

The Paradoxes of Human Rights

An analysis of the contradictions of human rights through Robert Meister, Costas Douzinas, and Hannah Arendt

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ABSTRACT: This paper examines mainstream human rights discourse and its failure in being upheld within society. The paper is analyzed through prominent political philosophers like Robert Meister, Costas Douzinas, and Hannah Arendt but with a greater emphasis on Meister's phenomena of Transitional Justice. This paper is divided into four sections where each political thinker provides their skepticism on human rights and ends off with its broader implication through current movements like Black Lives Matter.

KEYWORDS: United States, Counterterrorism, Transitional Justice, Black Lives Matter, Human Rights Discourse, Truth and Reconciliation

Human rights discourse is understood as basic rights and freedoms that belong to every person in the world, from birth until death. Human rights are universal and inalienable in the sense that it goes beyond confined borders and is directly related to global citizenship, for we have a collective responsibility to uphold these inherent rights. Morality becomes the center of the matter where the principle of sameness dictates that political interests cannot transcend or compete with the rights that belong to all of us at the most natural level. This human rights discourse is affirmed through the Universal Declaration of Human Rights (UDHR) which sets out the framework of our fundamental rights. Despite the language of human rights being ubiquitous, there is an array of issues affecting our world today that result in unfortunate events such as war, famines, and genocides. Many of these events are caused by various actors and governments who fail to uphold these “inherent rights”. Political philosopher Robert Meister provides one of the best identified problems of human rights discourses, where he argues for a renewal of the politics of victim and beneficiary that avoids moral pitfalls of the revolutionary project (Meister 2011). Meister describes this phenomenon as “transitional justice”. He challenges this mainstream human rights discourse from a perspective that calls out its failure to focus on the prevention of structural violence and social deprivation. This paper will also explore the similarities that philosophers Hannah Arendt and Costas Douzinas share with Meister on the vague language of human rights and how it is inseparable from politics and contradictory to the nature of humankind.

Meister and transitional justice

In *After Evil*, political philosopher Robert Meister depicts the mainstream human rights discourse as a counterrevolutionary project that works against an alternative and instead encompasses unjust economic, social, and political systems through revolutionary means (Meister 2011). He distinguishes three categories of actors in contemporary human rights discourse: perpetrators, victims, and beneficiaries. The perpetrators are responsible for committing evils in the past, while the victims are subjects of those evils that still suffer from the effects of past evils (Meister 2011). He distinguishes three categories of actors in contemporary human rights discourse: perpetrators, victims, and beneficiaries.

The perpetrators are responsible for committing evils in the past, while the victims are subjects of those evils that still suffer from the effects of past evils (Meister 2011). Then there are the beneficiaries of past evils in the present day. Meister argues that this human rights discourse avoids addressing the structural relations of the victim and beneficiary but instead excuses the “general exoneration of all non-perpetrators” (Meister, 2011, 26), blurring moral distinctions between passively supporting subjects of past regimes and the current beneficiaries and supporters of reconstituted societies (Meister 2011). This means that while most perpetrators of violence and cruelty end up facing punishment, the individuals and communities that uphold the existing order are redeemed and their roles as counterrevolutionary saviours is confirmed in human rights practice. Meister explains that an “underlying hope of today’s human rights discourse is that victims of past evil will not struggle against its ongoing beneficiaries after the evildoers are gone” (Meister 2011, 8). The problem with this “hope” is that beneficiaries of oppression fail to be implicated in the contemporary human rights paradigm and the lack of such recognition cannot foster an attainment of real justice or human rights in response to such oppressive systems. Simply put, as long as structural inequalities remain in place then evil is inevitable and obtaining true justice is out of reach. Meister similarly questions the validity of the rigid demarcation of the lines between evil and justice.

Within this human rights paradigm there are specific actors that play a role in driving this flawed historic conception. According to Meister, the agents of contemporary human rights paradigm are governments or international organizations like the United Nations (UN), who work in the name of intervention to protect and provide relief to victims of political violence. However, Meister calls out these agents as the revolutionaries who “no longer are the standard paradigm of a militant for human rights” (Meister 2011, 20). He goes on to say that their “willingness to inflict suffering on enemies raises too many questions about politically motivated cruelty” (Meister 2011, 20). These so-called “militants for human rights” have become the paradigmatic violators of human rights, rather than fighters for human rights. This critique of human rights discourse can be analyzed in the pursuit of what Meister describes as “transitional justice” (Meister 2011).

The mechanism of transitional justice has been used to respond to widespread violations of human rights where victims are recognized and the emphasis for peace and reconciliation is promoted after a period of the violations. It puts the need for wounded nations to reckon with the past in order to build a better future.

