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Introduction

IN 2015, a young girl and her father crossed into the United States from the border with Mexico. Astrid and Arturo, K'iche' Indians from Guatemala, were fleeing the systematic discrimination and violence their people have suffered for decades. US officials detained Astrid and Arturo for only one day. They had applied for political asylum and were allowed to move on. They began to build a life in Pennsylvania as they awaited the decision on their asylum status. Three years later, in 2018, US immigration authorities raided their home in the middle of the night and arrested them. Human rights lawyers argued that Astrid and Arturo were unjustly detained. Amnesty International launched a campaign to free them. The authorities were deluged with nearly two thousand phone calls and tens of thousands of petitions demanding their release. The calls and petitions arrived from nearly every continent on the globe. Officials relented, and after a month set father and daughter free. For now. Their status as asylum seekers has, as of autumn 2018, still not been finally decided.[1]

One story from one family among the more than 68.5 million migrants, asylum seekers, and refugees in the world today (see plate 1).[2] Yet the experiences of Astrid and Arturo speak to the three questions that animate this book: Who has access to rights? What do we mean by human rights? And how do we obtain rights?

Human rights are never as simple as we might think from reading, say, the preamble and thirty articles of the Universal Declaration of Human Rights (UDHR). That is precisely the point of *A World Divided*. I aim not just to celebrate human rights (although I do most definitely support them), but to explore their complex origins, development, and meanings since the eighteenth century. I do so by examining the histories of various nation-states and one federation of nationalities (the

Soviet Union) and the human rights they proclaimed. I have chosen these particular cases, culled from around the globe over the past two and one-half centuries, because they encompass the variety of modern political and economic systems, from republic to empire, slavery to socialism, colonialism to communism.

Human rights offer people around the world the prospects of expansive, liberty-endowed, self-determining lives, despite the violations, deprivations, and atrocities we still witness on virtually every continent. Even where they exist only as promises and hopes, human rights stand as a triumph of the human spirit and intellect. Where implemented, they protect us from the arbitrary power of the state. They assure us that policemen cannot enter our homes unless granted a warrant, and no government agency can arbitrarily seize the property we own. Every time individuals around the globe go to a polling place to pull a lever or scratch an X to choose the representatives of their choice, wherever people raise their voices in meetings and rallies or in letters to their local newspaper, they are exercising rights of free speech that make them participants of the worlds they inhabit, whether it be their local village or town or country. Whenever people demand clean water or adequate healthcare, they are expressing their social rights. Through all these activities, they are no longer mere objects who are ordered about or moved around at someone's whim, nor subjects who, if fate treats them well, receive benefits from those above them. Rights give people power in the best sense of the term—the ability to shape their own lives and the societies in which they live. Rights enhance our capacity to be more fully human.

In our divided world of 193 sovereign nation-states, we have rights first and foremost as national citizens. But who, in fact, constitutes the nation and by what criteria? Were Arturo and Astrid, as Indians, national citizens and therefore able to exercise rights in Guatemala? Who has the "right to have rights"?—as Hannah Arendt, and the German Enlightenment philosopher Johann Gottlieb Fichte before her, asked.[3] Access to rights in the nation-state is the first major theme of this book. From Greek rebels in the early nineteenth century to anticolonial Africans in the twentieth, all had to face the questions: Who belongs to the nation? Who qualifies to be a rights-bearing citizen, and what kinds of

rights may he or she possess? What happens to those who live within the territory of the new nation-state but are somehow different from the dominant group, whether by virtue of skin color, religion, language, or any other trait? This quandary remains with us today, as Arturo and Astrid know all too well.

A World Divided affirms the powerful and creative history of human rights from the late eighteenth century to the present. It also presents a critique of the *limitations* of rights, so long as they are based in the nation-state and national or racial citizenship.[4] In fact, the book takes the problem one step further: the great paradox of the history presented here is that nation-states create rights for some at the same time that they exclude others, at times quite brutally. The state is our protector; it is also our greatest threat.[5] This dilemma, that the state, at its best, enforces human rights, but at the same time limits the circle of those who can possess rights, is our history as well as our present and future. As far as anyone can imagine, we will continue to inhabit a world of 193 sovereign independent states (give or take one, two, or three).

