

Embracing humanity's pasts. The need to pluralize Human Rights History

José Ricardo Robles Zamarripa¹

Abstract: History should always be referred in plural. The same should happen with the history of human rights (HRH). This article focuses particularly on the conventional understanding of HRH retaken within the international human rights law (IHRL), with the main objective of challenging such narrative. The scarce consideration that such approach usually has had on the particular contexts in which those rights were born, evolved, and used until nowadays, is little useful to construct a counter-hegemonic understanding of human rights (HR). Without the consideration of such historical contexts, the IHRL will always be a reproduction of the historical exclusions and oppressions of such past. And, we will continue without knowing a. why HR are usually our 'powerless companion'; b. how to interpret HR to change its current 'fragile hegemonic' capacity; and c. which are the things we need to change to contribute better to emancipatory objectives in these fields.

Keywords: Human rights; human rights history; international human rights law; interculturality.

Introduction

When does it make sense to bring up the famous Benjamin's description of the *Angelus Novus* painted by Klee? Only after one has been in touch directly or indirectly with the 'historical paths' of our pasts. With that kind of contact with 'historical reflections' one can put him or herself in the place of the '*Angelus*', feeling the experience of time passing by, and, when we look towards histories of oppression, obliteration, and social exclusion, we

¹ PhD candidate of the Human Rights in Contemporary Societies doctoral program at the Center for Social Studies of the Coimbra University. joserobles@ces.uc.pt

may even feel the pain of being propelled by the storm from 'Paradise'. Based on that, the idea of this article is to highlight the importance of fighting not only for the awareness of such historical fatality, but to contribute re-conceiving the usual historical narratives on HR to better help in the achievement of counter-hegemonic aims.

According to such objective, in the next pages there will be introduced a few reflections unfolding as follows: *The always 'in plural' histories of human rights*; then, some references to *The conventional historical narratives on human rights*; passing to point out *A list of critiques to the dominant historical narratives on human rights*; then, *A list of glances of counter-hegemonic alternative historical narratives on human rights*; and, finally, several *Conclusions* are presented.

The always 'in plural' histories of human rights

The risks of not taking the path of plurality in historical narratives are diverse but they could be synthesized within this formula: less historical narratives considered about existence, would be equal to less representative capacity of such narratives, and, less voices contemplated. Thus, more monolithism and less pluralism. Then, each time 'history' is referred as a unique historical narrative, we will be taking the path of contributing to build such narrative –the one chosen by us- as the only one, as the 'all-comprehensive' relate of the considered social phenomena. The idea here is to defend the importance to referring history always as plural and, in doing so, change the attitudes, actions, and social constructions to open-up the inclusive capacity of historical narratives.

Concretely, regarding to human rights' histories, such 'expansive movement' would allow us to say that there could be multiple histories of HR depending on the social actors we are considering as the authorized voices to produce 'history'². Hence, this would also challenge the mainstream idea of 'history' as something that could only be produced by

² See Santos, Boaventura. (1992) A Discourse on the Sciences, available at < <https://estudogeral.sib.uc.pt/jspui/bitstream/10316/10836/1/A%20discourse%20on%20the%20sciences.pdf> > Also, see Santos, Boaventura. (2014). *Epistemologies of the South: justice against epistemicide*. London New York: Routledge.

historians or by those ‘powerful’ considered as the ‘authors’ of the ‘historical landmarks’. This is not to say that it is not important to know and understand the mainstream approaches to history; however, it intends to highlight that such approaches, are not the only source of ‘historical material’ we should be considering, if the design of radical alternative paths is what is wanted.

The biggest amount possible of histories should be considered. If more subjects and their experiences and knowledges are considered as valid and important, then, the historical scenario will increase with all those experiences. Nonetheless, in order for that to happen, social and political struggle is needed because the monopoly of history for some will not change without fighting –from diverse scenarios- to achieve such a goal.