A prime example of this mechanism is the South African Truth and Reconciliation Commission (TRC). The establishment of this commission sought to provide moral victory for victims of the apartheid who experienced human rights abuses under racial segregation. It provided a sense of closure to beneficiaries per order of the post-apartheid state. The problem, however, was the lack of involvement in addressing social and economic transformation. The commission had the power to grant amnesty to the beneficiaries but did not implement reparations which left an “unjust and inequitable social and economic system intact” (Mamdani 2002, 34). Another example is Canada’s Truth and Reconciliation Commission (TRC) which was meant for the Canadian government to promote truth, peace, and reconciliation with Indigenous peoples. This was following former Canadian Prime Minister Stephen Harper’s Indian Residential Schools’ settlement agreement back in 2006. The problem with the TRC is that none of the tangible actions being requested from the Indigenous communities were ever fulfilled, limiting the Canadian government from upholding accountability. The government has continually attempted to use apologies instead to narrow the scope of government obligation and to shut down other Indigenous demands. The Canadian government has concurrently taken a neoliberal approach where Indigenous peoples are dispossessed of their lands for resource exploitation and corporate interests (Bean 2022). Many Indigenous communities still don’t have access to clean drinking water, which is a direct violation of human rights.

Such a transitional justice framework addresses only a discrete segment of the historical injustices that have structured relations between states and its oppressed people. Every truth commission must determine how to dispense with individual perpetrators of the historical crimes under discussion, yet much of this hinges on the balance that is struck between truth, justice, and reconciliation. But this transitional justice framework shows a complete lack of effort since it forces victims of past abuses to claim as if they have not been “morally

damaged” by reassuring continuing beneficiaries of evil that they will not be treated as perpetrators now. It is a one-sided deal that serves to protect the oppressor and colonial institutions, which in this case is the criminal “justice” system. Human rights movement as a result aims to persuade the passive supporters of the old order to “abjure illegitimate means of counterrevolutionary politics” which are “repressive and fraudulent techniques of power” (Meister 2011, 24). Meister argues that today “the invocation of human rights is often part of a political project fundamentally at odds with the revolutionary struggles based on human rights” (Meister 2011, 7). In other words, this has become the war cry of a self-described ‘international community’, many whom come from the West.

Human rights in its liberal context is meant to limit the promise of justice. Primarily because past horrors of the twentieth century urge us to consider that a promise like this would come at too high of a cost. Post-Cold War powers are additionally opposed to this promise of justice involving greater political and social equality. We are engaging in a language of human rights that justifies the hegemony of a system of global capitalism which actively serves to undermine the attainment of such “universal human rights.” This has provided us with a limited and problematic response to the phenomenon of political evils concerning colonialism, genocide, and ethnic cleansing. Liberal human rights are presented as a higher politics premised on the transcendence of vulgar politics through ethics. However, if we avoid the need in making revolutionary changes in fear that it might upset power structures, then this will constrain us to a neoliberal framework of human rights. The limits of this framework reinforce the nationalist structure of state authority in contemporary world politics, which is tied to the logic of both colonialism and genocide. Liberal human rights could outright oppose genocide, but this is not the case since the national and statist order are what makes it possible.

Douzinias on the paradoxes of human rights

Costas Douzinias is another political philosopher who, like Meister, questions this idea of human rights. This concept of human rights holds the promise of a world where individuals and groups are no longer oppressed, dominated or degraded. Yet, Douzinias warns us to be wary of this uncritical acceptance of human rights

discourse. He states that rights have turned into “tools of public power and individual desire” (Douzinas 2007, 8). Rights in the hands of the state can become enacted in a way that could easily be wielded in the name of state power or in the name of protecting national interests. States can protect rights but in doing so it may not be doing anything particularly just, because rights are essentially about what is owed, and the decision taken in certain hands on what is owed can be someone’s view of what they personally believe is to be owed. Human rights dressed up in this moral political language makes it politically legitimate. Douzinas points out from a historical and genealogical perspective that such rights have been “colonized” to the extent that they have lost their critical edge. He states that “every time a poor, oppressed or tortured person uses the language of rights, to either protest or fight, they draw from and connect with the most honorable metaphysics, morality and politics of the Western world” (Douzinas 2007, 33). This rhetoric of human rights has therefore been ingrained in our institutions which have insured against challenge and no longer serve the purpose of defending the most vulnerable – those who are the poor and marginalized – from oppressive powers. In other words, human rights have only paradoxes to offer.

Douzinas makes a connection to Meister in that both believe mainstream human rights discourse is based on the premise that politically motivated violence against innocent people is always wrong. The responsibility to protect on the part of an ill-defined international community is called by global norms in the name of “humanitarian intervention.” All while suggesting that prohibitions against the use of politically motivated physical violence are excused when such violence is committed by the international community in the name of global human rights. Both scholars expose the revolting underbelly of Western “civilization” like the United States “military humanism” (Douzinas 2007, 7). Much of it derives from the geopolitical rivalry leading to the war in Afghanistan. This planted the seeds of terrorist movements that eventually reached out to Western nations like the infamous 9/11 attacks on the World Trade Center and the Pentagon.

