

James Loeffler, *Rooted Cosmopolitans. Jews and Human Rights in the Twentieth Century*, (New Haven: Yale University Press, 2018), pp. 384.

by Marcella Simoni

This volume is a mighty *tour de force* that explores the role of various Jewish lawyers, law professors, idealists, activists, organizers in Europe, the US and Israel in establishing and developing human rights in the 20th century. These should be understood as a discipline and as a practice in international law, and as a legal and political issue. One of the declared aims of the volume, certainly met by its Author, is to rescue this rich, complex and fascinating history from the “collective amnesia” (p. 298) that, for various historical and political reasons, made it disappear from scholarship and public awareness, and from more specific debates in the field of international legal history, in the second half of the 20th century. As we shall see below, the A. addresses the reasons for such a disappearance – and the political dynamics behind it - mainly in the third and last part of the volume. “Left out of the history of human rights,” writes Loeffler, “are the voices of the rightless” (p. xii), and among them the Jews of Eastern Europe.¹ To reintegrate them, this volume analyzes and discusses at length the careers, the intellectual contributions, the debates and the political connections and works of a number of Jews who founded the discipline. Their scholarly and political publications, exchanges, political lobbying, debates, as well as their different approaches and inevitable intellectual clashes, intersected in the first half of the 20th century across and between the UK, the US and British Palestine/Israel. After World War Two they found a more concrete application, for example during the first trials against Nazi criminals.

¹ The history that is told in this volume recalls Philippe Sands’ best-selling non-fiction novel, *East West Street* but the two books differ in several ways. One of the most obvious distinctions is that the latter places the birth of human rights law after World War Two and as a result of the Holocaust, while the former places it in the context of the post-Versailles order when, the Mandate system and, most of all, the Minority Treaties, tried to give new shape to the relationship between States and national minorities. Both volumes agree on the geographical starting point of such an enterprise, “the living shtetls of Eastern Europe” (p. xii) and in particular the city of Lwów/Lviv (Lemberg): here, immediately after the First World War the Polish and Ukrainian armies clashed for the control of the city, giving way to one of the worst episodes of uncontrolled and prolonged violence against the city’s Jewish population since the beginning of the century. See Philippe Sands, *East West Street. On the Origins of Genocide and Crimes against Humanity*, (London: Weidenfeld and Nicholson, 2016).

In particular, Loeffler concentrates on the life paths and works of five men whose brief bios are presented in the introduction: Hersch Zvi Lauterpacht (the Polish-Anglo international lawyer who drafted the early versions of both the International Bill of Human Rights and the Israeli Declaration of Independence); Jacob Blaustein (the “Baltimore oilman that brought human rights into US foreign policy”); Rabbi Maurice Perlzweig, “the British Zionist leader who created the modern international NGO at the League of Nations and the UN;” Jacob Robinson, a Zionist leader from Lithuania who helped design the UN Commission for Human Rights and the Nurnberg and the Eichmann trials; and Peter Benenson, a British Zionist activist who converted to Catholicism and founded Amnesty International. As Loeffler writes: “Their lives spanned continents. Their ideas reshaped the legal fabric of international society. Their language has become our language” (p. xiii).

To detail such a fascinating history, the volume is divided in three well balanced parts: the first one, entitled “Emergence” (chapters 1-3), discusses the life histories, theoretical approaches, groundbreaking work, politics (and also the differences) between Lauterpacht, Robinson, Perlzweig and Benenson in the eventful timeframe 1918-1945. The first section raises two central questions: in the first place, how to secure collective rights and guarantees to national minorities within States (and therefore also to Jews). Secondly, how necessary is the active presence of a State (and thus of an army) in the international community (that is within its main diplomatic institution, the League of Nations (LoN) and later the UN) to defend and voice the rights of a persecuted national, religious or ethnic minority. The first question acquired a particular relevance after 1918, when many Eastern European countries (from Estonia to Turkey) signed the so-called Minority Treaties. These were treaties conferring basic rights to all the inhabitants of their country regardless of birth, nationality, language, ethnicity or religion as obligations placed under the guarantee of the League of Nations (a map of the LoN’s Minority Treaties system is at p. 46). The answer to the second question had become painfully obvious already in the aftermath of the Lwów/Lviv pogrom and only found a confirmation in the following decades with the rise and consolidation of Fascism in Europe, and with the spreading of anti-Jewish discrimination. Connected to these themes, another question is central in the volume, i.e. how is Zionism as a national-political project connected to the rise, development and consolidation of human rights in the 20th century? According to Loeffler, it was so in at least two ways. In the first place, through the personal and professional commitment of Lauterpacht, Robinson, Benenson, Perlzweig and Blaustein, all convinced Zionists; and secondly, because

the Minorities Treaty and the Mandate system were interlocked within the framework of the LoN. With the deterioration of the international situation both in Europe and in mandatory Palestine (culminating with the British White Paper of 1939 limiting Jewish immigration), the connection between the Minorities Treaty and the Mandate system showed the frailty of the international order that had emerged out of the First World War, especially for Jews, as it came to represent a serious obstacle for their search for a refuge.

