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## “THE SOFT POWER OF HUMANITY”

### *Why Human Rights Failed, Only to Succeed in the Long Run*

WERE HUMAN RIGHTS SIMPLY “rhetorical nonsense, nonsense upon stilts,” as the philosopher Jeremy Bentham claimed? The long gap in the history of human rights, from their initial formulation in the American and French Revolutions to the United Nations’ Universal Declaration in 1948, has to give anyone pause. Rights did not disappear in either thought or action, but the discussions and decrees now transpired almost exclusively within specific national frameworks. The notion of constitutionally guaranteed rights of various sorts—the political rights of workers, religious minorities, and women, for example—continued to gain ground in the nineteenth and twentieth centuries, but talk of universally applicable natural rights subsided.

Workers, for instance, won rights as British, French, German, or American workers. The nineteenth-century Italian nationalist Giuseppe Mazzini captured the new focus on nation when he asked the rhetorical question: “What is a Country . . . but the place in which our individual rights are most secure?” It took two devastating world wars to shatter this confidence in the nation.<sup>1</sup>

### *Defects of the Rights of Man*

Nationalism only gradually took over as the dominant framework for rights after 1815, with the fall of Napoleon and the final end of the Revolutionary era. Between 1789 and 1815, two different conceptions of authority warred with each other: the rights of man on one side and traditional hierarchical society on the other. Each side invoked the nation, though neither side made claims about ethnicity determining identity. By definition, the rights of “man” repudiated any idea that rights depended on nationality. Edmund Burke, on the other side, had tried to link hierarchical society to a certain conception of the nation, by arguing that liberty could only be guaranteed by a government rooted in a nation’s history, with the emphasis on history. Rights only worked, he insisted, when they grew out of longstanding traditions and practices.

Supporters of the rights of man had denied the importance of tradition and history. Precisely because it relied on “metaphysical abstractions,” the French Declaration, Burke maintained, did not have enough emotional force to compel obedience. How could those “paltry blurred shreds of paper” compare to love of God, awe of kings, duty toward magistrates, reverence of priests,

and deference toward one's betters? The revolutionaries would have to use violence to stay in power, he had already concluded in 1790. When the French republicans executed the king and moved toward Terror as an acknowledged system of government, as they did in 1793 and 1794, Burke's forecast seemed to come true. The Declaration of the Rights of Man and Citizen, shelved along with the Constitution of 1791, had not prevented the suppression of dissent and wholesale execution of those perceived as enemies.

Despite Burke's strictures, many writers and politicians in Europe and the United States had enthusiastically greeted the declaration of rights in 1789. As the French Revolution turned more radical, however, public opinion began to divide. Monarchical governments, in particular, reacted strongly against the proclamation of a republic and the execution of the king. In December 1792, Thomas Paine was forced to flee to France when a British court found him guilty of sedition for attacking hereditary monarchy in the second part of his *Rights of Man*. The British government followed up with a systematic campaign of harassment and persecution of the supporters of French ideas. In 1798, only twenty-two years after the declaration of the equal rights of all men, the U.S. Congress passed the Alien and Sedition Acts to limit criticism of the American government. The new spirit of the times can be seen in the remarks made in 1797 by John Robison, a professor of natural philosophy at the University of Edinburgh. He inveighed against "that accursed maxim, which now fills every mind, of thinking continually of our rights, and anxiously demanding them from every quarter." This obsession with rights was "the greatest bane of life," according to Robison, who saw it as a prime cause of the ongoing political upheaval, even in Scotland, and of the

war between France and its neighbors that now threatened to engulf all of Europe.<sup>2</sup>

Robison's wariness about rights paled in comparison to the attack missiles launched by counterrevolutionary royalists on the Continent. According to Louis de Bonald, an outspoken conservative, "the revolution began with the declaration of the rights of man and will only finish when the rights of God are declared." The declaration of rights, he asserted, represented the evil influence of Enlightenment philosophy and with it atheism, Protestantism, and Freemasonry, which he lumped together. The declaration encouraged people to neglect their duties and think only of their own individual desires. Since it could not serve as a break on those passions, it therefore led France straight to anarchy, terror, and social disintegration. Only a revived Catholic Church protected by a restored, legitimate monarchy could inculcate true moral principles. Under the Bourbon king reinstated in 1815, Bonald took the lead in abrogating the revolutionary laws on divorce and reestablishing rigorous censorship before publication.<sup>3</sup>

Before the return of the Bourbon kings, when French republicans and later Napoleon spread the message of the French Revolution through military conquest, the rights of man became entangled with imperialist aggression. To its credit, France's influence induced the Swiss and the Dutch to abolish torture in 1798; Spain followed in 1808 when Napoleon's brother ruled as king. After Napoleon fell, however, the Swiss reintroduced torture, and the Spanish king reestablished the Inquisition, which used torture to get confessions. The French also encouraged the emancipation of the Jews wherever their armies held sway. Although returning rulers took away some of these newly gained rights in the Italian and German states, Jewish emancipation

proved permanent in the Netherlands. Because Jewish emancipation was seen as French, bandits who harassed French forces in some newly conquered territories often also targeted Jews.<sup>4</sup>

Napoleon's contradictory interventions showed that rights need not be seen as forming a single package. He introduced religious toleration and equal civil and political rights for religious minorities wherever he ruled. Yet at home in France, he severely limited everyone's freedom of speech and basically eliminated freedom of the press. The French emperor believed that "men are not born to be free. . . . Liberty is a need felt by a small class of people whom nature has endowed with nobler minds than the mass of men. Consequently, it may be repressed with impunity. Equality, on the other hand, pleases the masses." The French did not desire true liberty, in his view; they simply aspired to rise to the top of society. They would sacrifice their political rights in order to ensure their legal equality.<sup>5</sup>

On the question of slavery, Napoleon proved entirely consistent. During a brief lull in the fighting in Europe in 1802, he sent military expeditions to the Caribbean colonies. Although he deliberately left his intentions vague in the beginning, so as not to provoke a general uprising by the freed slaves, the instructions given to his brother-in-law, one of the commanding generals, made his goals clear. Upon arrival the soldiers should occupy key spots and get the lay of the land. Then they should "pursue the rebels without mercy," disarm all blacks, and arrest their leaders and transport them back to France, opening the way to the restoration of slavery. Napoleon felt certain that "the prospect of a black republic is equally disturbing to the Spanish, the English, and the Americans." His plan failed in Saint Domingue, which gained its independence as Haiti, but succeeded elsewhere in the French colonies. As many as 150,000

people died in the fighting on Saint Domingue; one tenth of the population of Guadeloupe was killed or deported.<sup>6</sup>