Lastly, this expansive movement of ‘historical pluralization’ could be beneficial for HRH because, from the first contact with such approach, the historical narrative could transmit the idea that there is no such thing as the ‘history of human rights’ but several historical ways to narrate the evolution of such rights depending on the focus that is adopted. Therefore, this could allow us on the one hand, to open up the human rights’ possibilities to achieve counter-hegemonic objectives, and on the other hand, contribute to diminish the asymmetrical design upon which such rights were created in their current mainstream form³.

The conventional historical narratives on human rights

This section focuses on the dominant historical narratives of HR, with emphasis on the historical basis taken within the IHRL. In doing so, it exposes first, some ‘formal/institutional’ ways to tell the HRH (mainly coming from United Nations and other international entities); and after, some relevant academic historical approaches to HR created from not too critical perspectives about history and HR.

³ On this, the ideas presented by Barreto about the geopolitics of knowledge influencing human rights, the actions needed for their decolonization as well as his proposal on the need of re-writing HR’ history are considered complementary. See Barreto, José-Manuel (2013).

The formal/institutional approach to human rights history

The HRH is often something considered in a very superficial way. The most common uses of history behind the birth of HR are divided between two general time spaces: 1. *The ancient times of human rights*, starting with the national processes in the modern-Western world, opening with England (1215, *Magna Carta*; 1689, *English Bill of Rights*), and then passing through the independence of the United States of America and the *Declaration of Independence*, 1776, finalizing with the French revolution and the *Declaration of the Rights of Man and of the Citizen* (1789); and, 2. *The modern human rights post-Second World War*, where the landmark is the *Universal Declaration of Human Rights* ('UDHR') of 1948 and then, the 1976 international covenants on Civil and Political Rights and on Economic, Social and Cultural rights.

This storyline, is frequently used as the mainstream way to think about HRH (Vereinte Nationen, 2004: 3-5), («History of human rights, Amnesty International.pdf», s. f.), (Ciobota, Eugen, 2007: 415-417). A common factor to this kind of approaches is their very scarce reflection about the multiplicity and complexity of social processes that were behind the HR appearance in our current times. Far from that, it seems that the above-mentioned approaches tend to oversimplify the HRH, reducing it to some institutional landmarks in order to legitimize and locate such rights as the result of some 'historical social achievements'. In other words, they end up constructing the historical basis of HR in a very artificial way, that, 'coincidentally', is almost totally located in the Western world.

A critique to this kind of oversimplified HRH is that, several people related with the HR movements, tend to adopt this kind of historical foundations without questioning them. On the long run, this also contributes to reinforce the conception of HR in a very distorted way that, unavoidably, will affect the current possibilities of them. If we do not know the historical complexities and the contextual scenario in which those rights came to be, it will be more difficult to take inspiration from the struggles of the past to make effective changes in our current circumstances.

The 'history' usually told about human rights from academia⁴

As Moyn has referred (Moyn, 2010: 5), the study of HR by historians is a recent phenomenon and is mostly built in a very celebratory tone. The last does not imply that there were no prior academic reflections with 'historical tone' about HR but sadly -at least speaking from the juridical approaches- it was quite common to find the narration of the HRH in the way referred in the section above. This section introduces some historical analyses on HR that are quite representative of the conventional academic version of HRH.

The historical narratives of human rights criticized⁵

One of the wider HRH departs from the Babylonian Law (Code of Hammurabi), and follows more or less the next path: Hebrew Law → Indian texts → Buddhism → Confucianism → Greek and Roman philosophy → Christian texts → and, Islamic texts. Afterwards, the 'Modern era' of HR is presented, starting with the Western Enlightenment, then the Industrial revolution, and later the 'internationalization of human rights' in the UN context, the 'bipolar world' of the Cold War, and ending with the globalization era. (Ishay, 2009: 3-6 and ss.)