We later see how the Bush administration took swift action and declared a “war on terror” which led to the 2003 invasion of Iraq. Such interventions in the Middle East are quite evidently predicated on colonial logics in a

decolonizing world. Much of what happens within states like Iraq and Afghanistan are rendered unimportant and are couched in the language of the “mission civilisatrice” or, more implicitly, the “white man’s burden” (Douzinas 2007). This is rationalized as largely benign placing it outside the remit of disciplinary international relations. Douzinas points out the obvious that if “the less civilised do not accept our charity, we will have to impose it on them with fighter bombs and tanks” this is a loud and clear proclamation of “just wars” (Douzinas 2007, 80). As a result, the moralization and politicization of human rights in international law have become a form of global currency, which creates an imaginary and unattainable utopian world that has become a justification for force and hegemony.

Arendt and the contradiction of universal rights

Arendt’s *Decline of Nation State and the End of the Rights of Man* analyzes the state of European politics post-WWII as a case study of human rights. Arendt describes the United Nation Declaration of Human Rights (UDHR) as embodying a contradiction (Arendt 1973). Since the declaration requires states to protect the “universal” and “inalienable” rights of all human beings, the emergence of the new “figure” or “group” known as the stateless are excluded and denied these rights (Arendt 1973, 365). Arendt uses the example of Jews and the *Heimatlosen*, a group of stateless people in Europe where she explains that the emergence of such statelessness was due to the “the nation state” being established as a unit of political organization (Arendt 1973, 363). Therefore, these “human rights” were not guaranteed to the stateless since they had to not only be a person but also a citizen. Natural rights designated what is right and due to each according to one’s nature, but nature is also divided into a “universal component” that belongs in theory to all members of the “species human” and is given only to the “citizens of the state” (Arendt 1973). The contradiction of the UDHR is something that Meister, Arendt, and Douzinas all share in regard to how this assumption of human rights discourse and its “universal language” is dangerous. Mainly because the more a nation expands its declaration of human rights, the more it opens up space for power to be used in total contradiction to peace, freedom of speech, and everything western society recognizes as a fundamental human right.

A lot of this is replicated in the United Nations (UN) and its bodies in human rights structures and security councils. Its spectrum of members shift from countries deemed to be totalitarian to what western society perceives as democracies. Saudi Arabia, a radical Islamic country that tortures political rights activists and represses women of their rights, sits on the human rights council and is able to have the right to vote and participate in fundamental decisions regarding the UN. The United States sits on both councils and is able to make laws while judging their own actions of human rights violations, like invasion wars. This gives them the advantage to avoid social responsibility and justify their actions through “just war” narratives. This further supports the question of “who is really defining what fundamental human rights are?” The UN has become a western instrument dispensing neo-colonial justice. To Arendt’s point, statehood and sovereignty today result in nationalism and its consequences transform the state from an “instrument of the law into an instrument of the nation” (Arendt 1973, 275). National interest has priority over law leading to genocides and civil wars. Douzinas similarly describes that the real recipients of such rights are members of the newly emerging nation-states, not the refugees or stateless. The modern subject reaches his “humanity by acquiring political rights of citizenship” (Douzinas 2007, 98); all rights, morals and principles are aligned to cultural perceptions and the country which defines them. They are neither universal nor protected to any further extension of the borders of a nation. If the international community, being the UN, continues to give corrupt member countries (i.e. Saudi Arabia, US etc.) a platform to speak without disciplinary action, then it only provides more state power, which, once again, contributes to the issue in tackling human rights abuses within such countries and beyond.

Broader implications of human rights

In many Western societies, we think we have a good approach to basic human rights such as freedom of speech, right to religion, and liberty. We then distance ourselves from the suffering of so-called “Others” and claim the moral high ground as self-proclaimed saviours of the world. Yet, we are making a lot of profit with the lack of basic human rights in different countries especially through wars and child labour. The morality and the values we might apply within our borders are easily pushed aside for this, lack of commitment to these basic

rights. We see this with the US selling weapons of war to countries like Saudi Arabia and the United Arab Emirates; both dictatorships and the US enables them to commit war crimes in Yemen. Even the US and Canada’s involvement of indulging in fast fashion where many clothing brands partake in child labour. In the context of minorities, they might be judicially a member of a certain country like Canada or the US, but they will never be treated equally, which has propelled movements like Black Lives Matter and Missing and Murdered Indigenous Women.

Conclusion

Despite living in a post-colonial world, human rights act as the redemption of the civilizing mission, coming after the evils of colonialism and genocide have been repudiated and punished. Yet they are unable to offer any grander account of justice or fixture to a political system that is broken and rooted in colonial politics. Hence, the mainstream version of human rights and its flawed moral logic of “never again” now assumes that the international community should intervene when it can to prevent the repetition of undeniable evils in the twenty-first century that it failed to prevent in the twentieth. However, such human rights discourse is contradictory to the nature of humankind. If we continue to think within the context of borders, this only aggravates the application of “universal human rights.” The common saying “justice delayed is justice denied” is quite evident in this case given the fact that human beings use human rights to feel superior or justify their actions when committing crimes against humanity.

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