Napoleon tried to create a hybrid between the rights of man and traditional hierarchical society, but in the end, both sides rejected the bastard offspring. Napoleon put too much emphasis on religious toleration, the abolition of feudalism, and equality before the law to satisfy the traditionalists and curtailed too many political freedoms to appeal to the other side. He could make peace with the Catholic Church, but he never became a legitimate ruler in the eyes of the traditionalists. For the defenders of rights, his insistence on equality before the law failed to counterbalance his revival of nobility and the creation of a hereditary empire. By the time the French emperor fell from power, he was denounced by both traditionalists and defenders of rights as a tyrant, despot, and usurper. One of Napoleon's most persistent critics, the writer Germaine de Staël, proclaimed in 1817 that his only legacy was "a few more secrets in the art of tyranny." De Staël, like all other commentators on both left and right, referred to the deposed leader only by his surname, Bonaparte, and never by his imperial first name, Napoleon.<sup>7</sup>

### *Nationalism Rushes In*

The victory of the forces of order proved ephemeral in the long run, in large part thanks to developments set in motion by their nemesis, Napoleon. Over the course of the nineteenth century, nationalism overtook both sides of the revolutionary debates, transforming the discussion of rights and creating new kinds of hierarchy that ultimately threatened the traditional order. The Corsican upstart's imperialist adventures inadvertently cat-

alyzed the forces of nationalism from Warsaw to Lima. Everywhere he went, he created new entities (the Duchy of Warsaw, the Kingdom of Italy, the Confederation of the Rhine), produced new opportunities, or provoked new animosities that would feed into national aspirations. His Duchy of Warsaw reminded Poles that there had once been a Poland, before it was gobbled up by Prussia, Austria, and Russia. Even though the new Italian and German administrations disappeared after Napoleon's fall, they had shown that national unification was thinkable. By deposing the king of Spain, the French emperor opened the door to South American independence movements in the 1810s and 1820s. Simón Bolívar, liberator of Bolivia, Panama, Colombia, Ecuador, Peru, and Venezuela, spoke the same nascent language of nationalism as his counterparts in Europe. "Our native soil," he enthused, "arouses tender feelings and delightful memories. . . . What claims on love and dedication could be greater?" National feeling offered the emotional power missing in those "paltry blurred shreds of paper" derided by Burke.<sup>8</sup>

In reaction to French imperialism, some German writers rejected all things French—including the rights of man—and developed a new sense of nation, one based explicitly on ethnicity. Lacking a single nation-state structure, German nationalists emphasized instead the mystique of the *Volk* or "folk," a German inner character that distinguished it from other peoples. In the views expressed at the beginning of the nineteenth century by the German nationalist Friedrich Jahn, the first signs of future troubles could already be seen. "The purer a people, the better," he wrote. The laws of nature, he maintained, worked against the mixing of races and peoples. "Sacred rights" for Jahn were those of the German people, and so exasperated was he by French influence that he exhorted his fellow Germans to stop

speaking French altogether. Like all succeeding nationalists, Jahn urged the writing and study of patriotic history. Monuments, public funerals, and popular festivals should all focus on things German, not universal ideals. At the very moment when Europeans were fighting their climactic battles against Napoleon's imperial ambitions, Jahn proposed surprisingly wide boundaries for this new Germany. It should include, he asserted, Switzerland, the Low Countries, Denmark, Prussia, and Austria, and a new capital should be built for it called Teutona.<sup>9</sup>

Like Jahn, most early nationalists preferred a democratic form of government because it would maximize the sense of national belonging. As a consequence, traditionalists initially opposed nationalism and German or Italian unification just as much as they had opposed the rights of man. The early nationalists spoke the revolutionary language of messianic universalism, but for them the nation, rather than rights, acted as the springboard for universalism. Bolívar believed that Colombia would light the path to universal liberty and justice; Mazzini, founder of the nationalist Society of Young Italy, proclaimed that the Italians would lead a universal crusade of oppressed peoples for freedom; the poet Adam Mickiewicz thought that the Poles would show the way to universal liberation. Human rights now depended on national self-determination, and the priority necessarily went to the latter.

After 1848, the traditionalists began to accommodate nationalist demands, and nationalism moved from the left to the right of the political spectrum. The failure in 1848 of nationalist and constitutionalist revolutions in Germany, Italy, and Hungary opened the way to these changes. Nationalists interested in guaranteeing rights within the newly proposed nations showed themselves to be all too ready to reject the rights of other ethnic

groups. The Germans meeting in Frankfurt drew up a new national constitution for Germany but denied any self-determination to Danes, Poles, or Czechs within their proposed borders. The Hungarians who demanded independence from Austria ignored the interests of Romanians, Slovaks, Croats, and Slovenes who made up more than half the population of Hungary. Interethnic competition doomed the 1848 revolutions and with them the link between rights and national self-determination. The national unification of Germany and Italy was accomplished in the 1850s and 1860s by means of warfare and diplomacy, and the guarantee of individual rights played hardly any role.

Once bursting with enthusiasm for securing rights through the spread of national self-determination, nationalism turned increasingly closed and defensive. The shift reflected the enormity of the task of creating nations. The idea that Europe could be neatly divided into nation-states of relatively homogeneous ethnicity and culture was belied by the linguistic map itself. Every nation state harbored linguistic and cultural minorities in the nineteenth century, even the long-established ones like Great Britain and France. When a republic was declared in France in 1870, half of the citizens could not speak French; the others spoke dialects or regional languages such as Breton, Franco-Provençal, Basque, Alsatian, Catalan, Corsican, Occitan, or in the colonies, Creole. A massive campaign of education had to be undertaken to integrate everyone into the nation. The aspiring nations faced even greater pressures because of greater ethnic heterogeneity; Count Camillo di Cavour, the prime minister of the new Kingdom of Italy, spoke Piedmontese dialect as his first language and less than 3 percent of his fellow citizens spoke standard Italian. The situation was even more chaotic in Eastern

Europe, where many different ethnic groups lived cheek by jowl. A revived Poland, for example, would include not only a substantial community of Jews but also Lithuanians, Ukrainians, Germans, and Belarusians, each with their language and traditions.

The difficulty of creating or maintaining ethnic homogeneity contributed to the growing concern with immigration worldwide. Few objected to immigration before the 1860s, but it came under fire in the receiving countries by the 1880s and 1890s. Australia tried to prevent the influx of Asians so that it might retain its English and Irish character. The United States banned immigration from China in 1882 and from all of Asia in 1917 and then set up quotas in 1924 for everyone else based on the current ethnic composition of the U.S. population. The British government passed an Aliens Act in 1905 to prevent the immigration of "undesirables," which many interpreted to mean East European Jews. Even as workers and servants began to gain equal political rights in these countries, barriers blocked those who did not share the same ethnic origins.