Only since 1945 has the emergence of international human rights offered a model of universal rights beyond the nation-state. The UDHR, passed by the United Nations (UN) General Assembly on 10 December 1948, proclaims that rights inhere in everyone regardless of national citizenship. Scores of international treaties confirm the point that even the stateless possess human rights and therefore need to be protected by states and the international community.[6] Asylum seekers, like Arturo and Astrid, are especially protected, and they at least were released from detention after one month. Every step that moves the protection of human rights to the international level, however partial and limited, constitutes, I argue, a major advance, the best-laid path out of the quandaries and limitations of human rights based exclusively in national citizenship.[7]

Nonetheless, in the vast majority of cases we are still dependent on the nation-state to establish and enforce human rights, or are compelled to fight the nation-state as the supreme violator of rights. Activists around the globe appeal to international human rights standards. But their first station stop is their own state, which they call upon to ensure

free speech, provide clean water, and rein in paramilitaries who wreak havoc on populations.[8]

One truth about human rights is incontrovertible (and it may be the only truth): they are dynamic. Their meaning has evolved over the past two and one-half centuries, and that is the second theme pursued in this book. Once reserved for some people—propertied men, white Europeans, loyal Soviets—they were quickly demanded by those who had been excluded. Activists turned the rhetoric and law of rights against those who reigned, and demanded a free and open, more inclusive society. We shall see this phenomenon at work time and again, in Brazil, the Soviet Union, South Korea, and Rwanda and Burundi, and in other histories explored in each of the chapters. We shall also see it at work internationally, notably in the movement for women's rights after 1945.

As the charmed circle of rights-bearing citizens expanded, so did the meaning of those rights. In the nineteenth century, new states were primarily liberal in character. They proclaimed political rights, like the right to free speech and assembly and protection from unwarranted search and seizure, but provided little to nothing in the way of social rights.[9] Yet already by the mid-nineteenth century, socialists, feminists, and some liberals raised the objection that rights conceived solely in political terms ignored the great needs and desires of the vast majority of the population.[10]

Today, most scholars and activists insist that the political rights derived from the great revolutions of the late eighteenth and nineteenth centuries must be complemented by social and economic rights. The UN said as much in 1966 by passing the International Covenant on Economic, Social and Cultural Rights (the United States, though a signatory, has never ratified the treaty). The Guatemalan Constitution, like so many others around the globe, conforms to this understanding.[11] Its section on "Human Rights," primarily political in orientation, is immediately followed by one on "Social Rights." Had the state come anywhere close to following its own prescriptions, Arturo and Astrid would have been able to speak out freely and express their cultural identity, and would have had access to healthcare and education—the full complement of human rights as understood today.

This expanded understanding of human rights, beyond the strictly political to social rights as well, implies that people must have the resources that enable them to make self-conscious, considered decisions about the lives they wish to lead. If people go hungry, if their life chances are so debilitated by the lack of access to healthcare and education, they hardly have the capacity to choose their life's course or to engage in politics. Instead, they are consumed by scouring urban and rural landscapes for the barest of provisions needed to sustain life in its most minimal and miserable fashion.[12] After 1945, the Soviet Union and the countries of the Global South forged a powerful alliance in support of social rights and national self-determination. However, social rights are meaningless if they are isolated from political rights, as we shall see in our histories of Korea and the Soviet Union.

The history of nation-states *is* the history of human rights, and vice versa. These histories cannot be disentangled precisely because human rights are embedded, first and foremost, in the proclamations, constitutions, and laws of nation-states as well as empires, like the Soviet Union, that were created as federations of nationalities. The origins of nation-states and human rights lie in the West, including the Americas, South and North. Over the course of the nineteenth and twentieth centuries, the nation-state became the predominant political model of the modern world. Virtually every one of them has a constitution that proclaims the rights of its citizens—even when those rights are only a veneer, below which the jailer, the torturer, the censor reign supreme. Still, something significant must be at work if even the most repressive dictators feel compelled to claim that they, too, are champions of human rights.

The nation-state and human rights have played a central role in the making of our global world, as much as have international commerce and communications revolutions from the telegraph to the internet.[13] No nation-state founding, no popular movement was ever completely autonomous. And that speaks to the third issue addressed in *A World Divided*: How do we obtain rights? Amnesty International's campaign in support of Astrid and Arturo is emblematic of the global reach of today's non-governmental organizations (NGOs). Lawyers also intervened on their behalf. Yet rarely does such activism suffice to create human rights

advances. In every instance, the establishment of nation-states with their systems of rights—however imperfectly implemented—was the result not only of heroic actors or of the beneficence of leading statesmen. Popular struggles, state interests, and the workings of the international system came together in a highly fragile and fleeting consensus to found nation-states with their treaties, constitutions, and laws that enshrined—at least rhetorically—the principles of human rights.

