

Book Review

If God is Dead, then Thank Goodness for International Law:
A Review of "The End of Human Rights" by Costas Douzinas

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The end of history, ideology, utopias and grand narratives have, among others, willingly been proclaimed by authors in different historical epochs. As a sociological irony, the main reason these "end"-theses appear is, of course, due to the simple fact that they treat something that is of high topicality in their own particular historical period. They have in common the focus on a certain transformation, allegedly, taking place at that time, even a change of paradigm. "The End of Human Rights" does fit this pattern and the finality of the title should be taken with a grain of salt. Actually, Costas Douzinas is in search of a critical reinterpretation of, broadly speaking, the liberal subject of human rights, if it is to survive its own success and role as the triumphant utopia at literally "the end of history", the temporal symbolic historical closure occurring after the fall of the Berlin Wall.

Douzinas offers a well argued and very well written analysis. It is "a textbook for the critical mind and the fiery heart" (p. 4) aimed at providing the "melancholic lawyer" (p. vii) with an advanced introduction to legal theory at its intersection with human rights. This is all more than welcome. The high ambition is clearly reflected in the language and style, and the book might appear slightly bombastic and somewhat idealised for the very melancholic reader. However, this statement should not be read as a critique. Throughout, the book is written in a refreshing tone, even in the heavier parts dedicated to the classics of philosophy and psychoanalysis. The study is separated in two parts: the first focusing on the genealogy of human rights; the second on the philosophy of human rights. For good reasons, the distinction is not particularly rigid and the book should be read continually in order to grasp the long argument from natural law over natural rights to the philosophy and psychology of human rights.

Douzinas is on a mission: firstly, he continues his postmodern voyage initiated in the early 1990s together with Ronnie Warrington with the influential books "Postmodern Jurisprudence" (Routledge, 1991) and "Justice Miscarried" (Edinburgh University Press, 1994); secondly, he wants to save human rights from the fate its current course implies, according to Douzinas. Not very surprising, a great part of his postmodern critique focuses on the unfortunate exodus of natural law from legal theory. Douzinas reclaims the centrality of ethics in the legal field ("law without justice is a body without soul" (p.vii)) and links this to human rights by, quite elegantly, introducing human rights as an alternative history of natural law. The latter, however, is not without problems. For instance, Douzinas spends a significant time on the (reinterpreted?) role of Enlightenment in regard to human rights. But here, as in the later parts of the book,

Douzinas effectively masters the classics of philosophy and argues well for his point. The applied postmodern paradigm does not lead to a coherent theory, but rather a series of "emerging themes", and arguing against it is like shooting after a moving target.

The other part of Douzinas' project is clearly related and concerns saving the fate of human rights, in itself a noble mission. His basic argument is that notwithstanding the contradictory and paradoxical existence of human rights in practice when taken hostage by governments and liberal jurisprudence, we should not abolish their great aspirations so close to their "final" victory. Douzinas wants to reactivate the tradition of human rights both as a way of dissent and rebellion and as a way to criticize the conservatism of law. It is by following this original utopia, that human rights can be both saved and freed. Thus, according to Douzinas, the future of human rights lies in disentangling them from the State politics of human rights and morality, evidenced in an array of political constructs ranging from international legal instruments to NATO's intervention in the Kosovo War in the name of human rights.

While Douzinas is very much at home in the postmodern critique of classical philosophy, his understanding of current international human rights practices seems more problematic. To me he operates with a reduced conceptualisation of the logic of the inter- and transnational field of human rights, probably a consequence of the, at times, idealised way of approaching the subject. From an empirical point of view, it is simply not that evident that "[o]fficial thinking on human rights has been entrusted in the hands of triumphalist column writers, bored diplomats and rich international lawyers in New York and Geneva..." (p. 7). Even though the official "symbolic capital" of human rights significantly increased in the 1990s and so-called moral foreign policies literally and formally caused a shift from barricades to barristers, the grass-root level of the human rights field also increased. "In the process, human rights have been turned from a discourse of rebellion and dissent into that of state legitimacy", Douzinas continues (p. 7). In the case of the UK for instance, the adoption of human rights into mainstream political discourse by the New Labour government does constitute a challenge to the human rights "establishment", but only very few insiders would agree that the role of dissidents, rebels and weeping mothers and wives is all that redefined. Moreover, within the UK, the Human Rights Act itself provided important points of reference when opposing the State even when assisted by solicitors and barristers, who according to Douzinas have turned human rights "into a haven for doctrinal exegesis and positivism" (p. 230). In many ways, the implementation of the European Convention of Human Rights into common law was a clear victory for the civil society "rebels".

When Douzinas later characterises the international human rights system by referring to the reactions of the Greek Colonels by first calling the Council of Europe "a conspiracy of homosexuals and communists against Hellenic values" (p. 144) and then increase human rights violations as a response to expelling Greece from the Council of Europe in 1969 because of exactly human rights violations, he is on thin ice. Using this as a benchmark for international human rights practices is misleading. Several works have established that the development of modern international and transnational human rights practices did occur in the late 1970s and early 1980s, particularly on the basis of the human rights struggles in Latin America and South Africa. It is by looking at these struggles and their relationship with the evolving international human rights protection systems and networks of human rights NGOs that one gets the richness of the contemporary human rights story contrary to overemphasizing the crossroads of international politics and human rights. Basically, by analysing this development, one can see how an increasingly effective system, however not perfect, was built seriously challenging people like the aforementioned Greek Colonels in Latin America.

However, this critique only hits a marginal part of Douzinas work both in term of space and historical importance. All together "The End of Human Rights" is quite impressive and only few would disagree with him concerning the rather dubious and indeed morally contradictory role states can play in the pursuit of human rights. States are by definition the major protectors and violators of human rights at one and the same time. And, the claim of national sovereignty coincides with the willingness to construct effective

international remedies. Douzinas' fears it will be the end to human rights if the original utopian ideal is not re-invented. As a general guideline against a too mundane attitude towards human rights, this can hardly be questioned, and it is my impression that it is also not by most human rights actors, even the ones trading in the (post)-natural law construct known as international human rights law.

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