Maybe as a consequence of the assumption of the modern-Western eighteenth and nineteenth centuries as the historical cornerstones of HR, another usual way of conceiving the HRH is the narrative that focuses on the modern-Western social events such as the Independence of the USA and its Declaration of Independence; and the French revolution, and Declaration of the Rights of Man and of the Citizen (Hunt, 2008: 12-24). Therefore, the internationalization process of HR are conceived almost exclusively, as heritage of only those social processes.

Additionally, these kinds of understandings allow us to know how HR in their origins were considered as a 'self-evident' truth that, afterwards, was associated with the necessary 'moral autonomy' of human beings and a certain 'early universalism'; later with the

⁴ Is important to precise that in the composition of this work, I took mainly academic approaches produced by persons speaking from places identified as part of the 'Global North', therefore, their work and my reading of it will in some measure be influenced by such geographical-metaphorical location.

⁵ In particular, I will focus on the work of Micheline Ishay (*The History of Human Rights*) and Lynn Hunt (*Inventing Human Rights*).

belonging to a nation-State; and then, as something consecrated on the international instruments as a new form of 'universalism'. Particularly, emphasizing the role of the UDHR as the standard settling document for international discussion about HR and the crystallization of 150 years of struggle for rights (Hunt, 2008: 129-130).

A few common elements within these approaches consist principally on, highlighting HR conceived as a very deep-rooted phenomenon with traces of them, –is argued- even in the Babylonian times (1754 B.C., Code of Hammurabi). In the same way, HR tend to be presented as representative of a big cluster of ethical positions and social struggles that have existed and occurred since a long time ago in the humanity's history (Ishay, 2009). Also, the international 'formal' recognition of such rights is often considered as the 'crystallization point' of a long history.

Thus, the HRH is presented as the synthesis of all the humanity's struggles to build – progressively- a better world for all human beings. Although such 'optimism' could -and should- be criticized, it is relevant to underline that these academic approaches differ from the non-academic presented before, because they do not simplify excessively the historical background; they are highly documented approaches constructed after serious consideration of several historical data, and, remarkably, they tend to recognize that the path of HR throughout history, was not an easy or simple one.

Despite their limits, it is important to highlight that such analyses are useful to challenge some commonsensical ideas regarding HR. Firstly, that the basic notion of 'dignity' often associated exclusively to the modern-Western world has been present in other cultural backgrounds. Secondly, that the developments of HR within the twentieth century, were not only achieved by the countries associated with a 'liberal' tradition but also with basic ideas and struggles associated with the 'socialist' ones (Ishay, 2009: 120)⁶. Finally, that the social phenomena surrounding HR occurrences is very much diverse and complex than what

⁶ In this point is remarkable the following argument: "[...] it would be wrong to overlook Marxism's (or socialism's) nineteenth-century historical contributions because of the human rights abuses later inflicted by communist regimes. If liberalism –rightly celebrated for its contribution to civil rights- is more than its colonial legacy, socialism –which championed the rights of the hardworking and powerless poor- is more than Stalinism and Maoism." See Ishay, Micheline, p. 120.

is usually recognized by isolated monodisciplinary approaches, and even than those used by some international (and national) organizations and social movements.

Nevertheless, the critiques to such approaches remain, but they demand different nuances. It is possible to underline that such well documented analyses may not oversimplify the historical scenario were HR came to be, but instead, they tend to introduce misleading interpretations of the past in order to justify the current importance bestowed to those rights. In other words, these historical analyses 'monumentalize' (Moyn, 2010: 225) the importance of HR and with that over-dimension in mind, their analysis goes back in time to trace the 'origins' of the current HR' conception they have in mind.

The above-mentioned journey is troublesome at least because, again, it could be highly artificial. The fact that nowadays HR are considered by many as the core of our ethical foundations, does not justify seeing them in historical places where it is too difficult to believe they were invoked or fought. That is to say, that the multiplicity and diversity of social struggles, moral or ethical conceptions, and ways of resistance -past and present- were (and are) not always about HR.