In this new protective atmosphere, nationalism took on a more xenophobic and racist character. Although xenophobia might target any foreign group (Chinese in the United States, Italians in France, or Poles in Germany), the last decades of the nineteenth century saw an alarming rise in anti-Semitism. Right-wing politicians in Germany, Austria, and France used newspapers, political clubs, and, in some cases, new political parties to fan hatred of Jews as enemies of the true nation. After two decades of anti-Semitic propaganda in right-wing newspapers, the German Conservative Party made anti-Semitism an official plank in its platform in 1892. At about the same time, the Dreyfus Affair wreaked havoc in French politics, creating lasting divisions between supporters and opponents of Dreyfus. The affair began in 1894 when a Jewish

army officer named Alfred Dreyfus was wrongly accused of spying for Germany. When he was convicted despite mounting evidence of his innocence, the famous novelist Emile Zola published a daring front-page article accusing the French army and government of covering up the attempts to frame Dreyfus. In response to the growing tide of opinion in favor of Dreyfus, a newly formed French Anti-Semitic League fomented riots in many towns and cities that sometimes included attacks by thousands of demonstrators on Jewish properties. The League could mobilize so many people because several cities had newspapers that routinely churned out anti-Semitic diatribes. The government offered Dreyfus a pardon in 1899 and finally exonerated him in 1906. Yet anti-Semitism grew more venomous everywhere. In 1895, Karl Lueger got himself elected mayor of Vienna on an anti-Semitic program. He would become one of Hitler's heroes.

### *Biological Explanations for Exclusion*

As nationalism became more closely entwined with ethnicity, it fed into an increasing emphasis on biological explanations for difference. Arguments for the rights of man had relied on the assumption of sameness of human nature across cultures and classes. After the French Revolution, it became increasingly difficult to simply reassert differences on the basis of tradition, custom, or history. Differences had to have a more solid foundation if men were to maintain their superiority to women, whites to blacks, or Christians to Jews. In short, if rights were to be less than universal, equal, and natural, then reasons had to be given. As a consequence, the nineteenth century witnessed an explosion in biological explanations of difference.

Ironically, then, the very notion of human rights inadvertently opened the door to more virulent forms of sexism, racism, and anti-Semitism. In effect, the sweeping claims about the natural equality of all mankind called forth equally global assertions about natural difference, producing a new kind of opponent to human rights, more powerful and sinister even than the traditionalist ones. The new forms of racism, anti-Semitism, and sexism offered biological explanations for the naturalness of human difference. In the new racism, Jews were not just Christ-killers; their inherent racial inferiority threatened to stain the purity of whites through intermarriage. Blacks were no longer inferior because they were slaves; even as the abolition of slavery progressed around the globe, racism became more, not less, poisonous. Women were not simply less reasonable than men because they were less educated; their biology destined them to the private, domestic life and made them entirely unsuitable for politics, business, or the professions. In these new biological doctrines, education or changes in environment could never change the inherent hierarchical structures in human nature.

Sexism was the least politically organized, least intellectually systematic, and least emotionally negative of the new biological doctrines. After all, no nation could reproduce itself without mothers, so while it might be conceivable to argue that African-American slaves should be sent back to Africa or that Jews should be forbidden to reside in a particular locale, it was not possible to exclude women altogether. Therefore, they could be allowed positive qualities that might be important in the private sphere. Moreover, since women clearly differed from men biologically (though just how much still remains a subject of debate), few dismissed out of hand the biological arguments about the difference between the sexes, which had a much

longer history than the biological arguments about race. Yet the French Revolution had shown that even sexual difference, or at least its political relevance, could be questioned. With the emergence of explicit arguments for the political equality of women, the biological argument for women's inferiority shifted. Females no longer occupied a lower rung on the same biological ladder as males, making them biologically similar to males, even if inferior. Females were now increasingly cast as altogether different biologically; they became the "opposite sex."<sup>10</sup>

The precise timing and even nature of this shift in thinking about women is not easy to pin down, but the period of the French Revolution seems to be critical. The French revolutionaries had called upon largely traditional arguments for women's difference when they forbade women to meet in political clubs in 1793. "In general, women are not capable of elevated thoughts and serious meditations," proclaimed the government spokesman. In the following years, however, medical men in France worked hard to give these vague ideas a more biological basis. The leading French physiologist of the 1790s and early 1800s, Pierre Cabanis, argued that women had weaker muscular fibers and more delicate cerebral matter, thus making them unfit for public careers, but their consequent volatile sensibility suited them for the roles of wife, mother, and nurse. Such thinking helped establish a new tradition in which women seemed preordained to fulfill themselves within the confines of domesticity or a separate female sphere.<sup>11</sup>

In his influential tract *The Subjection of Women* (1869), the English philosopher John Stuart Mill questioned the very existence of these biological differences. He insisted that we cannot know how men and women differ in nature because we only see them in their current social roles. "What is now called the nature

of women," he argued, "is an eminently artificial thing." Mill linked the reform of women's status to overall social and economic progress. The legal subordination of women, he asserted, "is wrong itself" and "ought to be replaced by a principle of perfect equality, admitting no power or privilege on the one side, nor disability on the other." No equivalent of anti-Semitic leagues or parties was needed, however, to keep the biological argument going strong. In a landmark legal case before the U.S. Supreme Court in 1908, Justice Louis Brandeis trotted out the same old horses when explaining why sex could be a legal basis for classification. The "physical organization of woman," her maternal functions, the rearing of children, and the maintenance of the home put women into a separate and different category. "Feminism" had come into common usage as a term in the 1890s, and resistance to its demands was fierce. Women only got the right to vote in Australia in 1902, in the United States in 1920, in Great Britain in 1928, and in France in 1944.<sup>12</sup>

Like sexism, racism and anti-Semitism took on new forms after the French Revolution. Proponents of the rights of man, though still harboring many negative stereotypes about Jews and blacks themselves, no longer accepted the existence of prejudice as sufficient grounds for an argument. That the rights of Jews in France had always been restricted proved only that habit and custom exercised great power, not that such restrictions were warranted by reason. Similarly, for abolitionists slavery did not demonstrate the inferiority of black Africans; it merely revealed the rapacity of white slavers and planters. Those who rejected the idea of equal rights for Jews or blacks therefore needed a doctrine—a cogently reasoned case—to buttress their position, especially after Jews had gained rights and slavery had been abolished in the British and French colonies, in 1833 and 1848, respec-

tively. Over the course of the nineteenth century, opponents of rights for Jews and blacks increasingly turned to science, or what passed as science, to find that doctrine.

