Human Rights and the Care of the Self

ALEXANDRE LEFEBVRE

HUMAN RIGHTS AND THE CARE OF THE SELF

HUMAN RIGHTS AND THE CARE OF THE SELF

ALEXANDRE LEFEBVRE

DUKE UNIVERSITY PRESS DURHAM AND LONDON 2018

Library of Congress Cataloging-in-Publication Data
Names: Lefebvre, Alexandre, [date–] author.
Title: Human rights and the care of the self / Alexandre Lefebvre.
Description: Durham : Duke University Press, 2018. | Includes bibliographical references and index.
Identifiers: LCCN 2017045249 (print) | LCCN 2017051070 (ebook)
ISBN 9780822371694 (ebook)
ISBN 9780822371229 (hardcover : alk. paper)
ISBN 9780822371311 (pbk. : alk. paper)
Subjects: LCSH: Humanistic ethics. | Human rights—Philosophy. | Humanism—Social aspects. | Self-realization—Moral and ethical aspects. | Self-actualization (Psychology)
Classification: LCC BJ1360 (ebook) | LCC BJ1360 .L44 2018 (print) | DDC 172/.1—dc23
LC record available at https://lccn.loc.gov/2017045249

Chapter 1 was previously published as "The End of a Line: Care of the Self in Modern Political Thought," *Genealogy* 1, no. 2 (2016): 1–14, and is republished with permission.

Chapter 2 was previously published as "Mary Wollstonecraft, Human Rights, and the Care of the Self," *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 7, no. 2 (2016): 179–200, and is republished with permission.

Chapter 5 was previously published as "Human Rights and the Leap of Love," *Journal of French and Francophone Philosophy* 24, no. 2 (2016): 68–87, and is republished with permission.

COVER ART: Eleanor Roosevelt carrying her suitcase at LaGuardia Airport, New York City, 1960. Photo by Lawrence W. Jordan. Franklin D. Roosevelt Presidential Library and Museum.

IF I AM INTERESTED IN HOW THE SUBJECT
CONSTITUTES ITSELF IN AN ACTIVE FASHION THROUGH
PRACTICES OF THE SELF, THESE PRACTICES ARE
NEVERTHELESS NOT SOMETHING INVENTED
BY THE INDIVIDUAL HIMSELF. THEY ARE MODELS
THAT HE FINDS IN HIS CULTURE AND ARE PROPOSED,
SUGGESTED, IMPOSED UPON HIM BY HIS CULTURE,
HIS SOCIETY, AND HIS SOCIAL GROUP.

—MICHEL FOUCAULT, "THE ETHICS OF THE CONCERN
FOR SELF AS A PRACTICE OF FREEDOM," 1984

Contents

Acknowledgments
ix

Introduction
1

[1]
The Care of the Self
9

[2]
The Juridical Subject as Ethical Subject:
Wollstonecraft on the Rights of Man
25

[3]
Critique of Human Rights and Care of the Self
47

[4]
Human Rights as Spiritual Exercises:
Tocqueville in America
61

[5]
Human Rights as a Way of Life:
Bergson on Love and Joy
85

[6]
On Human Rights Criticism
105

[7]
An Ethic of Resistance I: Roosevelt and
the Universal Declaration of Human Rights
119

[8]
An Ethic of Resistance II: Malik and
the Universal Declaration of Human Rights
141

[9]
Human Rights Education
165

Conclusion
185

Notes
195

Bibliography
225

Index
245

Acknowledgments

Many colleagues and friends have provided invaluable assistance and constructive criticism at various stages of this project. From the University of Sydney, I thank Charlotte Epstein, Duncan Ivison, Jane Park, John Keane, Kiri Flutter, Joy Twemlow, Megan Quinn, Marco Duranti, Moira Gatens, and Simon Tormey. I am also indebted to what I hope will one day be known as the UNSW Foucault school: Ben Golder, Paul Patton, and Miguel Vatter. Keith Ansell-Pearson, Jane Bennett, Leonard Lawlor, Ella Myers, and Felisa Tibbitts provided advice and encouragement at crucial points. Courtney Berger was her usual wonderful editorial self, and I am lucky to have her patient and excellent direction. I am especially grateful for three wonderful colleagues, Danielle Celermajer, Samuel Moyn, and an anonymous reviewer for Duke University Press, all of whom helped me more than I could have hoped for, and for my wife, Melanie White, and her tender loving care. This book is dedicated to Melanie, to our beautiful daughter Beatrice, and to my parents Georges and Joanne.