Another critique to the former historical analyses presented, is that they give no particular attention to the colonialization processes or, when they do consider them, they do so with a narrow understanding of such historical processes limiting the 'anti-colonial' struggles within the twentieth century anti-colonial movements. Also, they seem to associate just the anti-colonial struggles from such period as a 'relevant HR issue', but they do not seem to do the same with the colonialization processes beyond HR (Hunt, 2008; Ishay, 2009; Moyn, 2010). Concretely, considering the America's case, these historical approaches conferred not much attention to the invasion and colonization of the aforementioned continent or, when they do refer to it, such reference is done in an extremely laconic and euphemistic manner, as the 'discovery of America'⁷.

Finally, I would like to bring up Moyn's words regarding the negative consequences in having and oversimplified and monumentalized historical conception of HR:

⁷ This critique would apply not only to Ishay and Hunt's work but also to Moyn's analysis on the human rights history, see Moyn, S. (2010). *The last utopia: human rights in history*. Cambridge, Mass: Belknap Press of Harvard University Press. p. 16.

The worst consequence of the myth of deep roots they provide is that they **distract from the real conditions** for the historical developments they claim to explain. If human rights are treated as inborn, or long in preparation, **people will not confront the true reasons they have become so powerful** today and **examine whether those reasons are still persuasive**. (Moyn, 2010: 12), **Emphasis added**.

Based on that, it is possible to highlight the importance in avoiding the distraction provoked by misleading ways of looking and interpreting our pasts since in doing so, we will be closer to a HR conception more useful for counter-hegemonic aims. Lastly, on this point it is pertinent to add to the Moyn's critique that, by having a less 'mythical' understanding of HRH, it would be possible to acknowledge not only why such rights are deemed so 'powerful' but, even more important, why they seem 'too weak' to achieve systemic changes in our current realities.

A few critiques to conventional historical narratives on human rights.

This segment of the article will be focused on enouncing several critiques to the usual historical narratives regarding HR and why such narratives' issues, are significant reasons why -very often- such rights are not a 'powerful' companion to achieve counter-hegemonic objectives.

Its problematic over-dimension

The mainstream approaches to HRH tend to over-dimension the length of the past of those rights, extending it in a quite artificial way. Thus, the current HR are presented as something as antique as history itself. The concrete problem that arises from such depiction is that it gives the idea that HR are the crystallization of the most significant ethical concerns of all the humanity's eras when -actually- the current understanding of them is quite recent and has its origins in concrete contexts that allowed the burgeoning of such rights.

Far from such artificial over-dimension of HR, it would be better to have a less 'romantic' reconstruction of the pasts behind those rights and re-dimensioning them in a non-delusional way. Doing so, it will be easier to acknowledge how contingent they are, and to

know more accurately with what ‘we are really counting on’ when we try to use HR to generate social changes and achieve counter-hegemonic aims.

The over-dimensioning of the past behind the current dominant understanding of HR is of little usefulness if we have the intention to use them to generate real changes in the social and political arena. Without knowing the complexities present on the birth of such HR’ conception and the multiplicity of factors that were involved in that process, such ‘artificial magnificent past’ could be admired –the same as a beautiful painting- but it would be scarcely convenient to generate or inspire concrete social actions today.

Its often highly coincidental occurrence with the history of the modern-Western world

As was advanced above, very often the mainstream way of telling the HRH is highly coincidental with the historical landmarks of the modern-Western world, and specifically, with those essential historical processes for the Global North’s⁸ form of narrating the past. Such partiality ends up reproducing few specific historical processes as representative of all humanity’s history and, often, excluding or despising other historical subjects and processes important to other geographies and ways of existence, which -generally- coincide with the histories coming from the Global South.

Its non-strategic character

The ‘glorious delusion’ of the dominant HRH is also a non-strategic factor to reach significant modifications on the current social conditions towards counter-hegemonic objectives. Therefore, this lack of knowledge and clarity about the historical context in which the current conventional conception of HR arose could signify at least, two things. On the one hand, losing efforts reproducing conducts that have been done before without generating successful results for emancipatory aims; on the other hand, have no clarity on the additional actions and changes needed beyond HR, in order to contribute better to reinforce narratives of resistance and systematic emancipatory transformations or, at least, a cluster of emancipatory conducts beyond HR.