The science of race can be traced back to the end of the eighteenth century and the efforts to classify the peoples of the world. Two strands woven in the eighteenth century twined together in the nineteenth: first, the argument that history had seen the successive development of peoples toward civilization and that whites were the most advanced of the lot, and second, the idea that permanent inherited characteristics divided people by race. Racism, as a systematic doctrine, depended on the conjunction of the two. Eighteenth-century thinkers assumed that all peoples would eventually achieve civilization, whereas nineteenth-century racial theorists believed that only certain races could do so because of their inherent biological qualities. Elements of this conjunction can be found in scientists of the early nineteenth century, such as the French naturalist Georges Cuvier, who wrote in 1817 that "certain intrinsic causes" arrested the development of the Mongolian and Negro races. Only after midcentury, however, did these ideas appear in their fully articulated form.<sup>13</sup>

The epitome of the genre can be found in Arthur de Gobineau's *Essay on the Inequality of the Human Races* (1853–55). Using a hodgepodge of arguments derived from archeology, ethnology, linguistics, and history, the French diplomat and man of letters argued that a biologically based hierarchy of races determined the history of mankind. At the bottom sat the animalistic, unintellectual, and intensely sensual dark-skinned races; next up on the ladder came the apathetic, mediocre, but practical yellow ones; and at the top stood the persevering, intellectually energetic and adventurous white peoples, who balanced

"an extraordinary instinct for order" with "a pronounced taste for liberty." Within the white race, the Aryan branch reigned supreme. "Everything great, noble, and fruitful in the works of man on this earth, in science, art and civilization" derives from the Aryans, concluded Gobineau. Migrating from their initial home in Central Asia, the Aryans had provided the original stock for the Indian, Egyptian, Chinese, Roman, European, and even, through colonization, the Aztec and Incan civilizations.<sup>14</sup>

Racial miscegenation explained both the rise and fall of civilizations, according to Gobineau. "The ethnic question dominates all the other problems of history and holds its key," he wrote. Unlike some of his later followers, however, Gobineau thought that the Aryans had already lost their edge through intermarriage and that, though it sickened him, egalitarianism and democracy would eventually triumph, signaling the end of civilization itself. Although Gobineau's fanciful notions got little traction in France, Emperor Wilhelm I of Germany (who ruled from 1861 to 1888) found them so congenial that he conferred honorary citizenship on the Frenchman. They were also taken up by the German composer Richard Wagner and then by Wagner's son-in-law, the English writer and Germanophile Houston Stewart Chamberlain. Through Chamberlain's influence, Gobineau's Aryans became a central element of Hitler's racial ideology.<sup>15</sup>

Gobineau gave a secular and seemingly systematic cast to ideas already in circulation in much of the Western world. In 1850, for example, the Scottish anatomist Robert Knox published *The Races of Men*, in which he argued that "race, or hereditary descent, is everything; it stamps the man." The next year, the head of the Philadelphia typesetters union, John Campbell, offered his *Negro Mania, Being an Examination of the*



*Falsely Assumed Equality of the Races of Mankind*. Racism was not confined to the southern United States. Campbell cited Cuvier and Knox among others to insist on the savagery and barbarism of Negroes and to argue against any possibility of equality between whites and blacks. Since Gobineau himself had criticized the treatment of African slaves in the United States, his American translators had to excise those sections in order to make the work more palatable to pro-slavery southerners when it was published in English in 1856. The prospect of the abolition of slavery (which only became official in the United States in 1865) thus only heightened the interest in racial science.<sup>16</sup>

As the titles of Gobineau's and Campbell's works demonstrate, the common feature in most racist thinking was a visceral reaction against the notion of equality. Gobineau confessed to Tocqueville the disgust provoked in him by the "dirty overalls [workers]" who had participated in the revolution of 1848 in France. For his part, Campbell felt revulsion about sharing a political platform with men of color. What had once defined an aristocratic rejection of modern society—having to mix with the inferior orders—now took on a racial meaning. The advent of mass politics in the last half of the nineteenth century may have gradually eroded the sense of class difference (or given the semblance of doing so), but it did not eliminate difference altogether. Difference shifted from the register of class to that of race and sex. The establishment of universal male suffrage combined with the abolition of slavery and the beginning of mass immigration to make equality much more concrete and threatening.<sup>17</sup>

Imperialism further aggravated these developments. Even as the European powers abolished slavery in their plantation colonies, they extended their dominion in Africa and Asia. The French invaded Algeria in 1830 and ultimately incorporated it

into France. The British annexed Singapore in 1819 and New Zealand in 1840 and relentlessly increased their control over India. By 1914, Africa had been split up between France, Great Britain, Germany, Italy, Portugal, Belgium, and Spain. Hardly any African states emerged unscathed. Although in some cases foreign rule actually made countries more "backward," by destroying local industries in favor of importations from the imperial center, Europeans generally drew only one lesson from their conquests: they had the right—and the duty—to "civilize" the more backward, barbarian places they governed.

Not all supporters of these imperial ventures promoted explicit racism. John Stuart Mill, who worked for many years for the British East India Company, the effective administrator of British rule in India until 1858, rejected biological explanations of difference. Still, even he believed that the native states of India were "savage," with "little or no law," and living in a condition "very little above the highest of the beasts." Mill notwithstanding, European imperialism and racial science developed a symbiotic relationship: the imperialism of the "conquering races" made racial claims more credible, and racial science helped justify imperialism. In 1861, the British explorer Richard Burton took the soon to be standard line. The African, he said, "partakes largely of the worst characteristics of the lower Oriental types—stagnation of mind, indolence of body, moral deficiency, superstition, and childish passion." After the 1870s, these attitudes found a mass audience in new cheaply produced newspapers, illustrated weeklies, and ethnographic exhibitions. Even in Algeria, considered part and parcel of France after 1848, natives only gained rights over the very long term. In 1865 a government decree declared them subjects, not citizens, whereas in 1870 the French state made Algerian Jews naturalized citizens.

Muslim males only gained equal political rights in 1947. The "civilizing mission" was not a short-term project.<sup>18</sup>

Gobineau had not considered the Jews a special case in his elaboration of racial science, but his followers did. In his *Foundations of the Nineteenth Century*, published in German in 1899, Houston Stewart Chamberlain combined Gobineau's ideas about race and German mysticism about the *Volks* with a vitriolic attack on the Jews, "this alien people" that has enslaved "our governments, our law, our science, our commerce, our literature, our art." Chamberlain offered only one new argument, but it had a direct influence on Hitler: the Aryans and the Jews alone of all peoples had maintained their racial purity, which meant that now they must struggle to the death with each other. In other respects, Chamberlain packaged together a variety of increasingly common ideas.<sup>19</sup>

Although modern anti-Semitism built on the negative Christian stereotypes about Jews that had been circulating for centuries, the doctrine took on new qualities after the 1870s. Unlike blacks, Jews no longer represented an inferior stage of historical development, as they had, for instance, in the eighteenth century. Instead, they stood for the threats of modernity itself: excessive materialism, emancipation of minority groups and their participation in politics, and the "degenerate," "rootless" cosmopolitanism of urban life. Newspaper cartoons depicted Jews as greedy, duplicitous, and lecherous; journalists and pamphleteers wrote of Jewish control of world capital and conspiratorial manipulation of parliamentary parties. (Figure 11) One American cartoon from 1894, less malevolent than many of its European counterparts, shows the continents of the world encircled by the tentacles of an octopus sitting at the site of the British Isles. The octopus is labeled RÖTHSCHILD, after the rich



FIGURE 11. "The French Revolution: Before and Today" Caran d'Ache in *Psst . . . !*, 1898.