I thank the following journals and their publishers for permission to reprint modified versions of three articles in this book. Chapter 1 was previously published as "The End of a Line: Care of the Self in Modern Political Thought," *Genealogy* 1, no.2 (2016): 1–14; chapter 2 was previously published as "Mary Wollstonecraft, Human Rights, and the Care of the Self," *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 78, no. 2 (2016): 179–200; and chapter 5 was previously published as "Human Rights and the Leap of Love," *Journal of French and Francophone Philosophy* 24, no. 2 (2016): 68–87. I also thank the Franklin D. Roosevelt Presidential Library and Museum for allowing me to use the photograph of Eleanor Roosevelt on the front cover of my book. I first encountered it in Allida Black's book on Roosevelt, *Casting Her Own Shadow*, where it is accompanied by a caption: "ER [El-

eanor Roosevelt] traveled simply and without fanfare. Often this amazed those who found themselves in her company—as it did Lawrence Jordan Jr., who in the fall of 1960 photographed a solitary, seventy-six-year-old ER deep in thought and carrying her own luggage." It is difficult to say why some pictures mark you, but this one has stayed with me as the image of a life well lived.

Introduction

On August 13, 1948, Eleanor Roosevelt gave a major speech on human rights at the Sorbonne in Paris. Twenty-five hundred people packed into the great auditorium to hear her, and she, the most seasoned of public speakers, confessed to feeling "nervous and apprehensive."[1] Her fears were for naught and the address was a success. The chair of the United Nations Commission on Human Rights and former first lady persuaded her audience of the supreme importance of personal freedom for human rights. She amused them with improvised stories of Soviet stubbornness on the Human Rights Commission. And she introduced a phrase that would come to shape present-day human rights policy. Speaking of the need to see such basic rights as freedom of speech and freedom of assembly as more than abstract ideals, she proposed that they are tools with which to craft "a way of life."[2]

Human rights as "a way of life" is an interesting phrase, but what does it mean? Roosevelt did not define or elaborate it in her speech, but it often comes up in her later speeches and writings. Indeed, the idea of human rights as a way of life is at the heart of her best-known remark on human rights: "Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere."[3] The message here is that to be effective human rights must become integrated into the day-to-day of ordinary people. If human rights are not nestled into the small places of life, they run the risk of seeming remote to most people. They would have the air of abstract (not

to mention pious) principles. And they would seem to concern only great and far-off institutions. We could say, then, that the viability of the human rights project depends on whether it can guide us in everyday life. That is one reason why Roosevelt advocated for human rights in terms of a way of life.

But there is another reason as well. It is less explicit in her work, perhaps, but no less present or deeply felt. To appreciate it we must remember that in addition to her many roles as human rights campaigner, diplomat, journalist, and social critic, Roosevelt also wore another hat: advice columnist. For decades she wrote a monthly column, "If You Ask Me," for the *Ladies' Home Journal*, advising readers on any number of topics, from politics to art to housekeeping. And late in life she wrote a short and much-loved book, *You Live by Learning: Eleven Keys for a More Fulfilling Life*, in which she tries to answer the thousands of letters received over the years asking her, in essence, "What have you learned from life that might help solve this or that difficulty?"[4]

This vocation as an advice-giver shines through in Roosevelt's reflections on human rights and gives a crucial insight as to why it is so very necessary for human rights to become a way of life. It is not only for the health and viability of the human rights project. Nor is it even for the cause of justice or the improvement of the wider world. It is for the sake of the individual. Her view, her advice, is that a person who lives according to the ideals of human rights—that is, who uses the norms of human rights to shape their own personal outlook and lifestyle—will be better and potentially happier than someone who does not. A person guided by these principles will have a real chance, in her words, to infuse their life with a "spirit of adventure," a fearlessness in living that is intrinsically rewarding.[5]