⁸ This reference to the Global North and South mainly as epistemic geographies is done in line with the theoretical proposal of Boaventura de Sousa Santos. See Santos, Boaventura de Sousa (2014) and (2018).

The violence and oppression applied over multiple peoples and individuals have not cease to occur; in some cases, we witness them in ‘ancient’ forms, and, in others, we are experiencing them in ‘new ways’ originated in our current epoch. For that reason, it is critical to use our time in the most efficient possible ways. If there is more clarity in the picture of the human rights’ histories, there will be higher possibilities of ‘hitting’ the hegemonic system in its weaker spaces, and more accuracy building-up all the other social changes needed within the HR arena and beyond.

A list of glances of counter-hegemonic alternative historical narratives on human rights

This section introduces some glances of how a counter-hegemonic HR historical narrative would look like.

Firstly, a counter-hegemonic historical narrative of HR should overcome the former critiques presented in these pages. Then, such counter-hegemonic alternative would, at least: 1. Consider a non-romantic herculean dimension of HRH and on the contrary, would embrace the limits and possibilities of HR even if they were considerably smaller than such delusional depiction; 2. Emphasize the concrete historical events and processes in order to rise-up the emulating possibilities of effective conducts to achieve social changes through HR; 3. Consider the HRH as histories that could have come not just from the ‘Global North’ but also from the ‘Global South’, too; and, 4. Be a historical narrative much more effective to locate the ‘cracks’ within the hegemonic system to achieve systemic changes, or stronger resistances, and, more efficient spaces to put efforts striking back several ways of oppression, exclusion and violence against subalternized subjects.

Secondly, a counter-hegemonic historical narrative of HR should be open to the widest plurality within the historical scenario. That is to say, it should consider the people speaking from and with the Global South as relevant historical subjects and therefore, open to the possibility of multiple histories regarding HR.

Thirdly, a counter-hegemonic HRH would put a bigger emphasis on the role of concrete social subjects (individuals, communities, peoples and movements) on the generation of historical processes. In doing so, the HR would be conceived more as the result of long social

struggles and less as 'ahistorical' or 'self-evident' rights recognized within 'institutional instruments', that, at least in the international scenario, were result mainly from the work of a global diplomatic elite (Moyn, 2010: 66).

Fourthly, this historical alternative would be a less self-worshipping one about the role of HR to achieve social changes. In other words, it would be a narrative considering HR as an important factor to take into account but not the "one-and-only" to achieve. Consequently, this kind of narrative would put considerable effort narrating the HRH highlighting which would be the most fertile spaces to connect the human rights struggles with other ways of social resistance and counter-hegemonic strategies.

Fifthly, a different historical narrative on HR should emphasize the importance of the re-politization of the current dominant conception of them. Primarily, using the historical approach in a way that would always try to highlight the political factors surrounding the HR' historical landmarks and achievements and also, would be helpful to incentivize current political possibilities considering past experiences.

Finally, this counter-hegemonic understanding of HRH would be always assumed as an ongoing process; as an incomplete narrative that will always be compromised to respond to the social changes and different ways of existence present in our world, emphasizing the ones coming from the Global South. A narrative that would never have the arrogance to name such a thing as 'the end of history'.

All the former critiques directed to increase the HR' counter-hegemonic possibilities regarding its historical aspect could be reinforce by two sets of theoretical proposals. On the one hand the Moyn's critiques to the dominant historiography of HR and particularly when he questions the scarcely strategic over-dimension of the HR' pasts (Moyn, 2010), and the historical reasons that could help us explaining why such rights seem so often a powerless companion (Moyn, 2014). On the other hand, the Boaventura de Sousa Santos proposals on the need to re-conceive HR in an intercultural way (Santos, 1999; 2009) and the centrality of considering the abyssal divisions and exclusions at work influencing the HR' dynamics where only certain 'humanity' is considered existent and relevant while others,

are actively produced as inexistent or irrelevant (Santos, 2007; 2009; Sena Martins e Santos, 2019).