Caran d'Ache was the pseudonym of Emmanuel Poiré, a French political cartoonist who published anti-Semitic caricatures during the Dreyfus Affair in France. This one plays on a common image from the French Revolution of 1789, showing the peasant weighed down by a noble (because nobles were exempt from some taxes). In modern times, the peasant has to carry even more burdens; on his shoulders are a republican politician, a Freemason, and on top, a Jewish financier. Caran d'Ache also published several images ridiculing Zola. From *Psst . . . !*, no. 37, October 15, 1898.

and powerful Jewish family. These modern efforts at defamation got added fuel from *The Protocols of the Elders of Zion*, a fraudulent document purporting to reveal a Jewish conspiracy to set up a supergovernment that would control the whole world. First published in Russia in 1903, exposed as a forgery in 1921, the *Protocols* were nonetheless repeatedly reprinted by the Nazis in Germany and are to this day taught as fact in the schools in some Arab countries. The new anti-Semitism thus combined traditional and modern elements: the Jews should be excluded from rights and even expelled from the nation because they were both too different and too powerful.

### *Socialism and Communism*

Nationalism was not the only new mass movement in the nineteenth century. Like nationalism, socialism and communism took shape in explicit reaction to the perceived limitations of constitutionally framed individual rights. Whereas early nationalists wanted rights for all peoples, rather than just for those with already established states, Socialists and Communists wanted to ensure that the lower classes would enjoy social and economic equality rather than just equal political rights. Yet even as they drew attention to rights that had been shortchanged by the proponents of the rights of man, Socialist and Communist organizations inevitably downgraded the importance of rights as a goal. Marx's own view was clear-cut: political emancipation could be achieved through legal equality within bourgeois society, but true human emancipation required the destruction of bourgeois society and its constitutional protections of private property. Socialists and Communists nonetheless raised two

enduring questions about rights: were political rights enough, and could the individual's right to the protection of private property co-exist with society's need to foster the well-being of its less fortunate members?

Just as nationalism had gone through two phases in the nineteenth century, moving from early enthusiasm about self-determination to a more defensive protectionism about ethnic identity, so too socialism evolved over time. It moved from an early emphasis on rebuilding society with peaceful but non-political means to a sharp division between those favoring parliamentary politics and those advocating the violent overthrow of governments. During the first half of the nineteenth century, when trade unions were illegal in most countries and workers did not have the right to vote, Socialists concentrated on revolutionizing the new social relations created by industrialization. They could hardly hope to win elections when workers could not vote, which remained true until at least the 1870s. Instead, Socialist pioneers set up model factories, producers' and consumers' cooperatives, and experimental communities to overcome conflict and alienation between social groups. They wanted to enable the workers and the poor to benefit from the new industrial order, to "socialize" industry and replace competition with cooperation.

Many of these early Socialists shared a distrust of the "rights of man." The leading French Socialist of the 1820s and 1830s, Charles Fourier, argued that constitutions and talk of inalienable rights were a sham. What can the "imprescriptible rights of the citizen" possibly mean, when the indigent man "has neither the liberty to work" nor the authority to demand employment? The right to work trumped all other rights, in his view. Like Fourier, many of the early Socialists cited the failure to

grant rights to women as a sign of the bankruptcy of the previous rights doctrines. Could women ever achieve liberation without the abolition of private property and of legal codes upholding patriarchy?<sup>20</sup>

Two factors altered the trajectory of socialism in the second half of the nineteenth century: the advent of universal male suffrage and the rise of communism ("Communist" first appeared as a term in 1840). Socialists and Communists then split between those who aimed to establish a parliamentary political movement with parties and campaigns for office and those, like the Bolsheviks in Russia, who insisted that only a dictatorship of the proletariat and total revolution would transform social conditions. The former believed that the gradual establishment of voting for all men opened the prospect that workers might achieve their goals within parliamentary politics. The British Labour Party, for example, was formed in 1900 out of a variety of preexisting unions, parties, and clubs to promote the interests and election of workers. On the other hand, the Russian Revolution of 1917 encouraged Communists everywhere to believe that total social and economic transformation lay just over the horizon and that participation in parliamentary politics only siphoned off energies needed for other kinds of struggle.

As might be expected, the two branches also differed in their view of rights. Socialists and Communists who embraced the political process also espoused the cause of rights. One of the founders of the French Socialist Party, Jean Jaurès, argued that a Socialist state "only retains its legitimacy to the extent that it secures individual rights." He supported Dreyfus, universal male suffrage, and the separation of church and state, in short, equal political rights for all men as well as improvement in the lives of workers. Jaurès considered the Declaration of the

Rights of Man and Citizen a document of universal significance. Those on the other side followed Marx more closely in arguing, as did one French Socialist opponent of Jaurès, that the bourgeois state could only be "an instrument of conservatism and social oppression."<sup>21</sup>

Karl Marx himself had only discussed the rights of man at any length in his youth. In his essay "On the Jewish Question," published in 1843, five years before *The Communist Manifesto*, Marx condemned the very foundations of the Declaration of the Rights of Man and Citizen. "None of the supposed rights of man," he complained, "go beyond the egoistic man." So-called liberty only regarded man as an isolated being, not as a part of a class or community. The right of property only guaranteed the right to pursue one's own self-interest with no regard for others. The rights of man guaranteed religious freedom when what men needed was freedom from religion; they confirmed the right to own property when what was needed was freedom from property; they included the right to engage in business when what was needed was liberation from business. Marx particularly disliked the political emphasis in the rights of man. Political rights were all about means, he thought, not ends. "Political man" was "abstract, artificial," not "authentic." Man could only recover his authenticity by recognizing that human emancipation could not be achieved through politics; it required a revolution that focused on social relations and the abolition of private property.<sup>22</sup>