The second section of the volume – entitled “Convergence” (chapters 4-6) – focuses on the 1940s, pairing the birth of the Universal Declaration of Human Rights (UDHR) and the foundation of the State of Israel in 1948. By pairing these two events, this second section discusses the contradictions of national sovereignty which represents both a source of rights and a challenge to those rights: on the one hand, with the establishment of the State of Israel, the international community had legitimized a new request for national sovereignty; on the other, with the UDHR, it promulgated a new type of international human rights “intended to constrain sovereignty” (p. 144). This section of the volume also discusses the existence of the inevitable differences that separated the universalistic values contained in the legal principles, the *realpolitik* of the institutional places where Human Rights Law was being forged in those years, and the much harder political reality of the various scenarios which required the legislators’ attention. Just to give one example, one of these sites was the Middle East: here, on the one hand, in 1947-49, hundreds of thousands of Jews from Middle Eastern countries were suffering anti-Semitic attacks; on the other, the War of 1948 in Palestine/Israel caused the displacement of 750,000 Palestinians and the creation of a new problem of stateless refugees.

This section also aims at deconstructing one of the standard narratives on the rise of human rights (and on the role of the Jews in it) which considers the Holocaust as a central factor in pushing American conscience towards the adoption of human rights. In reality, as Loeffler demonstrates, the UDHR was the product of American policy makers “who replaced the delegitimized European model of minority rights with a new ideal of American style civil liberties” (p. 87). That was so despite their lack of awareness on the situation of national minorities in the rest of the world, which was due also to America’s failure to join the LoN in the pre-war years. To bridge this gap of knowledge and political approach we again find some of the main characters whose history is told in this volume, and in particular Perlzweig, Robinson, Blaustein and Lauterpacht. Robinson was both one of Israel’s top lawyers at the UN and the first legal advisor to the UN

Commission on Human Rights; Lauterpacht wrote drafts of both the Israel's Declaration of Independence and of the International Bill of Rights; Perlzweig worked on drafting the UN Declaration of Human Rights and Genocide Convention; he was also the first to charge Arab States with genocide for their treatment of Jewish populations (p. 144).

Of particular interest in this second section are the debates and the actions that involved all of them in various capacities when the Allied governments started to address the question of how to frame the prosecution of Nazi war criminals: was there a Jewish specificity in Nazi crimes? Could Jews be grouped with all the other "civilians victims of criminal warfare" (pp. 132-33)? Should the Holocaust be framed as genocide or as crimes against humanity?

The third and concluding section of this volume – entitled "Divergence" (chapters 7-10) - analyses the history of human rights in the Middle East during the Cold War. As the title shows, the parallel paths of human rights and nationalism, which - according to the interpretation of Loeffler - had been walking hand in hand until this time, started to diverge. Even more so, those of human rights and Zionism, both in the perception and representation by the International community of what Zionism was, and in the actual evolution of this national movement after 1967. The 1960s and 1970s are central in this third section: the characters that we have encountered in the previous two sections of this study continued to act as prominent actors in this long last phase too: for example Robinson, was asked by the Israeli government "to draft the nearly one million dollar war reparations agreement with West Germany" (p. 177); he also became involved with three key projects that marked the history of human rights: the 1951 Genocide Convention and the 1951 International Refugee Convention and the International Criminal Court. In 1961 Benenson, now converted to Catholicism, established "a radically new kind of human rights organization: Amnesty International" (p. 203) that would mobilize people and resources for human rights from the grassroots, rather than speak the language of international justice. In 1961 the Eichmann trial opened in Jerusalem while the decade closed with the military occupation of the West Bank and the Gaza Strip after the Six Day War (1967). All these (and other) events made human rights enter global consciousness and language and helped develop a new activist political culture based on the notion of human rights; at the same time – considering the inevitable contradiction between universal ethics and ethnically based nationalism (which Loeffler more mildly terms group identity) - the State of Israel, and later Zionism, became the *bête noir* of such a political culture (p.

262). By the early 1970s, veteran Jewish human rights organizations such as the World Jewish Congress and the American Jewish Committee closed their UN offices, “exiting in defeat.” The separation culminated in UN resolution n. 3379 of 1975, which equated Zionism and racism. From here onwards, the path could only continue to diverge.

Marcella Simoni, Ca’ Foscari University of Venice

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