Each history related in the individual chapters expounds on the three major themes of *A World Divided*. In various national settings, each chapter explores historically who possessed the right to have rights and who was excluded, the precise meaning of those rights, and how the nation-state and human rights actually came about. Some of the histories may seem, at first glance, to unfold in out-of-the-way geographies, distant from the capitals of the Great Powers or from today's global giants like India and China. These places, Greece in the Mediterranean, Minnesota in the American Upper Midwest, Korea in Northeast Asia, Namibia in Southwest Africa, Rwanda and Burundi in the Great Lakes region of Africa, Palestine and Israel, became focal points for the new politics of the nation-state and human rights—and its violations. The activism, for good and bad, of Greeks, Dakota Sioux Indians, Koreans, Herero and Nama of Namibia, Zionist Jews, and Hutus and Tutsis drew in central states and Great Powers, which were always unnerved by conditions of instability. These regions and countries, all small, some relatively isolated, decisively shaped the course of global politics and the intertwined history of nation-states and human rights.

I offer in this book no definitive answer to the ultimate question—the meaning of rights—that has occupied philosophers, theologians, and political theorists for centuries, as well as present-day scholars in a wide variety of fields. Rather, I explore the complexities of human rights and take an open-ended, capacious, and practical approach to the disputes regarding the philosophy and history of human rights. Human rights constitute in this book an angle of orientation, not a definitional end point.

Still, we need some working definitions and chronological perspective. Human rights have a long history. Traces of them are apparent as

far back as the ancient and medieval worlds, in the great law codes starting with Hammurabi, in ideas of justice and humanitarianism evident in virtually all world religions, and in Saint Thomas Aquinas's meditations on the meaning of natural law. A breakthrough came with the "Machiavellian moment" of the sixteenth century, when political theory first emerged as a distinctive intellectual field.[14] Machiavelli's great contribution was soon followed by other towering intellects, notably Thomas Hobbes and John Locke in the seventeenth century, who began to elucidate the meaning of rights in a recognizably modern fashion.[15]

The deep historical traces of human rights are apparent not only in high theological and philosophic speculation. We see them also in society and politics. The charters of medieval European towns gave burghers the power to govern the politics of their commune. Even in nineteenth-century Russia, the most autocratic of European states, peasants appeared in court to claim that the law provided them some protection from the arbitrary power of their aristocratic overlords. Ottoman and Islamic property law gave tenants the right to dispose of the fruits of their labor and to occupy the land as long as they worked it productively.[16]

Many would dispute that these cases have anything to do with human rights. They would say that these examples and thousands of others we could summon are too fragmentary and episodic to constitute a full-blown program of *human* rights. These scholars would note that few people used the term "human rights" prior to the 1940s, and that its wide dissemination came only from the 1970s onward. Indeed, some would contend that we can talk about human rights only since the 1970s. Anything that appeared beforehand was partial, political, and national. Human rights, they argue, are a form of morality rather than politics, and reach beyond the nation-state and national identities.[17]

That is not the line of thought I follow in this book, though we do need some distinctions. Human rights are broader in conception than the political rights exercised by town citizens in Europe before the modern period, or the exclusively political rights of national citizens. But the border between the rights of man—*les droits de l'homme* or *Bürgerrechte*—and human rights is permeable, not hard and fast,

something the drafters of the UDHR well understood.[18] They deliberately based their work on the great rights proclamations of the late eighteenth and early nineteenth centuries, like the American Declaration of Independence and Bill of Rights, the French Declaration of the Rights of Man and Citizen, and the Spanish Cadiz Constitution of 1812. Yet they believed that these principles had to be extended to encompass all people on the planet—not just citizens of particular nation-states—and required global methods of enforcement. Moreover, the term "human rights," while rare in the nineteenth century, was hardly unknown. Some American abolitionists explicitly spoke and wrote about human rights, as did pioneering feminists, many of whom were active in both the slavery abolition and the women's movements.[19]

I begin this book in the late eighteenth century because that is the moment when the ideas of the nation and rights, broached the century before by political theorists, became manifest in politics, notably in the American, French, and Latin American revolutions. The political model of the nation-state and human rights then spread across Europe and the Americas during the nineteenth century, and around the entire world in the twentieth.[20] In the process, other, non-Western ideas and traditions contributed to the broadening and deepening of the meaning of rights, notably in the realm of social and economic matters and national self-determination.[21]

Recognition of this deep history of rights, its long chronology and diverse geography, broadens the sight lines, enabling us to understand better the complex history and politics of human rights. This long history has constituted a fount of ideas and resources from which political actors drew very powerfully from the late eighteenth century onward. This longer perspective indicates that rights are *always* eminently political, not simply moral. Today, few human rights activists around the world would recognize themselves as post-national and post-political when they rally to transform their own country's political order, or suffer its tyrannies in jails and torture chambers.