These views and later variations on them exercised influence in the Socialist and Communist movement for generations. The Bolsheviks proclaimed a Declaration of Rights of the Working and Exploited People in 1918, but it included not one political or legal right. Its aim was to "abolish all exploitation of man

by man, to completely eliminate the division of society into classes, to mercilessly crush the resistance of the exploiters, [and] to establish a socialist organization of society." Lenin himself quoted Marx in arguing against any emphasis on individual rights. The notion of an equal right, Lenin affirmed, is in itself a violation of equality and an injustice because it is based on "bourgeois law." So-called equal rights protect private property and therefore perpetuate exploitation of the workers. Joseph Stalin issued a new constitution in 1936 that claimed to guarantee freedom of speech, of the press, and of religion, but his government did not hesitate to dispatch hundreds of thousands of class enemies, dissidents, and even fellow party members to prison camps or immediate execution.<sup>23</sup>

### *The World Wars and the Search for New Solutions*

Even as the Bolsheviks began establishing their dictatorship of the proletariat in Russia, the astronomical death counts of World War I were prompting the leaders of the soon to be victorious Allies to find a new mechanism for ensuring peace. When the Bolsheviks signed a peace treaty with the Germans in March 1918, Russia had lost nearly 2 million men. By the time the war ended on the western front in November 1918, as many as 14 million people had died, most of them soldiers. Three quarters of the men mobilized to fight in Russia and France ended up either wounded or dead. In 1919, the diplomats who drew up the peace accords set up a League of Nations to maintain peace, oversee disarmament, arbitrate disputes between nations, and guarantee rights for national minorities, women, and children. The League failed despite some noble efforts. The U.S. Senate refused to rat-

ify American participation; Germany and Russia were initially denied membership; and while promoting national self-determination in Europe, the League administered the former German colonies and territories of the now defunct Ottoman Empire through a system of "mandates" justified once again by European advancement over other peoples. Moreover, the League proved powerless to stop the rise of fascism in Italy and Nazism in Germany and therefore could not prevent the outbreak of World War II.

World War II set a new benchmark of barbarity with its almost incomprehensible 60 million deaths. Moreover, the majority of those killed this time were civilians, and 6 million of them were Jews killed only because they were Jews. The mayhem left millions of refugees at the war's end, many of them barely able to imagine a future and living in Displaced Persons camps. Yet others were forced to resettle for ethnic reasons (2.5 million Germans, for example, were expelled from Czechoslovakia in 1946). All of the powers involved in the war targeted civilians at one time or another, but as the war ended, revelations about the scale of the horrors deliberately perpetrated by the Germans shocked the public. Photographs taken at the liberation of the Nazi death camps showed the appalling consequences of anti-Semitism that had been justified by talk of Aryan racial supremacy and nationalist purification. The Nuremberg Trials of 1945–46 not only brought such atrocities to wide public attention but also established the precedent that rulers, officials, and military personnel could be punished for crimes "against humanity."

Even before the war ended, the Allies—in particular the United States, the Soviet Union, and Great Britain—determined to improve on the League of Nations. A conference held at San

Francisco in the spring of 1945 set up the basic structure for a new international body, the United Nations. It would have a Security Council dominated by the great powers, a General Assembly with delegates from all member countries, and a Secretariat headed by a secretary-general to act as an executive. The meeting also provided for an International Court of Justice at The Hague in the Netherlands to replace a similar court established by the League of Nations in 1921. Fifty-one countries signed the United Nations Charter as founding members on June 26, 1945.

Despite the emerging evidence of Nazi crimes against Jews, Gypsies, Slavs, and others, the diplomats meeting in San Francisco had to be prodded and pushed to put human rights on the agenda. In 1944, Great Britain and the Soviet Union had both rejected proposals to include human rights in the charter of the United Nations. Britain feared the encouragement such an action might afford to independence movements in its colonies, and the Soviet Union wanted no interference in its now expanding sphere of influence. In addition, the United States had initially opposed China's suggestion that the charter include a statement on the equality of all races.

Pressure came from two different directions. Many small and medium-size states in Latin America and Asia urged more attention to human rights, in part because they resented the high-handed domination of the great powers over the proceedings. In addition, a multitude of religious, labor, women's, and civic organizations, most of them based in the United States, directly lobbied the conference delegates. Urgent face-to-face pleas from representatives of the American Jewish Committee, the Joint Committee for Religious Liberty, the Congress of Industrial Organizations (CIO), and the National Association for

the Advancement of Colored People (NAACP) helped change the minds of officials in the U.S. State Department, who agreed to put human rights in the United Nations Charter. The Soviet Union and Great Britain gave their consent because the charter also guaranteed that the United Nations would never intervene in a country's domestic affairs.<sup>24</sup>

The commitment to human rights was still far from assured. The United Nations Charter of 1945 emphasized international security issues and devoted only a few lines to "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." But it did set up a Human Rights Commission, which decided that its first task must be the drafting of a bill of human rights. As head of the commission, Eleanor Roosevelt played a central role in getting a declaration drafted and then shepherding it through the complex approval process. A forty-year-old law professor at McGill University in Canada, John Humphrey, prepared a preliminary draft. It then had to be revised by the full commission, circulated to all member states, then reviewed by the Economic and Social Council, and, if approved, sent on to the General Assembly, where it had first to be considered by the Third Committee on Social, Humanitarian, and Cultural Affairs. The Third Committee had delegates from every member state, and as the draft was discussed, the Soviet Union proposed amendments to nearly every article. Eighty-three meetings (of just the Third Committee) and nearly 170 amendments later, a draft was sanctioned for a vote. Finally, on December 10, 1948, the General Assembly approved the Universal Declaration of Human Rights. Forty-eight countries voted in favor, eight Soviet bloc countries abstained, and none opposed.<sup>25</sup>

Like its eighteenth-century predecessors, the Universal Dec-

laration explained in a preamble why such a formal statement had become necessary. "Disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind," it asserted. The variation on the language of the original French Declaration of 1789 is telling. In 1789, the French had insisted that "ignorance, neglect or contempt of the rights of man are the sole causes of public misfortunes and governmental corruption." "Ignorance" and even simple "neglect" were no longer possible. By 1948 everyone knew, presumably, what human rights meant. Moreover, the 1789 expression "public misfortunes" hardly captured the magnitude of the events recently experienced. Willful disregard and contempt for human rights had produced acts of almost unimaginable brutality.

The Universal Declaration did not simply reaffirm the eighteenth-century notions of individual rights such as equality before the law, freedom of speech, freedom of religion, the right to participate in government, protection of private property, and the rejection of torture and cruel punishment (see Appendix). It also expressly prohibited slavery and provided for universal and equal suffrage by secret ballot. In addition, it called for freedom of movement, the right to a nationality, the right to marry, and more controversially, the right to social security; the right to work, with equal pay for equal work at a life-sustaining wage; the right to rest and leisure; and the right to education, which should be free at the elementary levels. At a time of hardening lines of conflict in the Cold War, the Universal Declaration expressed a set of aspirations rather than a readily attainable reality. It outlined a set of moral obligations for the world community, but it had no mechanism for enforcement. If it had included a mechanism for enforcement, it would never have

passed. Yet, for all its shortcomings, the document would have effects not unlike those of its eighteenth-century predecessors. For more than fifty years, it has set the standard for international discussion and action on human rights.