Roosevelt is important to the story I want to tell, but she is only one figure in it. Many others also view human rights in a therapeutic light. Some are deep in the past of the human rights tradition, such as Mary Wollstonecraft and Alexis de Tocqueville. Others are contemporaries of Roosevelt, such as Henri Bergson and Charles Malik. Today, this perspective can be observed in parts of the human rights education movement. Naturally, none of these people see the relation between human rights and personal transformation in the same way. They respond to problems and pressures of their own place and time; they propose different values and virtues for human rights to help cultivate; and they recommend a mix of practices and techniques to achieve their goals. But underlying all of them is a view that the ideals, norms, and practices of human rights are a means to bring out the best in oneself for the sake of one's self.

Care of the self is the main concept of this book. As we will see, it is a complex idea and comes from the later work of the French philosopher and historian Mi-

chel Foucault. The use I make of it, however, is simple to state. I contend that several well-known figures in the human rights tradition advance human rights as a means for individuals to concern themselves with, work upon, and improve themselves. To use an expression that might sound glib at first, they see human rights as a tool for "self-help," one that provides strategies for people to become more resilient, happier, fulfilled, present, loving, exuberant, and even joyful.

This thesis is counterintuitive. Very much so: it rubs against the grain of two fundamental assumptions in human rights law, theory, and activism.

The first assumption concerns the goal of human rights. It is to *protect* people whose rights are at risk of violation, and not to transform those people nor the ones who advocate human rights. Whatever else human rights may be, there is overwhelming agreement between scholars and practitioners, advocates and critics, that the purpose of human rights is to protect all people everywhere from severe political, legal, and social abuse. When, for example, we think of the institutional world of human rights—with its covenants and conventions, international courts, and small army of monitoring agencies—we naturally assume that its mission is to protect people and safeguard their dignity, autonomy, security, or whatever fundamental feature of human life may be in jeopardy. From this perspective, personal transformation seems like a distraction from more serious business.

Things are even less promising when we turn to the second assumption. It concerns, for lack of a better word, the object of human rights: *other* people. Today human rights have become the standard-bearer of global justice. For people from rich and privileged places, and especially from North Atlantic countries where human rights have so powerfully channeled and shaped a moral and political imagination, the cause of human rights is embraced as a way to help other, less fortunate people. Thus, to suggest, as I do, that human rights are as much about caring for one's own self as for other people may seem indulgent or just plain immoral. It appears to funnel a leading institution for global justice into yet another kind of self-help for the already privileged.

There is no general way to allay these suspicions. Each of the main authors I treat in this book envisages a different relationship between personal transformation and protection, and between care for the self and care for other people. They also work from (and intervene in) different and historically specific understandings of what human rights are and do. Although they share a certain core and minimal definition of human rights—as moral and/or legal entitlements belonging to every person—we will see that the specific human rights concepts, laws, practices, and cultures vary from author to author.

Caveats aside, I wish to put forward two hypotheses. On the one hand, all

of the authors I have singled out believe that protection and personal transformation, and care for the self and care for others, are complementary and mutually reinforcing. They never face the tragic dilemma of having to choose one set of goals at the expense of the other. On the other hand, and this is crucial, they also maintain that personal transformation and care of the self is not only irreducible to the protection and care of others; it is primary and pursued for its own sake. That is to say, each author considers, in the first instance, how human rights can enhance the well-being, happiness, and power of individuals in and for themselves, and how human rights entail, but only as an offshoot, protection and care for other people. Although there is no conflict between these self-oriented and other-oriented goals, there is a definite and unexpected priority.

This book contributes to the field of human rights and to the study of the care of the self. With respect to human rights, my goal is to demonstrate that a past and present feature of human rights discourse and practice is to inspire individuals to a new way of life and to care for themselves. To be clear, most human rights authors and documents do not conceive of human rights in this way. It is definitely a minority position! Nor do I undertake a comprehensive survey of the care of the self in human rights. Additional authors, movements, and events are pointed out for future study. This book is simply an attempt to mark a facet of human rights that lies hidden in plain sight. I want to show how, time and again at pivotal moments in the history of the tradition, human rights have been claimed as a relevant, valuable, and even necessary answer to personal cares and troubles. Just as significantly, I also want to show how human rights come to be anchored in the nitty-gritty of everyday life as a technique to care for the self.