These theoretical frameworks are considered as complementary because, in a simplified way, the first one focuses more in the external historical factors about HR, and the second one, emphasizes on the internal and epistemological complexity that arises after reflecting seriously and critically about the human rights' foundations and practices within the 'bigger picture' of human existence and resistance. Both approaches should be considered in order to contribute better to the birth of an intercultural re-conception of HR; a different approach to HRH; and finally, to potentialize the emancipatory possibilities of such rights.

Conclusions

I suggest that after visiting and reflecting diverse historical analyses of HRH –beyond formal/institutional documents- it is possible to acknowledge better the concrete processes behind the birth of such rights and why they are so often our 'powerless companion'. But also, that thanks to such analysis it is possible to identify more accurately the HR' potentialities and the occasions where they have helped to achieve actual emancipatory social changes. In other words, this article aims to criticize consciously the historical narratives about HR in order to build stronger and more effective approaches to the pasts of such rights.

Finally, it wants to contribute arguing that counter-hegemonic conceptions of HRH are not just helpful, but necessary to achieve counter-hegemonic aims. If we have more clearness on the HRH, we will have more clearness on the multiple and diverse social changes needed within and beyond HR and -above all- increasing the possibilities of making stronger the HR' contributions towards emancipatory objectives. So much is to be done; learning the lessons from our pasts is a critical task.

References

Amnesty International, *History of human rights (s. f.)*. Available at https://www.amnesty.org.nz/sites/default/files/History%20of%20human%20rights_0.pdf

- Barreto, José-Manuel (2013), "Decolonial strategies and dialogue in the Human Rights Field" in *Human Rights from a Third World Perspective: Critique, History and International Law*. Newcastle: Cambridge Scholars Publishing.
- Ciobota, Eugene (2007), Evolution of Human Rights Concept, *Revista DREPT - Series Jurisprudentia* (Annales 10/2007). Available at <
http://www.uab.ro/reviste_recunoscut/reviste_drept/annales_10_2007/ciobotea_en.pdf>
- Hunt, Lynn (2008), *Inventing Human Rights: A History*. W. W. Norton & Company.
- Ishay, Micheline (2009). *The history of human rights: from ancient times to the globalization era (2. pr)*. Berkeley, Calif.: University of California Press.
- Moyn, Samuel (2010), *The last utopia: human rights in history*. Cambridge, Mass: Belknap Press of Harvard University Press.
- _____ (2014), *A powerless companion: Human rights in the age of neoliberalism*. Law & Contemp. Probs., 77, 147.
- Santos, Boaventura de Sousa (1999), *Towards a Multicultural Conception of Human Rights*. En *Spaces of Culture: City, Nation, World* (pp. 214-229). London: SAGE Publications Ltd.
<https://doi.org/10.4135/9781446218723>
- _____. (2007), *Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges*. *Review* (Fernand Braudel Center), 30(1), 45-89.
- _____. (2009), *If god were a human rights activist: Human rights and the challenge of political theologies*. En *Law, Social Justice & Global Development* (Vol. 2009, pp. 1–42). University of Warwick.
- _____. (2014), *Epistemologies of the South: justice against epistemicide*. Paradigm Publishers. Boulder-London.
- _____. (2018), *O fim do império cognitivo. A afirmação das epistemologias do Sul*. Coimbra: Almedina.
- _____ & Sena Martins, Bruno; (Ed.). (2019), *El pluriverso de los derechos humanos. La diversidad de las luchas por la dignidad - Akal*. Madrid: Akal. Retrieved from https://www.akal.com/libro/el-pluriverso-de-los-derechos-humanos_50795/
- Vereinte Nationen (Ed.). (2004), *ABC - teaching human rights: practical activities for primary and secondary schools*. New York: United Nations.