The Universal Declaration crystallized 150 years of struggle for rights. Throughout the nineteenth and early twentieth centuries, benevolent societies had kept the flame of universal human rights burning as nations turned in upon themselves. Prime among these organizations were the Quaker-inspired societies founded to combat the slave trade and slavery. The British Society for the Abolition of the Slave Trade, set up in 1787, distributed abolitionist literature and images and organized mass petition campaigns directed at Parliament. Its leaders developed close ties with abolitionists in the United States, France, and the Caribbean. When in 1807 Parliament passed a bill to end British participation in the slave trade, the abolitionists renamed their group the Anti-Slavery Society and turned to organizing mass petition campaigns to get Parliament to abolish slavery itself, which it finally did in 1833. The British and Foreign Anti-Slavery Society then took up the baton and agitated for the end of slavery elsewhere, especially in the United States.

On the suggestion of American abolitionists, the British society organized a world antislavery convention in London in 1840 to coordinate the international fight against slavery. Although the delegates refused to allow female abolitionists to participate in any formal way, and thus helped precipitate the women's suffrage movement, they did boost the international anti-slavery cause with the development of new international contacts, information about slave conditions, and resolutions that denounced slavery "as a sin against God" and condemned those churches that supported it, especially in the southern United

States. Even though the "world" convention was dominated by the British and Americans, it set the mold for future international campaigns for women's suffrage, protection of child labor, workers' rights, and a host of other issues, some rights related, and others, such as temperance, not.<sup>26</sup>

During the 1950s and 1960s, the cause of international human rights took a back seat to anticolonial and independence struggles. At the conclusion of World War I, President Woodrow Wilson had famously insisted that a lasting peace must rest on the principle of national self-determination. "Every people," he insisted, "has a right to choose the sovereignty under which they shall live." He had in mind the Poles, Czechs, and Serbs—not the Africans—and he and his Allies granted independence to Poland, Czechoslovakia, and Yugoslavia because they saw themselves as having the right to dispose of the territories previously controlled by the defeated powers. Great Britain agreed to include national self-determination in the Atlantic Charter of 1941 laying out the joint British-U.S. principles for fighting the war, but Winston Churchill insisted that this applied only to Europe and not to Britain's own colonies. African intellectuals disagreed and made it part of their growing campaign for independence. Although the United Nations failed to take a strong stand on decolonization in its first years, by 1952 it had agreed to make self-determination an official part of its program. Most African states regained their independence, either peacefully or by force, in the 1960s. Although they sometimes incorporated into their constitutions the rights enumerated, for example, in the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the legal guarantee of rights frequently fell victim to the vagaries of international and inter-tribal politics.<sup>27</sup>

In the decades after 1948, an international consensus about the importance of defending human rights took shape by fits and starts. The Universal Declaration initiated the process rather than representing its culmination. Nowhere was the progress of human rights more apparent than among Communists, who had long resisted this call. Beginning in the 1970s, West European Communist parties returned to a position much like that laid out by Jaurès in France at the turn of the century. They replaced "the dictatorship of the proletariat" in their official platforms with the advancement of democracy and explicitly endorsed human rights. At the end of the 1980s, the Soviet bloc began moving in the same direction. Communist Party general secretary Mikhail Gorbachev proposed to the 1988 Communist Party Congress in Moscow that the Soviet Union should henceforth be a state under the rule of law with "maximum protection for the rights and freedom of the Soviet individual." In that same year, a human rights department was established for the first time in a Soviet law school. A certain convergence had taken place. The Universal Declaration of 1948 included social and economic rights—the right to social security, the right to work, the right of education, for instance—and by the 1980s most Socialist and Communist parties had given up their previous hostility to political and civil rights.<sup>28</sup>

Non-governmental organizations (now called NGOs) never disappeared, but they gained more international influence beginning in the 1980s, in large part due to the spread of globalization itself. NGOs such as Amnesty International (founded 1961), Anti-Slavery International (a continuation of the Anti-Slavery Society), Human Rights Watch (founded 1978), and Doctors without Borders (founded 1971), not to mention countless local



groups whose activities are unknown outside of their locales, have provided critical support for human rights in the last several decades. These NGOs frequently brought more pressure to bear on offending governments and did more to ameliorate famine, disease, and brutal treatment of dissidents and minorities than the United Nations itself, but almost all of them based their programs on the rights articulated in one or another part of the Universal Declaration.<sup>29</sup>

Needless to say, human rights are still easier to endorse than to enforce. The steady stream of international conferences and conventions against genocide, slavery, the use of torture, and racism, and for the protection of women, children, and minorities shows that human rights remain in need of rescue. The United Nations adopted a Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery in 1956, and yet it is estimated that there are 27 million slaves in the world today. It approved the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1984 because torture had not disappeared when its judicial forms were abolished in the eighteenth century. Rather than being employed in a legally sanctioned setting, torture moved to the backrooms of the secret and not so secret police and military forces of modern states. The Nazis explicitly authorized the use of "the third degree" against Communists, Jehovah's Witnesses, saboteurs, terrorists, dissidents, "antisocial elements," and "Polish or Soviet vagabonds." The categories are no longer exactly the same, but the practice endures. South Africa, the French in Algeria, Chile, Greece, Argentina, Iraq, the Americans at Abu Ghraib—the list never ends. The hope of stopping "barbarous acts" has not yet been fulfilled.<sup>30</sup>

### *The Limits of Empathy*

What are we to conclude from the resurgence of torture and ethnic cleansing, the continuing use of rape as a weapon of war and enduring oppression of women, the growing sexual traffic in children and women, and the remaining practices of slavery? Have human rights failed us by proving inadequate to the task? A paradox of distance and closeness is at work in modern times. On the one hand, the spread of literacy and the development of novels, newspapers, radio, films, television, and the Internet have made it possible for more and more people to empathize with those who live far away and in very different circumstances. Pictures of starving children in Bangladesh or accounts of thousands of murdered men and boys in Srebrenica, Bosnia, can mobilize millions of people to send money, goods, and sometimes themselves to help people in other places or to urge their governments or international organizations to intervene. On the other hand, firsthand accounts tell how neighbors in Rwanda killed each other over ethnicity and did so with furious brutality. This close-up violence is far from exceptional or recent; Jews, Christians, and Muslims have long tried to explain why the biblical Cain, son of Adam and Eve, killed his brother Abel. As the years have passed since the Nazi atrocities, careful research has shown that ordinary human beings, without psychological abnormalities or passionate political or religious convictions, could be induced in the "right" circumstances to undertake what they knew to be mass murder at close quarters. The torturers in Algeria, Argentina, and Abu Ghraib all began as ordinary soldiers, too. The torturers and murderers are like us, and they often inflict pain on people right in front of them.<sup>31</sup>

