socialist platform had long been embraced as mainstream tenets of liberalism.

### *Cultural Relativism versus Universalism*

One of the most intense debates within the human rights community is the one pitting universalists of liberal or socialist persuasions against cultural relativists. Three historical misconceptions, each of which requires explanation, have confused this debate. The first is the tendency to lump together second- and third-generation rights. The second is the effort to collapse first- and second-generation rights into a single Western perspective. The third is rooted in ignorance of the Western roots of third-generation rights.

Fusing socialist and cultural rights views (or second- and third-generation rights) into one philosophical tradition, as implied by the language of the International Covenant on Economic, Social and Cultural Rights, overlooks important differences that exist between these two traditions. For instance, “second-generation” socialists have long criticized the “third-generation” conception of group rights or rights to self-determination. Indeed, the notion of the right to self-determination, as defined by various international bills of rights, fails to specify which nationality or group should end up being favored over another when their claims conflict. Given the abuses that have occurred in the name of national and cultural rights since the end of the cold war, contemporary human rights advocates would profit from a familiarity with the criteria offered by late-nineteenth- and early-twentieth-century socialists for distinguishing between legitimate and illegitimate claims on behalf of groups.

Efforts to fuse liberal and socialist perspectives on rights (first- and second-generation rights) into one Western philosophical tradition echo the current Third World litany against Western cultural values, or what Samuel Huntington described in terms of “the West versus the Rest.”<sup>5</sup> After centuries of colonialism and an accelerating globalization process dominated by Western media, Western technology, Western values, and Western products, arguments employed to defend the alleged uniqueness of non-Western cultural traditions against Western values (or vice versa) may seem almost farcical. Weren’t the great leaders of the anti-colonial national liberation movements, like Jawaharlal Nehru, Léopold Senghor,

and Ho Chi Minh, educated in the West, and weren't their agendas clearly indebted to different strands of the Western human rights tradition? Don't many clauses of the International Covenant on Economic, Social and Cultural Rights incorporate first- and second-generation rights traditions of obviously Western origin? What should we make of appeals to national or ethnic solidarity that completely ignore the Western human rights tradition? There may be, one should note, a questionable motive for selectively insisting on group or cultural rights, since failing to qualify those rights can ultimately provide dominant elites in particular societies opportunities to oppress individuals and religious and cultural minorities for not fitting with their self-serving conceptions of traditional values. At the same time, it is worth noting that a universal human rights agenda insensitive to existing power relations may serve as a tool with which to mask the particular national interests of powerful countries.<sup>6</sup>

More specifically, antagonism between liberal (first-generation) and developing world (third-generation) rights discourses currently plagues the human rights community. That division is based on the assumption that Western values are associated largely with individual civil and political rights, whereas people in developing countries emphasize rights related to the welfare of groups consistent with their cultural and religious traditions.<sup>7</sup> Many defenders of such cultural rights are forgetful or unaware of nineteenth-century European adherence (particularly among Italians and Germans) to the notion of cultural rights, a principle that was employed in the struggle against unqualified individualism and the Enlightenment's conception of universalism. The nationalist writings of Johann Gottlieb Fichte, Giuseppe Mazzini, John Stuart Mill, and Theodor Herzl, among other social thinkers of the nineteenth century, foreshadowed the twentieth century's quest for the codification of the right to self-determination.<sup>8</sup>

This book sheds light on these misunderstandings. A key point is that cultural relativism is a recurrent product of a historical failure to promote universal rights discourses in practice, rather than a legitimate alternative to the comprehensive vision offered by a universal stand on justice.<sup>9</sup> The invocation of cultural rights tends to occur when a specific group feels deprived of political, social, and economic rights. Inspired by a radical perspective on Kantian ethics—as discussed by critical theorists like Ernst Bloch, Lucien Goldman, Jürgen Habermas, and many others—this book upholds, however, a flexible conception of international justice. It emphasizes the importance of conducting dialogues across cultures in a spirit of tolerance, it respects the indivisible and in-

alienable notions of universal political, social, and economic rights, yet it is sensitive to the various socioeconomic and cultural circumstances that have historically privileged the emergence of certain conceptions of rights in particular parts of the world.