My second contribution pertains to the care of the self. As we will see, Foucault developed this concept through a series of studies on ancient philosophy. Yet, for various reasons, he was skeptical that it could extend to modern political thought, and in particular, to modern political philosophies based on rights. He even warned against looking for the care of the self in the place I presume to find it! Needless to say, I need to explain why there is room to see his misgivings as hasty. But my goal is not to argue with Foucault. It is to suggest that human rights renew the care of the self for our present moment. Care of the self does not simply not die out in modern and contemporary political thought. By turning to the field of human rights, we see it thrive as one form of response to social and political problems that wreak spiritual and personal distress.

Method: The Author Study

This book is made up of nine chapters. Three are general in nature and develop themes found throughout the book: chapter 1 introduces the concept of the care of the self, chapter 3 anticipates objections to viewing human rights in terms of care of the self, and chapter 6 addresses the relationship between care of the self and social and political criticism and resistance. The majority of the book, however, consists of chapters dedicated to particular authors who, I argue, link human rights to care of the self: Wollstonecraft (chapter 2), Tocqueville (chapter 4), Bergson (chapter 5), Roosevelt (chapter 7), Malik (chapter 8), and contemporary human rights educators (chapter 9). To round off this introduction, I would like to explain, first, why I have composed this book primarily as a series of author studies, and second, why I have chosen to discuss these particular authors.

If the reader will indulge me a moment, I can best address the first question—why author studies?—by explaining how I arrived at the idea for this book. A few years ago, I published a short work on the French philosopher Henri Bergson titled *Human Rights as a Way of Life*. I wrote it because I felt Bergson had a very strange, but also strangely attractive, notion of human rights. I will revisit it at length in chapter 5, but for now a one-line summary will do. Bergson thinks that the purpose of human rights is to introduce all human beings to a way of living in the world—he calls it love—untouched by hatred. At the time, I thought this was a genuinely unique position. Bergson talked about human rights in terms of love rather than law, of emotions rather than practical reason, and most of all, he emphasized the role human rights play in ameliorating the self rather than helping other people. The way he sees it, you should live your life according to human rights not for the sake of other people, but simply because being in love is a better and more joyful way to be. And this, I thought, was an original take on human rights. "To my knowledge," I averred, "[Bergson] provides the first and only account of human rights as a medium to improve upon, relate to, and care for ourselves."[6]

I was mistaken. Soon after finishing that book I began to realize that Bergson was not as singular as I had made him out to be. No one else saw human rights in terms of his notion of love, that much is true. But stepping back from the precise contours of that notion, I have come to believe that several celebrated authors in the history of human rights are also fundamentally concerned with the care of the self. This is the reason the book you are reading is written the way it is, that is, as a series of author studies. Rather than focus on any one author in depth, I have chosen to survey a number of them, as if to say to my reader:

"Look, care of the self can be found here, and here, and here!" My author studies, in other words, are meant to build up a theme through repetition. Now I've tried my best to make these chapters as accessible as possible, both in the sense of not presupposing prior knowledge of any author, and also, I hope, of being able to interest a general reader with wider discussions of human rights, political thought, and ethics. But over and above any value my interpretations of this or that author may have, the result I'm seeking is to be had by holding them all up together in order to produce a cumulative effect. By showing how often care of the self recurs in the history of human rights, my goal is to identify it as a persistent phenomenon, one that deserves further scholarly attention in and of itself, and that could also be tapped as a resource for contemporary practice.

The next question—why *these* authors?—is trickier to answer. That is because the two reasons we might most naturally expect are ruled out. First of all, in the coming pages it will become abundantly clear that no two authors envisage care of the self in the same way. There is no one way to care for the self using human rights, and the reader will not be able to flip to the end of this book to find a model or formula that would state, *this* is how you do it. What we will encounter instead are many different proposals about *how* to care for the self with human rights, and perhaps more importantly, many different explanations as to *why* we might want to do so. Thus, although I claim that care of the self is a persistent phenomenon in human rights, it is undoubtedly a plural one as well. The authors I discuss in this book are not connected by a shared sense of what care of the self in human rights means, is, or does.