Thus, while modern forms of communication have

expanded the means of empathizing with others, they have not been able to ensure that humans will act on the basis of that fellow feeling. Ambivalence about the power of empathy can be found from the mid-eighteenth century onward, and it was expressed even by those who undertook to explain its operation. In his *Theory of Moral Sentiments*, Adam Smith considers the reaction of "a man of humanity in Europe" who hears of an earthquake in China that kills hundreds of millions of people. He will say all the right things, Smith predicts, and go on with his business as if nothing had happened. If, in contrast, he knew he would lose his little finger the next day, he would toss and turn all night. Would he then be willing to sacrifice the hundreds of millions of Chinese in exchange for his little finger? No, he would not, Smith claims. But what makes a person resist this bargain? "It is not the soft power of humanity," Smith insists, that enables us to counteract self-interest. It has to be a stronger power, that of conscience: "It is reason, principle, conscience, the inhabitant of the breast, the man within, the great judge and arbiter of our conduct."<sup>32</sup>

Smith's own list from 1759—reason, principle, conscience, the man within—captures an important element in the current state of debate on empathy today. What is strong enough to motivate us to act on our fellow feeling? The heterogeneity of Smith's list indicates that he had some trouble answering this question himself; is "reason" synonymous with "the inhabitant of the breast"? Smith seemed to believe, as do many human rights activists today, that a combination of rational invocations of rights principles and emotional appeals to fellow feeling can make empathy morally effective. Critics then and many critics now would respond that some sense of higher religious duty needs to be activated in order to make empathy work. In their

view, humans cannot overcome their inner propensity to apathy or evil on their own. A former president of the American Bar Association gave expression to this common view. "When human beings are not visualized in God's image," he said, "then their basic rights may well lose their metaphysical *raison d'être*." The idea of human commonality is not sufficient on its own.<sup>33</sup>

Adam Smith focuses on one question when there are really two. Smith considers empathy for those far away to be in the same class with feelings for those close to us, even though he recognizes that what confronts us directly is far more motivating than the problems faced by those far away. The two questions, then, are: what can motivate us to act on our feelings for those far away, and what makes fellow feeling break down so much that we can torture, maim, or even kill those closest to us? Distance and closeness, positive feelings and negative ones, all have to enter into the equation.

From the middle of the eighteenth century onward, and precisely because of the emergence of a notion of human rights, these tensions became ever more deadly. Late eighteenth-century campaigners against slavery, legal torture, and cruel punishment all highlighted cruelty in their emotionally wrenching narratives. They intended to provoke revulsion, but the arousal of sensations through reading and viewing explicit engravings of suffering could not always be carefully channeled. Similarly, the novel that drew intense attention to the travails of ordinary girls took on other, more sinister forms by the end of the eighteenth century. The Gothic novel, exemplified by Matthew Lewis's *The Monk* (1796), featured scenes of incest, rape, torture, and murder, and those sensationalist scenes increasingly seemed to be the point of the exercise rather than the study of interior feelings or moral outcomes. The *marquis de*

Sade took the Gothic novel a step further into an explicit pornography of pain, deliberately reducing to their sexual core the long, drawn-out seduction scenes of earlier novels like Richardson's *Clarissa*. Sade aimed to reveal the hidden meanings of previous novels: sex, domination, pain, and power rather than love, empathy, and benevolence. "Natural right" for him meant only the right to grab as much power as you could and enjoy wielding it over others. It is no accident that Sade wrote almost all of his novels in the 1790s during the French Revolution.<sup>34</sup>

The notion of human rights thus brought in its train a whole succession of evil twins. The call for universal, equal, and natural rights stimulated the growth of new and sometimes fanatical ideologies of difference. New modes for gaining empathetic understanding opened the way to a sensationalism of violence. The effort to dislodge cruelty from its legal, judicial, and religious moorings made it more accessible as an everyday tool of domination and dehumanization. The utterly dehumanizing crimes of the twentieth century only became conceivable once everyone could claim to be an equal member of the human family. Recognition of these dualities is essential for the future of human rights. Empathy has not been exhausted, as some have claimed. It has become a more powerful force for good than ever before. But the countervailing effect of violence, pain, and domination is also greater than ever before.<sup>35</sup>

Human rights are our only commonly shared bulwark against those evils. We must still continually improve on the eighteenth-century version of human rights, ensuring that the "Human" in the Universal Declaration of Human Rights leaves none of the ambiguities of "man" in the "rights of man." The cascade of rights continues, though always with great conflict about how it should flow: the right of a woman to choose versus

the right of a fetus to live, the right to die with dignity versus the absolute right to life, the rights of the disabled, the rights of homosexuals, the rights of children, the rights of animals—the arguments have not and will not end. The eighteenth-century campaigners for the rights of man could condemn their opponents as unfeeling traditionalists, interested only in maintaining a social order predicated on inequality, particularity, and historical custom rather than equality, universality, and natural rights. But we no longer have the luxury of simple rejection of an older view. At the other end of the struggle for human rights, when belief in them has become more widespread, we have to face the world that has been wrought by that endeavor. We have to figure out what to do with the torturers and the murderers, how to prevent their emergence in the future, all the while recognizing that they are us. We can neither tolerate nor dehumanize them.

The human rights framework, with its international bodies, international courts, and international conventions, might be exasperating in its slowness to respond or repeated inability to achieve its ultimate goals, but there is no better structure available for confronting these issues. Courts and governmental organizations, no matter how international in purview, will always be slowed down by considerations of geopolitics. The history of human rights shows that rights are best defended in the end by the feelings, convictions, and actions of multitudes of individuals, who demand responses that accord with their inner sense of outrage. The Protestant pastor Rabaut Saint-Etienne had already grasped this truth in 1787, when he wrote to the French government to complain about the defects of the new edict offering religious toleration to Protestants. "The time has come," he said, "when it is no longer acceptable for a law to overtly overrule the rights of humanity that are very well known all over the

world." Declarations—in 1776, 1789, and 1948—provided a touchstone for those rights of humanity, drawing on the sense of what "is no longer acceptable" and in turn helping to make violations all that more inadmissible. The process had and has an undeniable circularity to it: you know the meaning of human rights because you feel distressed when they are violated. The truths of human rights might be paradoxical in this sense, but they are nonetheless still self-evident.

## APPENDIX

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### *Three Declarations: 1776, 1789, 1948*

#### *Declaration of Independence, 1776*

*IN CONGRESS, July 4, 1776.*

*The unanimous Declaration of the thirteen united States of America,*

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.