In their most general sense, human rights are natural, inalienable, and universal. "Natural" means that rights inhere in us by virtue of being human, nothing more and nothing less. That understanding has its roots

in Christian theology, notably as developed by Aquinas, but the writers and political activists of later centuries largely secularized the idea.[22] That is, "natural rights" no longer had to be grounded in the belief that humans were created in god's image and therefore must adhere to god-given natural law, which gives them the capacity to exercise rights. With god removed, the simple fact of being human, which meant the ability to reason, sufficed to grant people the "right to have rights."

Those rights, to be human rights, must also be "inalienable," as the UDHR preamble states. They cannot be removed from the person; no state or individual may strip a person of rights no matter what the circumstances. "Universal" means that human rights apply to everyone, or at least to all adults. Rights also mean that we have duties and obligations to others.[23] At minimum, we have to recognize that in order for us to enjoy rights, others must be able to exercise rights as well. Rights may be defined for individuals, but they can exist only in the social world of people thinking, arguing, and acting in relation to one another.[24]

Human rights as natural, inalienable, and universal, coupled with duties and obligations—that, to be sure, is an ideal and abstract definition. Still, it is essential as a standard by which we judge states and individuals and a goal to which people everywhere can aspire. Human rights enlarge the scope of human freedom and creativity—even when we know they can never be realized in their entirety, that utopia can never exist in the real world, that national citizenship, despite its contradictions and ambivalences, remains the bedrock for most human rights claims.

The historical cases that comprise this book are about nation-state foundings and reformations. However, *A World Divided* is also very much about empires, precisely because nation-states were almost always carved out of existing empires, and because even empires had to develop policies, some deadly, some humane, that responded to the allure of the nation.[25] These empires were of the most varied sort, yet there was one constant: empires by definition ruled (and rule) over diverse populations. No Ottoman sultan, Russian tsar, or Chinese emperor ever thought that all of his (or, occasionally, her) subjects had to be of one ethnicity or religious faith and speak one language. Empires blithely gathered in populations no matter what their particular

characteristics. The only limiting factor was the expanse of territory imperial armies could conquer and tax collectors could traverse without getting killed or driven out by the local populace.

The modern era, in contrast, is defined by the triumph of the nation-state (although some empires still exist). The nation-state is, in most instances, a compact territory with clearly defined borders and a state that claims to represent one people. The allure of the nation-state is great.[26] It strikes deep emotional chords of shared language, homeland, religion, and great myths of lineal descent from heroic ancestors, a sense of blood kinship however fictitious in reality. Even when these states are federations or grant recognition to multiple ethnicities in some other fashion, the nation remains the overarching source of identification—all despite the intractable reality of human diversity.

Moreover, the nation-state proved its mettle in the American and French revolutions and the contemporaneous Industrial Revolution—it could mobilize human and productive resources far better than large, cumbersome, ineffective empires. When nation-states created their own colonial empires, forging a kind of national empire hybrid, as the British, French, Dutch, Japanese, and Americans did, they proved even more powerful. The nation-state became a model for activists around the globe, who typically blended in some of their own traditions. In that regard, the emergence of nationalism was by no means only a Western export to the rest of the world.[27]

The nation-state promised its citizens that they would be secure in their own person and property and could participate, should they so desire, in the political system in which they lived. Its appeal was still grander, because nationalists everywhere promised a bright, utopian future of prosperity and happiness once the shackles of foreign oppression had been destroyed. Such claims were shouted at rallies, broadcast over the radio, and printed on paper—the rivers of communication of the modern age that made possible the mass appeal of the nation-state and human rights. The promise of great things through the nation was often belied in reality, but that did little to diminish the nation-state's appeal.

The establishment and expansion of human rights have never been pure and straight. Paradoxes abound. The following chapters explore

the mix of inclusions and exclusions, rights and their deprivation, accomplishments and disasters that accompanied nation-states and the establishment of human rights. The concluding section of each chapter draws the story into the present, since the impact of how rights-bearing citizens were defined historically resonates still in our modern world—and directly affects people like Arturo and Astrid and millions of others.

We begin with a *tour d'horizon* of the world around the late eighteenth and nineteenth centuries, when the idea and politics of the nation and rights had been initiated, but empires, small regional forms of governance, and tribes and clans still dominated the bulk of the earth's surface. Explicit hierarchies of power, not the promise of rights for all citizens, prevailed, and they were evident, as we shall see, in formal political structures, popular ceremonies, and everyday practices. At the same time, the great transformations of the nineteenth century, epic population movements as well as advances in economics, communications, and transport, opened up new possibilities and offered glimmers of the world to come, the world of nation-states and human rights.

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