*The Tension between Security and Human Rights*

Once again, at the beginning of a new millennium, we find particularism and nationalism undermining universal human rights aspirations, confirming the views of relativists and realists that human rights do not progress, but rather wax and wane along with a cyclical pattern of history. Against that view, this book argues that those human rights themes that survive the tests and contradictions of history provide in the long run a corpus of shared perceptions of universal human rights that transcends class, ethnic, and gender distinctions. Indeed, despite various setbacks, the history of human rights shows a clear dimension of progress: slavery has been abolished (even if vestiges, intolerable though they may be, remain), women in most of the world have been granted the right to vote, and workers are endowed with more social and economic protection than ever before. While the victims of one era have sometimes emerged as avenging aggressors in the next, they have been, however, more likely to reappear as powerful human rights crusaders. The propertyless Fourth Estate of the eighteenth century would become the revolutionaries of 1848 and 1871, just as eighteenth-century Jacobin women and rebellious slaves would energize the suffragettes and abolitionists of the nineteenth century. Moreover, the marginalization of colonized peoples gave way to successful anti-colonial struggle following World War II, and so on.

Of course, some realists were eager to point out in the aftermath of September 11, 2001, that the seemingly enhanced post-cold war role for human rights in foreign policy has now been reversed, revealing the true face of a history condemned, like Sisyphus confronting his eternal curse, to the struggle of power against power. Human rights must be seen, according to this view, at best as subordinate to security objectives, at worst as antithetical to security. Indeed, the emergency Patriot Act signed by President George W. Bush six weeks after the World Trade Center and Pentagon attacks shows the fragility of such freedoms in times of war, as does increased support for some repressive regimes in the name of the war on terror. Challenging this perspective, this book argues that the vulnerability of national borders in our era of globalization calls now more

than ever for the development of a broader strategy of security founded on human rights and global economic welfare.

*Does Globalization Advance Human Rights?*

Calling for a human rights-oriented security strategy begs, however, a broader question: Is globalization promoting or undermining human rights prospects? While there is clear evidence that globalization coincides with a widening gap between the rich and the poor within societies and between rich and poor countries, the information age has redefined and created new spatial opportunities for human rights. With the globalization of the economy and communications and the emergence of developing post-colonial states, new rights have been added to the human rights corpus. These include rights to a healthy environment, to sustainable development, to culture, to immigration, and to political asylum.

Yet even as rights are redefined and widened, how can we effectively protect the rights of workers and the less privileged when the state is ever more vulnerable to market pressures and more constrained in its role as a buffer against the ill effects of global economic forces? At a time when there is widening agreement that sovereignty should not protect regimes that stifle human rights, should international human rights monitoring agencies be further empowered? If so, can these agencies maintain their effectiveness when democratic forces at the national level may be weakening, nationalism is rampant, and the private realm is under tighter control?

Examining the roles of the state, civil society, and the private realm as agents of change throughout history provides important insights into ways to optimize human rights prospects for the future. This book concludes with a review of the changing spatial and institutional dynamics of human rights interaction at critical historical junctures: the Middle Ages, the Enlightenment, the industrial revolution, the anti-colonial struggle, and the age of globalization. For example, railroads and the industrial revolution helped create new forums for social protest (trade unions, labor movements, etc.). Today, one may wonder whether information technology and globalization have created superior human rights opportunities (e.g., proliferating nongovernmental organizations and human rights websites), or whether the decline of older forms of social resistance (public rallies, strikes, etc.) outweighs the alleged advantages of the information age. In other words, one may ask whether we have too hastily deserted the old public spaces of human rights politics in exchange

for the magical realism of the Internet, and whether the private realm is growing progressively more vulnerable to surveillance and control.

#### STRUCTURE

Each of the chapters that follow is divided into four corresponding parts: a historical background focusing on select critical events that helped launched the most important human rights campaigns; the main human rights themes of each period, broken down into several subsections; a review of the debate, within each period, over acceptable ways to promote human rights; and a discussion of the inclusiveness of prevailing views of human rights during each period, that is, a chapter-by-chapter response to the question, human rights for whom?

This book attempts to provide a useful path for navigating through the main historical events, speeches, and legal documents that led up to the ratification of the 1948 Universal Declaration of Human Rights. While highlighting the pre-Enlightenment period, chapter 1, unlike subsequent chapters, does not emphasize any specific historical period. It shows how Cassin's major human rights themes were indebted to ancient views of tolerance, social and economic justice, just war, and universality. These themes, as laid out in chapter 1, guide the chapters that follow. Consistent with that structure, the analysis of the relatively shorter period since 1948, and in particular the treatment of our current globalized era, relies more on an imagination stretching to grasp the direction toward which the forces of history are blowing the winds of social change. In an effort to reach an intelligent lay audience that may have limited patience with technical language and abstract theoretical speculation, this book addresses questions of academic and political importance in ordinary prose. For the scholar, the student, the activist, and the wider community concerned with human rights, this history can help illuminate the controversies and commonly held misconceptions that continue to beset the human rights debate.