But neither, if I can express it this way, are they bound together in disagreement. To put it simply, the authors I have selected do not engage or even acknowledge one another. Setting aside the close and warm relationship between Roosevelt and Malik, in all my reading I have turned up only a handful of passing references made by one author of another, each of which is dismissive to boot. Thus, the plurality I mentioned a moment ago is not arrived at through vigorous engagement and disagreement, as if one author (say, Tocqueville) recognized that a predecessor (say, Wollstonecraft) proposed to use human rights to care for the self in *this* way but that he recommends to instead use them in *that* way. Not at all: the realization that human rights can be used to care for the self takes on the status of a fresh insight for each author, one arrived at from the perspective of their own historical moment, through a distinct intellectual tradition, and to address a specific practical problem.

What does connect these authors? The glue is none other than the concept of the care of the self. As we will see in chapter 1, it is possible to extract from

Foucault's later writings and interviews quite specific criteria as to what counts as the "care of the self" in the traditions he is working through. I have used these criteria to select authors. My procedure is straightforward: if an author writing on human rights meets the criteria for the care of the self fully and robustly, then he or she is in. That is why, for example, I discuss Wollstonecraft rather than Thomas Paine, Malik rather than René Cassin, and human rights education rather than international human rights law. In a manner of speaking, this might be called cherry-picking: I have made my case for care of the self in human rights by selectively choosing the best exemplars in the tradition. This is how I have attempted to constitute a new object of inquiry in human rights. As I said a moment ago, this handful of authors is by no means a definitive list, and readers may well discover additional candidates. That would be excellent: the more the merrier! At the risk of repeating myself, my aim in this book is simply to establish the continued presence of care of the self in human rights and to propose that the value of human rights lies partly in the role they can play in enabling practices of personal transformation and self-improvement.

Notes

INTRODUCTION

1 Black, ed., *The Eleanor Roosevelt Papers*, vol. 1, 899.
2 Roosevelt, "The Struggle for Human Rights," 903.
3 Roosevelt, "Where Do Human Rights Begin?," 190.
4 Roosevelt, *You Learn by Living*, i.
5 Roosevelt, *You Learn by Living*, i–ii, 11, 25–41.
6 Lefebvre, *Human Rights as a Way of Life*, xv.

CHAPTER 1. The Care of the Self

1 I have the following works in mind: Moyn, *The Last Utopia* and *Christian Human Rights*; Merry, *Human Rights and Gender Violence*; Goodale, *Dilemmas of Modernity* and *Surrendering to Utopia*; Goodale and Merry, eds., *The Practice of Human Rights*; McClennen and Moore, eds., *The Routledge Companion to Literature and Human Rights*; Malkki, *The Need to Help*; Ticktin and Feldman, eds., *In the Name of Humanity*; Reinbold, *Seeing the Myth in Human Rights*; Slaughter, *Human Rights, Inc.*; Hunt, *Inventing Human Rights*; Niezen, *The Origins of Indigenism*; Wahl, *Just Violence*; Hesford, *Spectacular Rhetorics*; Sliwinksi, *Human Rights in Camera*; Zivi, *Making Rights Claims*; Ignatieff, *Human Rights as Politics and Idolatry*; Gregg, *Human Rights as Social Construction*; Donnelly, *Universal Human Rights in Theory and Practice*; Botting, *Wollstonecraft, Mill, and Women's Human Rights*; Lindkvist, *Religious Freedom and the Universal Declaration of Human Rights*; and Joas, *The Sacredness of the Person*.
2 *The Use of Pleasure* and *The Care of the Self* were published simultaneously in 1984. Foucault delivered lectures on ancient philosophy at the Catholic University of Louvain in 1981 (*Wrong-Doing, Truth-Telling*) and Berkeley in 1983 (titled *Fearless Speech* by the publisher), in addition to his annual lectures at the Collège de France, *The Hermeneutics of the Subject* (1981–82), *The Government of Self and Others* (1982–83), and *The Courage of Truth* (1983–84). Among the essays and interviews on the care of the self from this period, the most significant are "On the Genealogy of Ethics" and